

135 FERC ¶ 61,194
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Tennessee Gas Pipeline Company

Docket No. RP11-2066-000
RP11-1566-000
(not consolidated)

ORDER ACCEPTING AND SUSPENDING TARIFF RECORDS AND
ESTABLISHING HEARING PROCEDURES

(Issued May 27, 2011)

1. On April 29, 2011, Tennessee Gas Pipeline Company (Tennessee) filed tariff records to update its Fuel and Loss Retention (F&LR) percentages calculated consistent with the new F&LR mechanism Tennessee proposed in Docket No. RP11-1566-000. Tennessee proposes to place the updated F&LR percentages into effect contemporaneously with the effectiveness of its base rates on June 1, 2011.¹ The Commission accepts and suspends the proposed tariff records, effective June 1, 2011, subject to the outcome of the hearing established in this order.

Background and Proposal

2. In Docket No. RP11-1566-000, Tennessee filed a general section 4 rate case that, among other things, included revised tariff records proposing rate changes for existing services and changes to certain terms and conditions of service, including Article XXXVII of the General Terms and Conditions of its tariff (GT&C) to include a new F&LR adjustment provision. The F&LR adjustment provision allows Tennessee to recover the cost of energy used in its pipeline operations for gas compression and gas losses. Section 3 of Article XXXVII provides that Tennessee shall file quarterly to revise its F&LR at least thirty days prior to the effective date of the proposed change in F&LR, with the initial filing to be made thirty days prior to its effective date of June 1, 2011. In Docket No. RP11-1566-000, Tennessee submitted fuel retention percentages based on

¹ See the Appendix for the list of proposed tariff records.

base period data, but did not propose tariff records with new fuel and lost and unaccounted for gas retention percentages. However, Tennessee stated it would file tariff records to place reduced fuel retention percentages into effect contemporaneously with the base rates and the new F&LR provision on June 1, 2011. On December 29, 2010, the Commission issued an order (December 29 Order) accepting and suspending tariff records to be effective June 1, 2011, subject to refund, establishing hearing procedures and a technical conference.² Specifically with regard to Tennessee's FL&R proposal, the Commission stated:

Lastly, if Tennessee moves its suspended rates into effect, the Commission expects Tennessee to follow the procedure it outlines at Exhibit No. T-157 for its fuel tracker tariff records, as well as section 154.403 of the Commission's regulations. If Tennessee makes this fuel tracker filing, the Commission also requires Tennessee to state its intent with regard to suspended Sheet No. 32, Fuel and Loss Retention Percentage, 1.0.0, and Sheet No. 33, Electric Power Cost Recovery Adjustment, 1.0.0.³

3. Tennessee states that it intends the instant filing to supersede the suspended tariff record, Sheet No. 32 included in Docket No. RP11-1566-000, with its proposed Second Revised Sheet No. 32 included in the instant filing. Additionally, Tennessee states that it is also revising other tariff records to reflect the proposed F&LR percentages for Firm Storage Service and Interruptible Storage Service, and the proposed retention percentage associated with losses applicable to service rendered by displacement.

4. Pursuant to section 154.7(a)(9) of the Commission's regulations,⁴ Tennessee moves to place the revised tariff records into effect as requested on June 1, 2011, contemporaneously with the effectiveness of the base rates proposed in Docket No. RP11-1566-000 and the proposed F&LR provision on June 1, 2011. Tennessee states that if the Commission conditions the acceptance of this filing, Tennessee reserves the right to withdraw the proposed tariff records or to file a later motion to place such tariff records into effect at a later date.

5. Tennessee states the Fuel and Losses and Estimated Volumes used to derive the proposed F&LR percentages in this filing are based on twelve months of actual

² *Tennessee Gas Pipeline Co.*, 133 FERC ¶ 61,266 (2010) (December 29 Order).

³ December 29 Order at P 37.

⁴ 18 C.F.R. § 154.7(a)(9) (2011).

unadjusted data ending February 28, 2011. Tennessee states that as compared to the retention percentages reflected in Tennessee's currently effective tariff, the proposed rates reflect (a) lower fuel retention percentages for firm and interruptible transportation services, and (b) slightly higher fuel retention percentages for firm and interruptible storage services.

Public Notice, Interventions and Protests

6. Public notice of Tennessee's filing was issued on April 29, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁵ Pursuant to Rule 214,⁶ all timely filed motions to intervene and any unopposed 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.

