

136 FERC ¶ 61,086
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 5, 2011

In Reply Refer To:
Gulf South Pipeline Company, LP
Docket No. RP11-2262-000

Gulf South Pipeline Company, LP
9 Greenway Plaza, Suite 2800
Houston, TX 77046

Attention: J. Kyle Stephens, Vice President, Regulatory Affairs and Rates

Reference: Letter Order on Proposed Enhanced Firm Transportation Service

Dear Mr. Stephens:

1. On July 7, 2011, Gulf South Pipeline Company, LP (Gulf South) filed tariff records¹ and a request for waiver to establish an Enhanced Firm Transportation Rate Schedule (Rate Schedule EFT), to be effective August 7, 2011. As discussed below, waiver of sections 154.202(a)(1)(vi) and (viii) of the Commission's Regulations² is granted, and the Commission accepts Gulf South's proposed tariff records, effective August 7, 2011, subject to condition.
2. Gulf South states that its traditional FTS service is designed for a 1/24 hourly rate of flow.³ Gulf South states that it is proposing Rate Schedule EFT because it has seen an interest from parties for flexible hourly deliveries on a firm basis greater than that provided by its Firm Transportation Service (FTS) Rate Schedule. Gulf South states that the increase in natural gas consumption by the electric generation market has raised

¹ See Appendix.

² 18 C.F.R. § 154.202(a)(1)(vi) and (viii) (2011).

³ Section 6.7.3 of the General Terms and Conditions (GT&C) of Gulf South's Tariff provides, with certain exceptions not here relevant: "Customer shall deliver and receive quantities each hour on a uniform hourly rate, as practicable."

interest from parties for greater flexibility in hourly deliveries. Gulf South's proposed Rate Schedule EFT provides accelerated hourly firm service to its customers' primary delivery points, which will allow customers to receive delivery of gas quantities on a firm basis at a 1/16 hourly rate of flow. Gulf South's filing includes tariff sections establishing Rate Schedule EFT, revisions to certain *pro forma* service agreements needed to provide EFT service, and minor conforming changes to the GT&C of its tariff necessary to incorporate EFT service.

3. Gulf South states that Rate Schedule EFT will be available to any customer satisfying the requirements of the EFT Rate Schedule, and asserts that Rate Schedule EFT will have no impact on the contractual and tariff rights of its existing firm customers. Gulf South states that it will only agree to provide EFT service if capacity is available and the provision of such service will not adversely impact any other existing firm shipping; however, Gulf South admits that some impact on the availability of interruptible capacity may occur.

4. Gulf South's proposed Rate Schedule EFT includes a provision that will allow FTS customers to request to convert all or some of their FTS service to EFT service, subject to available capacity. The 1/16 EFT service will only be available at the customer's primary delivery point, but a customer may continue to use supplemental delivery points on a 1/24 hourly rate of flow. Gulf South states that an EFT shipper's hourly consumption at the primary delivery point cannot exceed 1/16 of its maximum daily quantity (MDQ), and once an EFT customer has received its full MDQ, any further service will be charged the proposed Rate Schedule EFT overrun rate.⁴

5. Gulf South states that its proposed rates for EFT service are derived as follows: a ratable take of 1/16 requires one-and-a-half times the amount of pipeline capacity required for a ratable take of 1/24. Accordingly, the proposed reservation rate for EFT service is one-and-a-half times Gulf South's existing FTS reservation charge. The proposed usage charge for Rate Schedule EFT is the maximum usage rate applicable to Rate Schedule FTS.

6. Gulf South requests waiver of the requirement in section 154.202(a)(1)(vi) to submit an explanation of why the proposed rate design and proposed allocation of costs are just and reasonable, and of the requirement in section 154.202(a)(1)(viii) to submit a projection of revenues for the twelve month period commencing upon the effective date of the instant tariff records. Gulf South states that it has no actual cost or revenue experience related to this new service, and does not plan to allocate costs to this service

⁴ The proposed Overrun Rate is "the maximum applicable tariff rate, calculated on a 100% load factor basis unless another rate is agreed to by the parties in writing prior to the time the overrun occurs."

for purposes of rate design at present. Gulf South states that it expects the initial Rate Schedule EFT customers to be existing customers that convert existing firm and interruptible contracts to EFT, and assumes that the difference in revenue from EFT during the initial twelve month period compared to the revenue from existing firm and interruptible contracts that will be converted and terminated will be de minimis.

