

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

February 14, 2005

In Reply Refer To:  
Docket No. RP04-249-004

Florida Gas Transmission Company  
Attn: Drew J. Fossum, Esq.  
Senior Vice President and General Counsel for  
Florida Gas Transmission Company  
1331 Lamar Street, Suite 650  
Houston, TX 77210-4657

Dear Mr. Fossum:

1. On December 16, 2004, you filed, on behalf of Florida Gas Transmission Company (FGT), a Stipulation and Agreement of Settlement (Settlement) resolving the temperature issue as it applies to deliveries by AES Ocean Express LLC (Ocean Express), which is one of the two issues set for settlement judge and, if necessary, hearing procedures in Docket No. RP04-249-000 by the Commission's June 18, 2004 Order (June 18 Order). *AES Ocean Express LLC v. Florida Gas Transmission Company*, 107 FERC ¶ 61,276 (2004). On July 23, 2004, FGT filed *pro forma* tariff sheets to comply with the June 18 Order. On September 7, 2004, the Commission established a hearing to address the issues raised by FGT's filing in Docket No. RP04-249-001. Order Establishing Hearing, 108 FERC ¶ 61,221 (2004). By Order dated October 8, 2004, Chief Judge Wagner consolidated the issues in Docket No. RP04-249-000 with the proceeding in Docket No. RP04-249-001.

2. On December 29, 2004, initial comments on the Settlement were filed by FGT, FERC Trial Staff, and Peoples Gas System, a division of Tampa Electric Company. On January 7, 2005, FGT filed reply comments. On January 19, 2005, the presiding administrative law judge certified the settlement to the Commission as an uncontested partial settlement.

**The Partial Settlement**

3. Article I states that the Settlement resolves the temperature issue as it applies to deliveries by Ocean Express.

4. Article II states that the temperature issue has been resolved as provided in Attachment 1 to the Settlement. In the Explanatory Statement accompanying the settlement, FGT explains that Attachment 1 will be included in the Interconnection Agreement between FGT and Ocean Express and is intended to determine specific minimum temperature requirements at five different points on the FGT system. The attachment provides that FGT and Ocean Express agree that temperature transducers and telemetry equipment will be installed at all five points to assure real time access to data from these points. Further, among other things, FGT and Ocean Express agree on specific temperature requirements for the different points and for alternative procedures if the parties do not agree on "Final Temperature Requirements."
5. Article III provides that the Settlement shall become effective 30 days following the date on which a Commission order approving the Settlement, without modifications or conditions that are materially adverse and unacceptable to FGT or to any Party, becomes final.
6. Article IV states that a final Commission order approving the Settlement shall constitute final approval of all necessary authorizations and waiver, to the extent necessary, to effectuate all of the provisions of the Settlement.
7. Article V provides that the Settlement is privileged and of no effect until it is approved and becomes effective.
8. Article VI states that the Settlement is not severable, it represents a negotiated settlement only with respect to the issues resolved therein, and, except to the extent explicitly set forth in the Settlement, neither FGT, the Commission, its Staff, nor any Party shall be deemed to have approved, accepted, agreed to, or consented to any policy, methodology, or other principle underlying or supposed to underlie any of the matters provided for in the Settlement. It also states that Commission approval of the Settlement shall constitute the requisite approval necessary to permit the implementation of the provisions of the Settlement and shall constitute a determination that the terms and provisions of the Settlement are fair, equitable, and in the public interest.
9. Article VII provides that Attachment 1 to the Settlement is incorporated by reference and made a part of the Settlement for all purposes, as set forth in the Settlement, and that the standard for review of proposed changes to the provisions of the Settlement is the just and reasonable standard that applies to the Commission and the Parties.
10. The Settlement filed herein on December 16, 2004 is fair and reasonable and in the public interest and is hereby approved.

11. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or theory underlying the Settlement, or any issues resolved in this proceeding.
12. This order terminates Docket No. RP04-249-004.

By order of the Commission. Commission Kelly not participating.

Linda Mitry,  
Deputy Secretary.

cc All parties