

135 FERC ¶ 61,278  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

June 30, 2011

In Reply Refer To:  
Sea Robin Pipeline Company, LLC  
Docket No. RP11-2148-000

Sea Robin Pipeline Company, LLC  
5444 Westheimer Road  
Houston, TX 77056-5306

Attention: Lawrence J. Biediger, Sr. Director, Rates and Regulatory Affairs

Reference: Letter Order on Revised Fuel Percentage

Dear Mr. Biediger:

1. On May 31, 2011, Sea Robin Pipeline Company, LLC (Sea Robin) filed a tariff record<sup>1</sup> to revise its fuel reimbursement percentage (FRP) pursuant section 4.1(b) of the General Terms and Conditions (GT&C) of its FERC NGA Gas Tariff, Third Revised Volume No. 1. Sea Robin requests an effective date of July 1, 2011. As discussed below, the Commission accepts and suspends the tariff record to be effective July 1, 2011, as requested, subject to refund and condition.

2. In the instant filing, Sea Robin proposes to increase its FRP from 0.38 percent to 0.72 percent. According to Sea Robin, the revised FRP was calculated utilizing Sea Robin's actual fuel use and unaccounted-for gas (UFG) quantities for the period November 2010 through April 2011. Sea Robin states that the proposed FRP will provide it with fuel volumes that more closely match current utilization.

3. Sea Robin states that currently each month a standard fuel calculation factor of 0.38 percent is applied to nominated receipt quantities and then is subsequently adjusted

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<sup>1</sup> GT&C Section 4, Nominations, Scheduling and Allocations, 2.0.0 to Third Revised Volume No. 1, FERC NGA Gas Tariff.

to each shipper's pro rata share of actual fuel use and UFG, and that over the last six months, it has been experiencing an underage in the fuel retention from its shippers. Sea Robin states that it under collected approximately 101,000 dth for fuel and unaccounted for volumes on its transportation system.

4. In its transmittal letter, Sea Robin states, pursuant to section 154.7(a)(9) of the Commission's regulations, that it moves the proposed tariff record into effect in the event of minimal suspension. However, Sea Robin did not reflect that proposal in its electronic tariff filing's meta data.

5. Public notice of Sea Robin's filing was issued on June 3, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.<sup>2</sup> Pursuant to Rule 214,<sup>3</sup> 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. On June 13, 2011, ExxonMobil Gas & Power Marketing Company, a Division of Exxon Mobil Corporation (Exxon Mobil) and Hess Corporation (Hess) filed motions to intervene and protested the filing in their comments.

6. On June 23, 2011, Sea Robin filed a motion to answer the comments. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,<sup>4</sup> prohibits answers to protests or answers unless otherwise permitted by the decisional authority. We will accept the answer as it aids in the disposition of the issues raised in the comments. The issues raised by the parties are discussed below.

7. Exxon Mobil and Hess argue that Sea Robin's filing does not establish an adequate basis for the proposed standard FRP, which represents an increase of approximately 90 percent from the currently effective percentage.<sup>5</sup> They further argue that Sea Robin's tariff does not specify the timing of the standard FRP filings, and consequently, shippers cannot know how long Sea Robin's proposed rate will remain in

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<sup>2</sup> 18 C.F.R. § 154.210 (2011).

<sup>3</sup> 18 C.F.R. § 385.214 (2011).

<sup>4</sup> 18 C.F.R. §385.213 (a)(2) (2011).

<sup>5</sup> As its entire support, Sea Robin's filing includes a single one-page workpaper that sets forth two columns showing: (1) total receipts; and (2) total compressor fuel and unaccounted-for gas for the six month period from November 2010 through April 2011.

effect.<sup>6</sup> They contend that the irregular timing of Sea Robin's FRP filings underscores the importance of supporting those filings with substantial evidence.

8. Exxon Mobil and Hess argue that Sea Robin does not explain why it used a six-month period as the basis for the proposed rate in the current filing when it used a twelve-month period to compute the rate in the previous filing. Exxon Mobil and Hess argue that if Sea Robin had employed a 12-month period in calculating the proposed FRP in the current filing the percentage would be substantially lower, and that using data from Sea Robin's prior filing (Docket No. RP11-1574-000) in the current filing to show fuel and UFG for the 12-month period from May 2010 through April 2011 would produce a standard FRP of 0.43 percent, and not Sea Robin's proposed 0.72 percent. They further argue that Sea Robin's tariff does not include the methodology used to reflect changes to the standard FRP, including the length of the base period.<sup>7</sup>