7. Notice of Gulf South's filing was issued on July 12, 2011. Interventions, comments 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 before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. Atmos Energy Corporation (Atmos) and BG Energy Merchants, LLC (BGEM) each filed comments. Trans Louisiana Gas Pipeline, Inc. and Atmos Energy Marketing, LLC (jointly "Protesters") filed a protest. On July 25, 2011,⁷ Gulf South filed an answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits answers to protests or answers unless otherwise permitted by the decisional authority.⁸ However, we will accept the answer as it aids in the disposition of the issues raised in the comments.

8. Atmos requests that the Commission require Gulf South to ensure that the *status quo* will be maintained for all firm shippers who do not wish to contract for the enhanced flexibility service, and that ordinary firm shippers will not be subject to any new hourly restrictions as a result of the implementation of EFT service. Atmos requests that the Commission do this by placing conditions on Gulf South similar to those placed upon Texas Eastern Transmission L.P. (Texas Eastern) when it sought to offer additional hourly flexibility to its firm shippers at specified points of delivery.⁹ In its answer, Gulf South affirms that under its EFT proposal existing firm shippers will not be subject to any new hourly restrictions as a result of the implementation of EFT service.

9. BGEM states that, although Gulf South states repeatedly that existing customers will not be harmed by the proposed EFT service, it has made no demonstration to prove this. BGEM requests that the Commission have Gulf South make a showing that the

⁵ 18 C.F.R. § 154.210 (2011).

⁶ 18 C.F.R. § 385.214 (2011).

⁷ The Certificate of Service erroneously states August 25th.

⁸ 18 C.F.R. § 385.213(a)(2) (2011).

⁹ Citing *Texas Eastern Transmission, L.P.*, 134 FERC ¶ 61,068 (2011).

proposed service will not adversely impact firm shippers similar to what Columbia Gulf Transmission Company (Columbia Gulf) provided in its proceeding to provide a similar service.¹⁰ BGEM states that Gulf South can do this either through supplemental comments or in a technical conference. BGEM points out that in *Columbia Gulf*, the Commission noted:

Columbia Gulf has sufficiently detailed both the scheduling priorities of its various services and arrangements a potential EFT shipper must make with upstream and downstream operators. Columbia Gulf affirms that it will not subscribe any firm capacity to Rate Schedule EFT shippers that has already been subscribed to other firm service shippers. Columbia Gulf states that service provided under Rate Schedule will have the same scheduling and curtailment priority as other firm services provided under its tariff and also it will be subject to all applicable NAESB standards. Columbia Gulf has also confirmed that, before approving any request for EFT service, it will ascertain whether it has the operational ability to offer the service at the specific receipt and delivery points requested. Finally, Columbia Gulf maintains that nominations under Rate Schedule EFT will not bump nominations under other firm services that have been scheduled by Columbia Gulf.¹¹

10. In response to BGEM's comments, Gulf South Gulf affirms that it will not subscribe any firm capacity to Rate Schedule EFT customers that has already been subscribed to other firm service shippers. Gulf South states that service provided under Rate Schedule EFT will have the same scheduling and curtailment priority as other firm services provided under its tariff and also it will be subject to all applicable NAESB standards. Before approving any request for EFT service, Gulf South states that it will ascertain whether it has the firm transportation capacity to offer the service at the specific receipt and delivery points requested in the same manner it evaluates any other firm transportation request. Gulf South explains that nominations under Rate Schedule EFT, like nominations for other firm services, will not bump nominations under other firm services that have been scheduled by Gulf South. Therefore, Gulf South argues that neither supplemental comments nor a technical conference is necessary.

