

122 FERC ¶ 61,162
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Gulf South Pipeline Company, LP

Docket Nos. CP07-32-002
CP07-32-003
CP07-105-001

Destin Pipeline Company, L.L.C.

CP07-110-001

ORDER AMENDING CERTIFICATE AND GRANTING REHEARING,
IN PART

(Issued February 21, 2008)

1. In an order issued September 28, 2007, the Commission authorized Gulf South Pipeline Company, LP (Gulf South) to construct and operate its proposed Southeast Expansion Project, consisting of approximately 111 miles of pipeline in Mississippi and Alabama and nearly 45,000 horsepower (hp) of compression.¹ The Commission, however, rejected Gulf South's rate proposal and required Gulf South to charge its generally applicable firm and interruptible system rates as initial rates for service on the expansion facilities. On October 29, 2007, Gulf South filed a timely request for rehearing of the Commission's rejection of its rate proposal.
2. On October 31, 2007, Gulf South filed an application to amend the September 28, 2007 certificate to reduce the amount of compression to be installed at the Delhi Compressor Station from the authorized 18,940 hp to 4,740 hp.
3. As discussed below, the Commission is approving the proposed amendment to the September 28, 2007 certificate and granting Gulf South's request for rehearing, in part, to permit Gulf South to charge an incremental rate for the Southeast Expansion Project.

¹ *Gulf South Pipeline Company, LP and Destin Pipeline Company, L.L.C.*, 120 FERC ¶ 61,291 (2007) (September 28 Order).

Background

4. Gulf South is a natural gas company which owns and operates pipeline facilities extending from southern and eastern Texas through Louisiana, Mississippi, southern Alabama and western Florida. In June 2007, the Commission approved Gulf South's East Texas to Mississippi Expansion Project, a 239-mile pipeline with a capacity of up to 1.7 Bcf per day extending from East Texas to Harrisville, Mississippi.²

5. In this proceeding, Gulf South requested authorization to construct approximately 111 miles of 42-inch outside diameter pipeline, extending from the end point of its new East Texas to Mississippi Expansion Project at Harrisville to a new interconnect with Transcontinental Gas Pipe Line Corporation (Transco) in Choctaw County, Alabama at Transco Station 85. Gulf South also proposed interconnections with Destin Pipeline Company, Tennessee Gas Pipeline Company, and Southern Natural Gas Pipeline along the pipeline route. In addition to the pipeline facilities, Gulf South proposed to install a total of 44,980 hp of compression at three new compressor stations in Richland Parish, Louisiana (Delhi Compressor Station), Simpson County, Mississippi (Harrisville Compressor Station), and Clarke County, Mississippi (Destin Compressor Station). At the Delhi Compressor Station, Gulf South proposed to install 18,940 hp of compression comprising four Caterpillar 3608 reciprocating engines to provide pressure maintenance for gas entering the Southeast Expansion Project from other pipelines.

6. Gulf South proposed to charge customers that use both the Southeast Expansion Project facilities and Gulf South's existing facilities an incremental rate for service on the expansion facilities plus the generally applicable system rates for service provided on the existing system. The Commission found that the Southeast Expansion Project will be integrated and operated as part of Gulf South's existing pipeline system, and rejected the incremental plus pricing proposal in accordance with Commission policy regarding integrated system facilities.

7. The Commission also rejected Gulf South's proposed incremental rates as initial rates for services using the expansion capacity and required Gulf South to use its generally applicable firm and interruptible system rates as initial recourse rates for service on the expansion facilities. The September 28 Order explained that for integrated mainline expansion facilities, such as the Southeast Expansion Project, the Commission has permitted pipelines to charge an incremental rate for service utilizing such facilities if such rate is higher than the generally applicable firm transportation rate.³ On the other hand, the September 28 Order pointed out, the Commission has required pipelines to

² See *Gulf South Pipeline Company, L.P.*, 119 FERC ¶ 61,281 (2007).

