

126 FERC ¶ 61,055  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

January 16, 2009

In Reply Refer To:  
Florida Gas Transmission Company, LLC  
Docket No. RP09-175-000

Florida Gas Transmission Company, LLC  
P.O. Box 4967  
Houston, TX 77210-4967

Attention: Michael T. Langston  
Senior Vice President, Government & Regulatory Affairs

Reference: Order Accepting and Suspending Tariff Sheets

Dear Mr. Langston:

1. On December 19, 2008, Florida Gas Transmission Company, LLC (FGT) filed revised Form of Service Agreements, revised Rate Schedules and the corresponding tariff sheets<sup>1</sup> to provide a single contract option for multiple affiliated shippers associated with a single affiliated agent to be defined individually and collectively as a “Shipper.” As discussed below, the tariff sheets listed in the Appendix are accepted and suspended, to be effective January 19, 2009, subject to condition.

2. FGT’s proposed tariff sheets amend its current form of service agreements and the associated Rate Schedules to provide that multiple affiliated shippers associated with a single affiliated agent, may act under a single contract option, provided they meet three criteria necessary to qualify for such consideration. Under FGT’s proposal, the Shippers must show that:

1. They have collectively met the “shipper must have title” test;

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<sup>1</sup> See Appendix for a list of the tariff sheets.

2. They are jointly and severally liable for all obligations under the contract; and
  3. They are willing to be treated collectively as one shipper for nomination, allocation and billing purposes under the contract.
3. FGT states that it has several contracts with Southern Company Services, Inc. (SCS) as agent for multiple SCS affiliated companies similar to those discussed in filings made by Transcontinental Gas Pipe Line Corporation (Transco) and Southern Natural Gas Company.<sup>2</sup> FGT proposes to add its single contract option to Section 1, Availability, of Rate Schedules FTS-1, FTS-WD, PNR, ITS-1, ITS-WD, IPS and FTS-2. It also proposes to include conforming language to its Form of Service Agreement under the same rate schedules by providing blank spaces for identification of the affiliated shippers and of the designated agent to be incorporated into the service agreements. FGT requests a January 19, 2009 effective date for the instant filing. However, it states that in the event the Commission requires any change to the proposed tariff sheets, FGT reserves the right to move the tariff sheets into effect.
4. Public notice of the filing was issued on December 23, 2008. Interventions and protests were due on or before December 31, 2008 as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2008)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. Florida Cities filed comments.<sup>3</sup>
5. The Commission finds that the proposed tariff sheets are generally consistent with our prior action regarding such requests and therefore, with one condition, will accept and suspend them to be effective January 19, 2009.

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<sup>2</sup> While FGT references two filings, the only relevant proceeding where such a contract was discussed by the Commission was *Southern Natural Gas Co.*, 123 FERC ¶ 61,263 (2008); *order on compliance*, 124 FERC ¶ 61,145 (2008) (*Southern*). The Director of the Office of Energy Market Regulation also issued an unpublished Delegated Letter Order in Docket No. RP09-37-000, issued November 24, 2008, accepting uncontested tariff sheets in a Transco proceeding.

<sup>3</sup> "Florida Cities" includes JEA, the Orlando Utilities Commission, City of Lakeland Electric Department, the City of Tallahassee, Florida, the City of Gainesville d/b/a Gainesville Regional Utilities and Florida Gas Utility, a Florida inter-local agency whose membership presently consists of more than twenty municipally-owned electric and/or gas utilities.

6. Florida Cities states that there is a fundamental difference between the provisions proposed by FGT and the provisions previously accepted by the Commission in *Southern*. Specifically, it argues that in *Southern*, the Commission permitted the company to allow multiple shippers associated with a single agent to use one master firm transportation agreement, regardless of whether the shippers were affiliated with one another. But it argues that the instant proposal differs from the *Southern* proceeding in that the tariff revisions proposed by FGT will only allow this option to be utilized by companies that are affiliated with one another. Florida Cities urges the Commission to accept FGT's proposal, subject to the condition that this single service agreement option be available to any discrete set of shippers that otherwise meet the applicable criteria for use of an agent.