9. Exxon Mobil and Hess also argue that Sea Robin's current filing does not provide either the Commission or Sea Robin's shippers with a meaningful opportunity to determine the basis for the sudden increase in fuel and unaccounted for gas (139,257 dth from May 2010 through October 2010, and 540,166 dth from November 2010 through April 2011), and that the Commission should direct Sea Robin to provide quantities attributable to fuel and UFG separately and also direct Sea Robin to separately state the quantities attributable to compressor fuel distinguished from the quantities attributable to other system operations, and to identify those other operations. Exxon Mobil and Hess further argue that the Commission should direct Sea Robin to explain the 52,439 dth discrepancy between the data reported in Sea Robin's Form 3Q for the first quarter of 2011 and the supporting data submitted with its standard FRP filing in this docket.<sup>8</sup>

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<sup>6</sup> Sea Robin's previous standard fuel percentage rates were effective for disparate periods, i.e., an 18 month period from January 2008 through June 2009, increasing the rate from 0.65 percent to 0.94 percent (*Sea Robin Pipeline Company, LLC*, Docket No. RP09-854-000 (Aug. 28, 2009) (delegated letter order)), and an 80 month period from January 1, 2003 through August 31, 2009, reducing the rate from 0.90 percent to 0.65 percent. *Sea Robin Pipeline Company, LLC*, Docket No. RP03-134-000 (Dec. 24, 2002) (delegated letter order).

<sup>7</sup> Exxon Mobil and Hess state that the absence of a provision for a specific period does not mean that Sea Robin can vary the period on an ad hoc basis with each filing. They claim that in its previous four fuel and UFG filings, spanning eight years, Sea Robin has not used an historical period shorter than 12 months, until the current filing, which cuts the period in half.

<sup>8</sup> The parties point out that in the Form 3Q, Sea Robin reports 101,124 dth as "Gas Used for Compressor Station Fuel" and 135,024 of "Gas Losses and Gas Unaccounted  
(continued...)

10. Therefore, Exxon Mobil and Hess request that Sea Robin be required to: (1) provide an explanation for the use of six month's data as the basis for its proposed standard fuel rate, instead of, what the parties claim is, the 12-month period used in its prior filing;<sup>9</sup> (2) indicate the time period that Sea Robin intends to maintain the proposed rate in effect; (3) provide a supporting workpaper for the current filing comparable to the workpaper supporting the proposed standard fuel rate in Sea Robin's filing in Docket No. RP11-1574-000 that differentiates on a monthly basis fuel and UFG; (4) provide any pertinent information upon which Sea Robin has based its proposed standard fuel rate; and (5) provide parties with an opportunity to submit further comments once Sea Robin has provided the requested information.

11. With regard to the parties' argument concerning the timing of its FRP filing, Sea Robin responds that section 4.1(b) of its GT&C provides that any changes in the standard FRP calculation may be made effective only at the beginning of a month and that it has the discretion to make changes to its FRP at intervals of its choosing based on a reasonable base period. Sea Robin explains that it determined that using data from a shorter base period to determine its FRP (the 6-month base period in this proceeding) reduces the risk of under-recoveries and over-recoveries and benefits both Sea Robin and its customers.

12. Sea Robin asserts that the proposed increase in its FRP will help mitigate a substantial undercollection of its fuel requirements. Sea Robin explains that, because its shippers are required to nominate fuel on a daily basis and in order to keep receipts and deliveries in balance, it monitors changes to the FRP so that it can track actual usage as closely as possible and, therefore, makes changes in the FRP when it is necessary to minimize these imbalances.<sup>10</sup> Sea Robin states that it anticipates that it will continue to reevaluate the FRP as it has done in the past.

13. Sea Robin claims that the FRP is a component of the Annual Flowthrough Crediting Mechanism in section 22 of its GT&C. According to Sea Robin, this mechanism provides for an annual true-up to resolve monthly imbalances for the

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For," representing January-March 2011. These quantities total 236,148dth. *See* page 520 of Form 3Q filed May 5, 2011. In contrast, Sea Robin's current fuel filing indicates a total "Fuel and LAUF" for the same three months equal to 288,587dth. *See* Appendix.

<sup>9</sup> In its answer, Sea Robin points out that the filing in Docket No. RP11-1574 was based on a 10.5 month period of data and not the 12 months that the parties are claiming.