11. The Protesters request that the filing be rejected, or alternatively suspended for the maximum period and set for hearing in order to permit interested parties and the Commission to fully understand the issues and impacts associated with the proposed EFT service.

¹⁰ *Columbia Gulf Transmission Co.*, 135 FERC ¶ 61,106 (2011).

¹¹ *Id.* P 131.

12. The Protesters state that Gulf South has not shown that its proposed EFT service is just and reasonable, and has not adequately shown that the new service will not harm existing firm shippers. The Protesters assert that Gulf South has failed to provide any justification that the EFT service is needed or desired. The Protesters note that Gulf South's current tariff already only requires shippers to adhere to a uniform hourly rate of flow "as practicable." They point to section 6.2 of the GT&C of Gulf South's tariff which provides:

As Practicable when used in connection with the definition of Uniform Hourly Rate of Flow as defined in this Section shall mean that the hourly rate of flow shall be uniform when conditions exist on Gulf South's system or portion thereof that unless otherwise corrected will require the implementation of an operational plan as described in Sections 6.18[3], [4] or [5]. Examples of such circumstances are:

- a) Extreme weather, such as extreme temperatures, hurricanes or other natural disasters;
- b) Planned or unplanned maintenance and/or construction of the pipeline system or part thereof;
- c) force majeure;
- d) the issuance of an OFO.

The Protesters assert that the tariff therefore already provides for hourly flexibility for firm shippers, when operationally feasible, and wish to ensure that existing firm shippers retain that existing hourly flexibility. The Protesters state that, historically, firm service included the flexibility to accommodate non-uniform deliveries during non-critical periods, and assert that if an EFT customer is willing to pay above maximum tariff rates to use the existing flexibility in Gulf South's system, those additional revenues should be credited to the shippers who paid for that flexibility.

13. The Protesters state that the structure of the proposed EFT service makes no sense, in that an EFT customer paying a premium to obtain additional operational flexibility along its delivery path can only use its primary delivery point. The Protesters assert that the customer should be able to deviate from uniform hourly flows along its delivery path.

14. The Protesters oppose Gulf South's requested waiver to submit an explanation of why the EFT rate design is just and reasonable. The Protesters assert that Gulf South has not shown that its proposed EFT rates are just and reasonable. The Protesters state that, since the proposed EFT service is based on using the existing flexibility in the Gulf South system, it is not entirely clear why any additional charges are appropriate. The Protesters state that, if there are costs associated with the ability to provide that additional flexibility

(flow studies, additional scheduling, etc.), EFT rates should be based on those incremental costs. The Protesters assert that Gulf South's basing the EFT rates on the difference between a ratable take of 1/16th and 1/24th is a flawed approach which completely ignores the existing ability of shippers to deviate from non-uniform deliveries during non-critical periods.

15. In its answer, Gulf South states that the Protester's assertion that Gulf South has not shown that the proposed EFT service is just and reasonable because Gulf South did not provide operational or cost information demonstrates a fundamental misunderstanding of the proposed service. Gulf South states that EFT service is not intended to address either an operational or cost problem, but rather to provide a new option to firm transportation customers, and therefore Gulf South's only obligation in proposing such a service is to show that it is just and reasonable. Gulf South states that the Commission has previously found that similar EFT services offered by other pipelines "provide shippers with the added flexibility to alter their hourly flows to support swings in demand."¹² Gulf South states that the proposed EFT service may be particularly valuable to meet the demands of its electric generation customers who must flow gas at greater levels during certain periods to meet peaks in electric demand. Gulf South asserts that EFT services provide generation customers the firm right to better align their gas supplies with the demand profiles of their power plants. Gulf South states that its proposal is consistent with Commission policy to permit pipelines to "offer special services...that will better fit the profile of gas fired generation."¹³

16. Gulf South urges the Commission to reject the Protesters assertion that any revenues generated from the EFT service should be credited to existing firm transportation customers. Gulf South states that EFT customers will be using unsubscribed firm transportation capacity, and notes that the Commission has recognized that "quantities sold under Rate Schedule EFT would supplant available FT capacity" and

¹² Citing *Great Lakes Gas Transmission L.P.*, 120 FERC ¶ 61,105, at P 20 (2007) (*Great Lakes*).