³ Citing *East Tennessee Natural Gas Company*, 98 FERC ¶ 61,331 (2002).

charge their generally applicable transportation rate if that rate is higher than the cost-based incremental rate for service utilizing the expansion.⁴

8. The Commission determined that the appropriate rate for comparison purposes was Gulf South's Zone 3 to Zone 3 FTS firm transportation rate, as the bulk of the contracted-for capacity is to be received at receipt points in Zone 3 and likewise delivered to new delivery points in Zone 3. After reviewing Gulf South's proposed incremental rate, the Commission determined that Gulf South had used an incorrect depreciation rate and had not employed the full capacity of the proposed Southeast Expansion facilities in designing its rate, as Commission policy requires. The Commission recalculated Gulf South's proposed incremental rate to correct these deficiencies, and found that the Commission-revised firm incremental rate of \$0.154 per Dth per day was lower than Gulf South's existing, generally applicable rate for Zone 3 to Zone 3 service. Accordingly, the Commission required Gulf South to charge its existing Part 284 rates for service on the Southeast Expansion Project.

Request for Rehearing

Integration of Facilities

9. With respect to the Commission's rejection of its incremental plus pricing proposal, Gulf South challenges the underlying premise of the September 28 Order that the Southeast Expansion will be operated on an integrated basis with Gulf South's other mainline facilities. Gulf South acknowledges that the Southeast Expansion Project will provide an additional outlet for gas leaving Gulf South's East Texas to Mississippi Expansion, but states that the Southeast Expansion facilities are not otherwise connected to Gulf South's existing facilities in either Gulf South's Zone 3 or Zone 4. According to Gulf South, gas from existing facilities in these zones cannot physically enter the Southeast Expansion facilities because of pressure differential between what it calls the two systems. Gulf South contends that the Southeast Expansion operates more like a delivery lateral than it does as an integrated part of the mainline system.

Commission Response

10. The Commission affirms its determination that the expansion facilities will be integrated and operated as part of Gulf South's overall system, and that, accordingly, incremental plus pricing would not be appropriate. The Southeast Expansion Project is the downstream delivery component of Gulf South's East Texas to Mississippi Expansion Project which the Commission has determined will be integrated with the Gulf South system.⁵ The Southeast Expansion Project is fully integrated with those facilities. Of the

⁴ *Citing Trunkline Gas Company*, 119 FERC ¶ 61,078 (2007).

⁵ *Gulf South Pipeline Company, L.P.*, 119 FERC ¶ 61,281, at P 32 (2007).

660,000 Dth per day of capacity already under contract for the Southeast Expansion Project, 560,000 Dth per day will be delivered into the new facilities through the East Texas to Mississippi Expansion Project. Moreover, as part of the Southeast Expansion Project, Gulf South is installing compression at its new Delhi Compressor Station, located upstream of the Southeast Expansion Project on its existing system. While Gulf South's application for certificate amendment seeks to reduce the amount of compression at the Delhi Compressor Station, the compression at that point will nevertheless increase the pressure of gas delivered from other pipelines at Perryville, Mississippi to the pressure of Gulf South's East Texas to Mississippi Expansion Project so that gas from those pipelines may be introduced into the Southeast Expansion Project. Gulf South's application for certificate amendment states that it currently has contracts for 150,000 Dth per day from the Perryville area. While the Commission has approved incremental plus pricing for lateral service in instances where new facilities were constructed to serve a discrete market or supply,⁶ it is contrary to Commission policy to approve such a pricing mechanism involving a major system expansion, such as the Southeast Expansion Project, that broadly enhances a pipeline system's capabilities and can deliver over 1.2 Bcf per day.

Expansion Rate Calculation

11. Gulf South contends that the Commission erred in requiring Gulf South to charge its existing Zone 3 to Zone 3 rate rather than an incremental rate for transportation on the Southeast Expansion facilities. Gulf South asserts that the Commission's calculations underlying its determination that the incremental rate would be lower than the existing rate are incorrect, and that when properly calculated, the incremental rate for transportation on the Southeast Expansion facilities is higher than the existing Part 284 rate.