<sup>10</sup> Sea Robin states that the changes may be decreases (as seen in its Docket No. RP11-1574-000 filing) or increases (as seen in its Docket No. RP09-854-000 filing or the instant filing).

production period November 1 through October 31 and that differences in the fuel retained from shippers and actual fuel utilization is part of this annual true-up mechanism. Sea Robin asserts that any over-recoveries are refunded back to shippers on the December invoice while any under-recoveries are carried forward into the next year.<sup>11</sup>

14. In response to the parties' request for additional workpapers, Sea Robin argues that the instant filing contained all required information and was fully supported in order for the Commission and the shippers to evaluate the filing. However, Sea Robin provides an additional workpaper (attached as Attachment A to its answer) that separately delineates fuel and UFG volumes for the 6 month period and is in the same format as the workpaper provided in its last FRP filing in Docket No. RP11-1574-000.

15. In response to the parties' concern about the difference in the data reported in Sea Robin's Form 3Q and the data in the instant FRP filing, Sea Robin includes as Attachment B to its answer a reconciliation of the FRP data and the Form 3Q data which it states shows how the calculations for this filing and the Form 3Q differ. Specifically, Sea Robin states that the filing in this docket is based on actual quantities for fuel and UFG for the production months from November 2010 to April 2011 and also recognizes prior period adjustments that have been identified for the actual production month. Sea Robin argues that using production month actuals for the 6 month period in the instant filing most accurately reflects its fuel situation. In contrast, it states, the Form 3Q data is based on accrual accounting which includes the current month estimate, prior month estimate reversal, prior month actual and prior period adjustments from before November 2010, with the quantities being recognized in the accounting month. Sea Robin further states that in the Form 3Q, the data for January 2011 contained prior period adjustments from June, July and October 2010 but that the data used in the instant filing only contained prior period adjustments from between November 2010 and April 2011.

16. The Commission finds that Sea Robin has provided in its answer the additional information requested by the parties. Accordingly, the Commission will permit the parties to file additional comments on Sea Robin's filing, after they have had an opportunity to review the information in Sea Robin's answer.

17. In addition, in its answer, Sea Robin asserts that the Annual Flowthrough Crediting Mechanism in section 22 of its GT&C is a mechanism to true-up over and under-recoveries of fuel used in its operations. However, section 22 appears to focus only on the cash-out of imbalances between the quantities Sea Robin receives from

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<sup>11</sup> Sea Robin's last Annual Flowthrough Crediting Mechanism was filed on December 30, 2010 and accepted by an unpublished letter order. *Sea Robin Pipeline Company, LLC*, in Docket No. RP11-1665-000 (Apr. 11, 2011) (delegated letter order).

shippers and delivers to them. Also, section 22 does not expressly reference Sea Robin's actual use of fuel for its operations. Therefore, we direct Sea Robin to explain how section 22 provides for a true-up of its over and under-recoveries of fuel used in its operations. Therefore, the Commission accepts and suspends the tariff record to be effective July 1, 2011, subject to refund and subject to Sea Robin, within 20 days of the issuance of this order, submitting this explanation. The other parties may file further comments on Sea Robin's filing within 40 days of the date of this order.

18. Finally, although Sea Robin stated in its transmittal letter that it wished to move the tariff record into effect in the event of minimal suspension, it did not so provide in the electronic filing. As we stated in our Order Establishing Procedures Relating to Tariffs Filed Electronically, the treatment of a filing depends on the meta data code selected by the filer, not on the text of the transmittal letter.<sup>12</sup> Pursuant to the e-Tariff filing requirements, Sea Robin did not provide, pursuant to section 154.7(a)(9),<sup>13</sup> an unconditional motion to move its tariff record into effect in the event of a minimal suspension by checking the correct meta data code. Accordingly, this tariff record cannot go into effect until Sea Robin files a motion consistent with section 154.206 of the Commission's regulations.<sup>14</sup>

19. Based upon a review of the filing, the Commission finds that the proposed tariff record has 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 record for filing and suspend its effectiveness for the period set forth below, subject to the condition discussed above.

20. 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.<sup>15</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>16</sup> Such circumstances exist

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<sup>12</sup> *Electronic Tariff Filings*, 130 FERC ¶ 61,047, at P 5 (2010) ("any discrepancy between the description of the filing in the transmittal letter (or other pleading) and the Type of Filing code chosen will be resolved in favor of the Type of Filing code").

<sup>13</sup> 18 C.F.R. § 154.7(a)(9) (2011).

<sup>14</sup> 18 C.F.R. § 154.206 (2011).

<sup>15</sup> See *Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

<sup>16</sup> See *Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day

here. Accordingly, in this case, the Commission will exercise its discretion to suspend the rates for a shorter period and permit the rates to take effect on July 1, 2011, subject to refund and subject to the condition discussed above.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

cc: All Parties  
Public File

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suspension).