¹³ Citing *Standards for Business Practices for Interstate Natural Gas Pipelines*, Order No. 587-U, FERC Stats. & Regs. ¶ 31,307, at P 27 (2010). See also *Gulfstream Natural Gas System, L.L.C.*, 91 FERC ¶ 61,119, at 61,464 (2000):

[H]ourly firm transportation service is a new innovative service designed to meet the peaking needs of electric generation customers. The service will allow Gulfstream to respond quickly to customer needs, especially in the electric generation industry whose requirements can vary dramatically during the day. Further, such firm hourly service will allow Gulfstream the flexibility and control necessary to compete with other fuels that serve electric generating plants.

that there is thus little opportunity for “any incremental revenue.”¹⁴ Therefore, Gulf South states, the basic premise that approval of the EFT service will result in an over collection of revenues, is fatally flawed. Gulf South states that EFT customers only pay a higher overall rate because during any particular hour they have the firm right to utilize more capacity than an FTS customer with the same MDQ.

17. In response to the Protester’s claim that EFT customers should be able to receive their full 1/16 along its delivery path, Gulf South states that its highly-reticulated system is not pathed and that capacity is awarded on a point to point basis. Gulf South states that EFT customers are limited to this service at primary points precisely to ensure that the use of the service will not adversely affect other firm customers.

18. Next, Gulf South argues that its proposed rates are just and reasonable. Gulf South states that the rates for EFT service have been appropriately designed based upon the amount of firm pipeline capacity that must be reserved to provide 1/16 firm hourly service – a level of service which is 1.5 times the amount of transportation capacity necessary than for 1/24 firm hourly service. Gulf South notes that the rate structure it has proposed has been found to be just and reasonable for other pipelines.¹⁵ Gulf South cites the Commission in *Great Lakes* where it stated that the EFT rate derived from the pipeline’s firm transportation rate, “conforms to the approved formulae for those of comparable services.” Accordingly, Gulf South asserts that its proposed rates for EFT service are just and reasonable, and this aspect of the protest should be rejected.

19. Finally, Gulf South affirms that it will continue to provide hourly flexibility to FTS customers, as required by its tariff, when operationally feasible. Gulf South states that the flexibility available to a firm transportation customer will remain dependent on total system utilization and operating conditions which can vary from day-to-day. Gulf South states that the only level of hourly firm service that is guaranteed currently to FTS shippers under the provisions cited by the Protesters is 1/24, and Gulf South states that this will in no way be impaired by Gulf South’s offering of EFT service. Gulf South states that a new contract for EFT service for 100,000 Dth per day will be evaluated in the same manner as a request for a new FTS contract for 150,000 Dth per day, as these two requests utilize the same amount of hourly capacity.

20. The Commission finds that Gulf South’s proposal is just and reasonable. The Commission has previously approved several pipelines’ requests to offer hourly firm

¹⁴ Citing *Great Lakes*, 120 FERC ¶ 61,105 at P 10, 20 (accepting EFT service without requiring pipeline to credit EFT revenues).

¹⁵ Citing *Great Lakes*, 120 FERC ¶ 61,105 at P 8-10; Vector Pipeline, L.P., FERC Gas Tariff, First Revised Vol. No. 1, Original Sheet Nos. 20A-21 Footnote 3.

transportation services that provide increased flexibility to their customers over the objection of shippers so as long as such services do not degrade the services provided to the pipeline's existing shippers.¹⁶ With regard to the Protesters' and the commenting parties' concern that the new EFT service will degrade the existing service of Gulf South's existing firm customers, we do not find the arguments persuasive. Gulf South repeatedly and clearly states that it will only provide service under Rate Schedule EFT if capacity is available, and the provision of such service will not adversely impact any other existing firm service. Accordingly, the implementation of Rate Schedule EFT should not adversely affect the limited hourly flexibility Rate Schedule FTS customers already have under the tariff. Further, Gulf South's proposed Rate Schedule EFT gives EFT service the same scheduling and curtailment priority as other firm services provided under its tariff, and EFT service will also be subject to all applicable North American Energy Standards Board (NAESB) standards. Gulf South has also included in proposed Rate Schedule EFT the same standards and requirements for awarding EFT capacity as are in its other firm service rate schedules, including availability of capacity and the same adherence to its GT&C as apply to its other firm services.