12. Gulf South asserts that its proposed incremental rate, contrary to the Commission's finding in the September 28 Order, does in fact use the full 1.268 Bcf a day capacity of the Southeast Expansion Project facilities in its rate design. Gulf South states that its proposed rate is based on the assumption that a portion of the capacity will be sold as firm transportation and a portion will be sold as interruptible transportation. The total of the firm and interruptible volumes it uses equals the full capacity of 1.268 Bcf, it avers. Gulf South contends that the Commission's rate calculation is incorrectly based on the premise that the firm volumes will be sold for the entire capacity at the full recourse rate and will recover the entire cost of service. Under the Commission's approach, Gulf South argues, any revenue from interruptible service would result in an overrecovery of the cost of service. Gulf South states that its rate design does not attempt to recover the entire cost of service from firm volumes. Gulf South avers that it actually

⁶ See, e.g., *Wyoming Interstate Company, Ltd.*, 119 FERC ¶ 61,251 (2007); *East Tennessee Natural Gas, LLC*, 114 FERC ¶ 61,122 (2006).

assigned \$8 million of the cost of service to interruptible service and subtracted that amount from the overall cost of service it used in calculating its firm recourse rate. Gulf South states that its rate calculation imposes substantial risk to the company by placing it at-risk for not only the \$8,000,000 of interruptible transportation revenues, but also for the risk that firm transportation volumes will not recover the full recourse rate.

13. Gulf South adjusted its own calculation of the incremental rate to reflect the lower depreciation rate directed by the Commission.⁷ Gulf South states that its revised incremental rate is higher than the existing Part 284 Zone 3 to Zone 3 rate and is therefore appropriate for the Southeast Expansion facilities under Commission policy. The Commission, it argues, should grant rehearing on this issue and permit Gulf South to charge the adjusted incremental rates.

Commission Response

14. To guard against possible cost over-recovery resulting from over-sized facilities, it is the Commission's usual policy to require pipelines to design initial firm (FT) rates based on billing determinants equal to the annualized capacity of the project⁸ and to design interruptible (IT) rates based on the 100 percent load factor equivalent of the firm rate.⁹ The Commission has departed from this policy in the past when specific operational constraints would have prevented the pipeline from having a reasonable opportunity to recover its cost of service using the actual capacity for billing

⁷ Gulf South states that the Commission's reduction of the cost of service by \$6.9 million to reflect a 2.3 percent depreciation rate (instead of the 4 percent depreciation rate used by Gulf South in its initial calculation) is incorrect. The methodology approved by the Commission in Gulf South's last rate case, states Gulf South, in fact, employs a 2.1 percent depreciation rate. Using the 2.1 percent depreciation rate along with an accompanying slight increase in taxes and return (because the rate base is higher as a result of the lower depreciation rate) results in an additional reduction in the cost of service of \$0.5 million. We accept Gulf South's revised figure and will use it in recalculating the FT rate.

⁸ *See, e.g., Sonora Pipeline, LLC*, 120 FERC ¶ 61,032 (2007).

⁹ *See, e.g., Discovery Gas Transmission LLC*, 107 FERC ¶ 61,124 (2004); *Southern Natural Gas Company and SCG Pipeline, Inc.*, 99 FERC ¶ 61,345 (2002).

determinants.¹⁰ No such circumstances exist here. In this proceeding, the firm rate should thus be calculated employing the Southeast Expansion Project's design capacity and billing determinants of 1,268,100 Dth per day (462,856,500 Dth annually). Gulf South initially used the correct billing determinants in its application; however, in its revised Exhibit N and in its rehearing request, Gulf South has calculated the FT rate incorrectly, using billing determinants of only 1,150,155 Dth per day (419,806,575 Dth annually).

15. The reduction of annual billing determinants from 462,856,500 Dth to 419,806,575 Dth corresponds directly to the \$8 million Gulf South allocated to interruptible transportation and subtracted from the cost of service of the Southeast Expansion Project in its revised Exhibit N. Gulf South's reducing the billing determinants is not appropriate as it would nullify the impact of the allocation of costs to IT service and result in the same FT rate as before the allocation. Gulf South states that its rate calculation imposes substantial risk on the company by placing it at-risk for not only the \$8 million allocated to interruptible transportation revenues, but also for the risk that firm transportation volumes will not recover the full recourse rate. The fact that Gulf South is at risk for capacity that is unsubscribed is not a basis for departing from the Commission's general policy of requiring that rates be designed based on the system capacity to guard against possible cost over-recovery. Gulf South must base its incremental FT rate on the full capacity of the project.