7. In *Southern*,<sup>4</sup> the pipeline filed a master service agreement between itself and a group of shippers affiliated with each other. The Commission determined that the provision allowing multiple shippers to receive service under the same service agreement constituted a material deviation from Southern's *pro forma* service agreement. The Commission therefore, directed Southern either to remove this feature from the contract or file a revised *pro forma* service agreement so the service would be available to all eligible shippers in a manner that is not unduly discriminatory as a part of Southern's generally applicable tariff. Southern chose this latter option and provided revisions to its service agreement and criteria for eligible shippers to meet similar to the three provided in the instant proceeding.<sup>5</sup> However, Southern's proposal did not require that the shippers availing themselves of this service be affiliated with each other.

8. In the instant filing, FGT has set forth criteria for determining eligible shippers for the proffered option but does not explain why its proposal appears to contemplate availability only to shippers that are affiliated with one another.<sup>6</sup> FGT is directed to explain why shippers that meet its criteria for this proposed option, in particular shippers that have agreed to be jointly and severally liable for all obligations under the contract are not unduly discriminated against when they are denied access to this service because they are not otherwise affiliated with each other. In *Southern*, the Commission found that this

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<sup>4</sup> *Southern*, 123 FERC ¶ 61,263, at P 9 (2008).

<sup>5</sup> *Southern*, 124 FERC ¶ 61,145 (2008).

<sup>6</sup> For example, in Rate Schedule FT, Section 8.3, FGT proposes language stating:

If the transportation service is to be provided under one Service Agreement for multiple affiliated entities (Principals) that have designated an affiliate to act as agent on their behalf (hereinafter individually and collectively referred to as Shipper), Principals shall provide notice of such to Transporter . . .

type of arrangement does have value for eligible shippers, and that value requires the arrangement be offered in a not unduly discriminatory manner through generally applicable provisions in the pipeline's tariff and *pro forma* form of service agreement.<sup>7</sup> Therefore, FGT may also, if it so desires, revise its proposed tariff sheets to remove the language that appears to require that the shippers availing themselves of this program be affiliated. FGT is required either to provide additional support for its proposal to limit eligibility of the single contract option to affiliated shippers or to propose a modification of its proposal within 30 days of the date of this order.

9. Based on a review of the filing, the Commission finds that the proposed tariff sheets listed in the Appendix have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept the tariff sheets for filing and suspend their effectiveness for the period set forth below, subject to refund and condition.

10. The Commission's policy regarding suspensions is that tariff filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.<sup>8</sup> It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.<sup>9</sup> Such circumstances exist here. Accordingly, the Commission will exercise its discretion to accept and suspend these tariff sheets for the shorter period to become effective January 19, 2009.

11. As FGT reserved its right to file a motion to move the tariff sheets into effect in the event of minimal suspension, the tariff sheets will not go into effect until such motion is filed.

The Commission orders:

(A) FGT's proposed tariff sheets listed in the Appendix are accepted and suspended, subject to the conditions set forth herein, to be effective January 19, 2009.

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<sup>7</sup> *Southern*, 123 FERC ¶ 61,263, at P 9 (2008).

<sup>8</sup> See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

<sup>9</sup> See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

(B) FGT is required either to provide additional support for its proposal to limit eligibility of the single contract option to affiliated shippers or to propose a modification of its proposal within 30 days of the date of this order.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

Appendix

List of Tariff Sheets

Accepted and suspended to be effective January 19, 2009

Florida Gas Transmission Company, LLC  
Fourth Revised Volume No. 1

First Revised Sheet No. 30  
First Revised Sheet No. 46  
First Revised Sheet No. 72  
First Revised Sheet No. 79  
First Revised Sheet No. 88  
First Revised Sheet No. 94  
First Revised Sheet No. 102  
First Revised Sheet No. 450  
First Revised Sheet No. 464  
First Revised Sheet No. 465  
First Revised Sheet No. 467  
First Revised Sheet No. 477  
First Revised Sheet No. 478  
First Revised Sheet No. 491  
First Revised Sheet No. 492  
First Revised Sheet No. 494  
First Revised Sheet No. 500  
First Revised Sheet No. 510  
First Revised Sheet No. 519  
First Revised Sheet No. 526  
First Revised Sheet No. 548  
First Revised Sheet No. 549