21. Regarding the Protesters' argument that the current tariff with its "as practicable" language grants the same hourly flexibility to all firm shippers as the proposed Rate Schedule EFT and, therefore, there is no need for the new EFT service, the Commission disagrees. Gulf South clearly states in its filing that its customers' needs are changing, with an increase in natural gas consumption by the electric generation market. The "as practicable" language lists "extreme weather, such as extreme temperatures" as the first example of a circumstance which may require existing FTS customers to conform to a 1/24 uniform hourly rate of flow. However, the circumstance when there are extreme

¹⁶ See, e.g., *Texas Eastern Transmission, LP*, 134 FERC ¶ 61,068 (2011) (Commission accepted enhanced hourly flexibility proposal with the proviso that all existing firm shippers retain their current hourly flow flexibility); *Portland Natural Gas Transmission System*, 106 FERC ¶ 61,289 (2004) (Pipeline sought to implement an hourly reserve service that permitted shipper to contract for specified hourly flow rights to have their MDQ delivered at an accelerated rate over a specified number of hours. The Commission permitted the pipeline to implement the new service but expressly rejected the limitations the pipeline proposed on the rights of existing customers to exceed uniform hourly flows.); *Vector Pipeline, L.P.*, 103 FERC ¶ 61,391 (2003) (accepting hourly firm service offered in response to shipper suggestions that provided additional flexibility without restricting flexibility of current services); *Panhandle Eastern Pipe Line Co.*, 90 FERC ¶ 61,119 (2000) (accepting an hourly firm transportation service where the pipeline already provided an hourly service but where existing services did not provide the degree of hourly flexibility, and where existing services were not restricted in conjunction with the provision of the new service).

temperatures is a prime example of when the electric generation market would require the flexibility to take natural gas deliveries at a rate greater than the 1/24 uniform hourly rate that the FTS customer would be limited to. The existing FTS customer can make the decision of whether it wants or requires the more flexible hourly takes of Rate Schedule EFT.

22. The Commission also disagrees with the Protesters' assertion that the EFT customer should be able to deviate from uniform hourly flows along its delivery path, and not just at its primary delivery point. The Commission has repeatedly allowed pipelines to restrict flexible hourly services to primary points.¹⁷

23. The Commission will grant Gulf South's request for waiver of the requirement in section 154.202(a)(1)(vi) to submit an explanation of why the proposed rate design and proposed allocation of costs are just and reasonable, and of the requirement in section 154.202(a)(1)(viii) to submit a projection of revenues for the twelve month period commencing upon the effective date of the instant tariff records. The Commission has previously approved new rate schedules for innovative services derived from the rates for existing firm transportation services rather than via cost allocation methods.¹⁸ Under these circumstances, the Commission has not always required the pipeline to submit workpapers containing 12-month cost and revenue estimates.

24. When the pipeline proposing a new rate schedule lacks the experience necessary to provide a reliable projection of possible revenues or costs related to the new service, the Commission has often conditioned its approval upon the filing of an activity report following the first year of service.¹⁹ This appears appropriate here where prospective estimates are difficult to make and the menu of firm service options will be enlarged and

¹⁷ See, e.g., section 2(j) of Columbia Gulf's Rate Schedule EFT which states: "[u]nless otherwise agreed to by Transporter on a not unduly discriminatory basis, service under this Rate Schedule at any secondary receipt or delivery point must be received and delivered at a uniform hourly basis." Also, CenterPoint's Rate Schedule EFT, section 2.8, states: "[i]f, and to the extent that, Shipper has not nominated its full MHDO at one or more Primary Delivery Points, the remainder (converted to a 24 hour basis) should be available for scheduling as secondary service to non-Primary Delivery Points on a constant basis."