7. Several parties intervened and move for the Commission to consolidate the instant proceeding with Tennessee's rate case in Docket No. RP11-1566-000. They state that in the December 29 Order the Commission set the issue of the tariff records implementing the F&LR tracker for hearing, and thus argue that setting the instant proposals for hearing in the same docket would be administratively convenient.

8. Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. (Con Ed) raised several questions as to Tennessee's F&LR data and calculations, including: i) whether all Tennessee's customers, including negotiated rate and discounted rate customers, are represented in Tennessee's data; ii) how Tennessee proposes to reflect negotiated rate and discounted rate arrangements; iii) what is the purpose of a non-mileage component to the F&LR percentages; iv) what are the tariff provisions that would permit a non-mileage calculation; v) why are NET/NET 284 customers exempt from the electric power cost recovery adjustment; and vi) how is system storage related fuel allocated to transportation. The Tennessee Customer Group (TCG) filed a protest to reaffirm its request for rehearing in Docket No. RP11-1566-001. Tennessee filed an answer responding to the comments requesting consolidation and addressing Con Ed's concerns.

Discussion

9. Tennessee's filing raises several issues that warrant further investigation. As the parties moving to consolidate note, the Commission has already put issues concerning the

⁵ 18 C.F.R. § 154.210 (2011).

⁶ 18 C.F.R. § 385.214 (2011).

fuel tracking mechanism into hearing proceedings in Docket No. RP11-1566-000. Given that the instant filing warrants hearing proceedings, and that the resolution of the hearing on the fuel tracking mechanism may affect the F&LR levels in the instant filing, we find that the hearings should proceed in concert. Accordingly, the Commission will set the issues raised by the instant proceeding to be examined at the hearing established in Docket No. RP11-1566-000. The Administrative Law Judge is authorized to modify the schedule or procedures established in the Docket No. RP11-1566-000 hearing to accommodate the addition of the new issues as necessary.

10. Based upon a review of the filing, the Commission finds that the proposed tariff records 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 accepts the tariff records for filing and suspends their effectiveness for the period set forth below, subject to the conditions set forth in this order.

11. The Commission's policy regarding rate suspensions is that rate 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 that it may be inconsistent with other statutory standards. *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension). It is recognized, however, that shorter suspensions may be warranted in circumstances where suspensions for the maximum period may lead to harsh and inequitable results. *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension). Such circumstances do not exist here. Therefore, the Commission shall exercise its discretion to suspend the rates to take effect on June 1, 2011, subject to the conditions set forth in the body of this order and in the ordering paragraphs below.

The Commission orders:

(A) The proposed tariff records set forth in the Appendix are accepted and suspended effective June 1, 2011, subject to refund and the outcome of the hearing established in this order.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held in Docket No. RP11-2066-000 concerning Tennessee's F&LR rates.

(C) Pursuant to 18 C.F.R. §§ 375.304(b)(1)(i) and (iii), the Chief Administrative Law Judge shall consolidate the hearing in this docket with the hearing established in Docket No. RP11-1566-000, and designate the same Presiding Administrative Law Judge that is designated in the latter docket.

(D) The Presiding Administrative Law Judge shall convene a prehearing conference in this proceeding to be held after issuance of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. The prehearing conference is for the purpose of clarification of the positions of the participants and establishment by the presiding judge of any procedural dates necessary for the hearing. The Presiding Administrative Law Judge is authorized to conduct further proceedings in accordance with this order and the Rules of Practice and Procedure.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

Tennessee Proposed Tariff Records Accepted and Suspended to be Effective June 1, 2011

Tennessee Gas Pipeline Company
FERC NGA Gas Tariff
TGP Tariffs

Sheet No. 15, , 2.0.0

Sheet No. 16, , 2.0.0

Sheet No. 19, FT-A Rates - Recourse Incremental Expansion, 4.0.0

Sheet No. 21, , 2.0.0

Sheet No. 22, , 2.0.0

Sheet No. 24, , 2.0.0

Sheet No. 25, , 2.0.0

Sheet No. 26, FT-GS Rates, 3.0.0

Sheet No. 27, , 2.0.0

Sheet No. 29, NET Rates, 3.0.0

Sheet No. 30, NET-284 Rates, 3.0.0

Sheet No. 32, Fuel and Loss Retention Percentage, 2.0.0

Sheet No. 44, IT Rates - Interruptible Transportation, 4.0.0

Sheet No. 61, FS Storage Rates - Firm Storage, 3.0.0

Sheet No. 62, IS Storage Rates - Interruptible Storage, 3.0.0