16. On further review, however, while Gulf South must use the actual system capacity in designing its rate, we find that Gulf South does not need to allocate a portion of the Southeast Expansion Project cost of service to interruptible service. Gulf South did not propose in its application to allocate any costs to interruptible transportation. It later allocated the \$8 million to interruptible service in response to an April 4, 2007 Commission data request suggesting that Gulf South must allocate costs to interruptible service or credit interruptible revenues to FT shippers. While it is Commission policy to require one of these options for new pipelines,¹¹ the Commission does not require this for expansions of existing systems, such as Gulf South's, which have already addressed the

¹⁰ See, e.g., *East Tennessee Natural Gas, LLC*, 114 FERC ¶ 61,122 (2006) (allowing rate to be designed using lower capacity due to an operating constraint on an upstream gathering facility limiting the amount of gas that could be transported); and *Weaver's Cove Energy, LLC*, 114 FERC ¶ 61,058 (2006) (allowing rate to be designed at lower capacity due to a downstream constraint on connecting pipeline limiting take-away capacity from the LNG terminal).

¹¹ See, e.g., *Creole Trail LNG, L.P. and Cheniere Creole Trail Pipeline, L.P.*, 115 FERC ¶ 61,331, at P 27 (2006); *Entrega Gas Pipeline Inc.*, 112 FERC ¶ 61,177, at P 51 (2005).

allocation issue in a previous rate case. Under these circumstances, the Commission will not require Gulf South to remove these costs from its cost of service in designing its firm transportation rates and will include the \$8,000,000 in its revised rate calculation.

17. Adjusting for a revised cost of service of \$78.6 million¹² and annual billing determinants of 462,856,500 Dth, we find that the appropriate firm incremental daily rate for the Southeast Expansion Project would be higher than Gulf South's existing Part 284 Zone 3 to Zone 3 rate, even after taking into account the reduced project costs as a result of Gulf South's certificate amendment to reduce compression at the Delhi Compressor Station, as discussed below. As we have explained previously, for mainline expansion facilities such as those proposed by Gulf South, the Commission permits pipelines to charge an incremental rate for service utilizing such facilities if that rate is higher than the generally applicable firm transportation rates. Accordingly, under these circumstances, and subject to our findings below regarding the rate impact of the proposed amendment to the certificate, an incremental FT rate for the Southeast Expansion Project is appropriate for firm service on the expansion facilities. Consistent with Commission precedent,¹³ we will require Gulf South to utilize its existing system-wide IT rate for interruptible services.

Request to Amend Certificate

18. In its December 11, 2006 application Gulf South requested authorization to construct four Caterpillar 3616 reciprocating engines and appurtenant auxiliary facilities that would produce 18,940 hp of compression at the new Delhi Compressor Station in Richland Parish, Louisiana. The purpose of the Delhi station is to increase the pressure of natural gas delivered by potentially interconnecting Perryville, Mississippi area pipelines up to the pressure of Gulf South's approved East Texas to Mississippi Project pipeline. The Delhi station, as approved by the Commission in the September 28 Order, was designed to receive up to 679,000 Dth per day of natural gas.

19. Gulf South has now determined that the foreseeable demand for transportation capacity at Delhi is considerably less than it originally anticipated. Gulf South has 150,000 Dth per day of service under contract from the Perryville area and expects that its short-term needs in that area will remain at that level. Accordingly, states Gulf South, it is here proposing to reduce the amount of compression at the Delhi station to a level that is consistent with market conditions. Gulf South explains that the reduced compression at the Delhi station will not affect the total capacity of the Southeast Expansion Project.

¹² \$71.1 million employed in the September 28 Order - \$0.5 million + \$8 million = \$78.6 million.

¹³ *Kern River Gas Transmission Co.*, 117 FERC ¶ 61,077, at P 326-38 (2006).

20. Gulf South now proposes by this amendment to construct only two Caterpillar 3608 reciprocating engines and appurtenant facilities that will produce 4,740 hp of compression rather than the four larger engines already approved by the Commission. The new level of compression will accommodate the receipt of 187,000 Dth of gas per day instead of the authorized 679,000 Dth per day. Gulf South states that the only modifications to the Delhi station will involve those directly related to the above-ground suction and discharge piping and building size. Gulf South states that the location and acreage of impact will be the same on both a temporary and permanent basis.