¹⁸ *CenterPoint Energy Gas Transmission Co.*, 125 FERC ¶ 61,334 (2008); *Great Lake*, 120 FERC ¶ 61,105 at P 8-10.

¹⁹ See *Northwest Pipeline Corp.*, 100 FERC ¶ 61,336, at P 9, 12 (2002); *Midwestern Gas Transmission Co.*, 114 FERC ¶ 61,218, at P 7 (2006); and *CenterPoint Energy Gas Transmission Co.*, 125 FERC ¶ 61,334, at P 15 (2008).

made more flexible without impairing other firm service.²⁰ Thus, the Commission will require Gulf South to file an activity report within 45 days after the conclusion of Rate Schedule EFT's first year of implementation. The report must detail: (1) the date service was rendered for each transaction, (2) the volume shipped under each transaction, (3) monthly volumes, (4) the name of the shipper for each transaction, (5) whether the shipper is an affiliate of Gulf South, (6) the rate charged for each transaction, (7) the revenues received for each transaction, and (8) the monthly revenues for this service. Such information will provide interested parties actual information that can be used to monitor Gulf South's EFT activity and revenues.

25. For the reasons set forth above, the Commission accepts the tariff records to implement Gulf South's Rate Schedule EFT subject to the condition that Gulf South must file an activity report as detailed above.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

²⁰ Although Gulf South acknowledges that there may be some diminution in the availability of interruptible service, this "interruptibility" is an inherent characteristic of interruptible service, and does not warrant rejection of the proposed EFT Rate Schedule.

APPENDIX

**Gulf South Pipeline Company, LP
NGA Gas Tariffs****Tariff Records Accepted Effective August 7, 2011, Subject to Condition**

Section 1, Table of Contents, 3.0.0
Section 4.11, Currently Effective Rates - Transportation - EFT Service, 0.0.0
Section 4.11.1, Currently Effective Rates - EFT - Haynesville/Perryville Exp, 0.0.0
Section 4.12, Currently Effective Rates - EFT - Summer Season Option, 0.0.0
Section 5.11, Rate Schedules - EFT, 0.0.0
Section 6.2, GT&C - Definitions, 3.0.0
Section 6.6, GT&C - Primary, Secondary, Comprehensive, and Pooling Points, 3.0.0
Section 6.7, GT&C - Operating Conditions, 2.0.0
Section 6.8, GT&C - Requests for Service, 4.0.0
Section 6.10, GT&C - Right of First Refusal, 5.0.0
Section 6.14, GT&C - Imbalance Resolution Procedures, 4.0.0
Section 6.16.6, GT&C - Capacity Release - Additional Information, 2.0.0
Section 6.17, GT&C - Segmentation of Capacity, 2.0.0
Section 7.1, Form(s) of Service Agreements - FTS/EFT/NNS, 2.0.0
Section 7.1.1, Form(s) of Service Agreements - FTS/EFT/NNS, 2.0.0
Section 7.8, Form(s) of Agmts - NNS/FTS/EFT Discounted Rate Letter Agmt, 2.0.0
Section 7.8.1, Form(s) of Agmts - NNS/FTS/EFT Discounted Rate - Exhibit A, 2.0.0
Section 7.8.2, Form(s) of Agmts - NNS/FTS/EFT Discounted Rate - Exhibit B, 2.0.0
Section 7.8.3, Form(s) of Agmts - NNS/FTS/EFT Discounted Rate - Exhibit C, 2.0.0
Section 7.10, Form(s) of Agmts - NNS/FTS/EFT Negotiated Rate Letter Agmt, 2.0.0
Section 7.10.1, Form(s) of Agmts - NNS/FTS/EFT Negotiated Rate - Exhibit A, 2.0.0
Section 7.10.2, Form(s) of Agmts - NNS/FTS/EFT Negotiated Rate - Exhibit B, 2.0.0
Section 7.10.3, Form(s) of Agmts - NNS/FTS/EFT Negotiated Rate - Exhibit C, 2.0.0