21. Gulf South states that the proposed amendment will result in a small reduction in the project costs and a small reduction in the incremental rate. Specifically, Gulf South estimates that the difference in cost between the four units originally certificated and the two units it is now proposing to be approximately \$9.1 million, which would reduce the daily demand rate by \$0.0043 per Dth.

Notice and Interventions

22. Notice of the proposed amendment to the Gulf South Southeast Expansion Project was published in the *Federal Register* on November 23, 2007 (72 Fed. Reg. 65712). No interventions or comments were filed in response to the notice.

Discussion

23. Gulf South has explained that the foreseeable demand for transportation capacity at the Delhi Compressor Station is considerably less than it originally anticipated. Gulf South's proposal to reduce the amount of compression at the new Delhi Compressor Station does not affect the basis for any of the Commission's findings that the Southeast Expansion Project is consistent with the Commission's September 15, 1999 Certificate Policy Statement establishing criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest.¹⁴ Therefore, consistent with the criteria discussed in the Certificate Policy Statement and section 7(c) of the NGA, we find that the benefits of the amended project will outweigh any potential adverse effects, and that the project, as modified, is required by the public convenience and necessity.

24. The modification of the Delhi Compressor Station will reduce the overall costs of the project and likewise result in a very small reduction in the incremental rate of \$0.170 that, on rehearing, we found appropriate for the project, based on the larger compression facilities at the Delhi station. In December 2007, Gulf South filed a revised Exhibit N

¹⁴ *Certification of New Interstate Natural Gas Pipeline Facilities* (Certificate Policy Statement), 88 FERC ¶ 61,227 (1999), *order on clarification*, 90 FERC ¶ 61,128, *order on clarification*, 92 FERC ¶ 61,094 (2000).

reflecting the depreciation rate and rate of return from Gulf South's last rate case settlement and the lower cost of service. The reduced cost of service results in a further revised daily FT transportation rate of \$0.1659 per Dth, which is still higher than Gulf South's existing Part 284 Zone 3 to Zone 3 rate. Accordingly, Gulf South may charge an incremental FT rate of \$0.1659 per Dth for the Southeast Expansion Project.

Environment

25. An environmental assessment (EA) dated January 17, 2008, was prepared for the amendment proposal. We have reviewed Gulf South's proposal to modify the previously approved Delhi Compressor Station, and have determined that no significant short or long-term impact on air or noise quality will result from the proposed design alteration. Reduction in size of this station from four units to two units will result in a decrease in total horsepower from 19,940 hp to 4,740 hp, and will reduce noise impact and operating air emissions. As a result of the reduction in emissions, the project is no longer subject to Title V permitting. Gulf South, however, has applied for and received a minor source air permit from the Louisiana Department of Environmental Quality.

26. Environmental Condition 30 of the September 28 Order required that the noise levels of the new and modified compressor stations not exceed a day-night sound level (Ldn) of 55 decibels on the A weighted scale (dBA) at nearby noise sensitive areas (NSAs) when the station is operated at full load. Although the predicted noise level from the modified Delhi Compressor Station would be 48.3 dBA Ldn at the nearest NSA, Condition 30 still applies. Gulf South must conduct a post-construction noise survey no later than 60 days after placing the compressor station in service. If the surveys show that noise levels exceed an Ldn of 55 dBA at the NSAs, we will require Gulf South to install additional noise controls to meet that level within one year of the in-service date of the facilities.

27. At a hearing held on February 21, 2008, the Commission on its own motion, received and made a part of the record all evidence, including the application(s), as supplemented, and exhibits thereto, submitted in this proceeding and upon consideration of the record,

The Commission orders:

(A) Gulf South's certificate of public convenience and necessity, issued September 28, 2007, is amended to authorize Gulf South to reduce the compression to be installed at the Delhi Compressor Station as described in the body of this order, and as more fully described in the application to amend the certificate.

(B) Gulf South must comply with the conditions set forth in the September 28, 2007 certificate, particularly with Ordering Paragraphs (B), (C), (E), and (F).

(C) Gulf South's request for rehearing is granted, in part, to allow Gulf South to charge the incremental rate for service on the Southeast Expansion Project, as modified by the certificate amendment, and set forth in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.