

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Venice Gathering System, L.L.C.

Docket No. EM06-16-000

ORDER APPROVING EXTENSION OF EMERGENCY SERVICES AND
GRANTING WAIVERS

(Issued March 9, 2006)

1. Venice Gathering System, L.L.C. (Venice) has requested the Commission grant it an emergency exemption from our certification requirements as permitted by section 284.261 of our regulations, and certain waivers, including a waiver of the portion of our regulations that establishes a 120-day maximum period for emergency services, so that it may continue transporting natural gas that could otherwise be shut in due to the closing of facilities as a result of Hurricane Katrina. In addition, Venice requests authorization to waive certain provisions of its tariff to facilitate the emergency transportation services. As discussed below, we will approve the extension of emergency services and grant waivers of the Commission's regulations and Venice's tariff, so that these emergency transactions can continue longer than the period established by the Commission's Part 284, subpart I emergency regulations.¹

Background

2. On August 29, 2005, Hurricane Katrina swept through the Gulf Coast region of the United States. The storm had direct and devastating effects on the lives of those in its path. It also caused major disruptions to the nation's energy infrastructure. Energy production has been shut in, pipelines, power lines, and other components of the energy transportation infrastructure, have been seriously damaged, and important parts of the energy chain, such as natural gas processing plants have been closed.

3. One of the processing plants damaged by the hurricane was Venice Energy Services Company L.L.C.'s (formerly Dynegy Midstream Services) Venice Gas Processing Plant (Venice Plant), which is located in one of the hardest hit areas, Plaquemines Parish, Louisiana. The Venice Plant was shut down and extensive repairs must be made before this plant can reopen.

¹ 18 C.F.R. § 284.261, *et seq.* (2005)

4. Venice is a Commission-regulated natural gas pipeline whose system extends from South Timbalier Block 135 to an onshore interconnection with the Venice Plant. Venice transports gas from offshore Louisiana fields located in the West Delta, Grand Isle, South Pelto, and South Timbalier areas. The gas is delivered to the Venice Plant processing facilities, where it is dehydrated, separated, processed, and compressed. Historically, all of the gas transported through Venice's system has been delivered to, and processed at, the Venice Plant.

5. However, because the Venice Plant was damaged by Hurricane Katrina and remains closed, supplies which previously passed through the plant must be re-routed or shut in. On November 14 and December 23, 2005, Venice entered into two agreements with Trunkline Gas Company, LLC (Trunkline) to reroute unprocessed gas through two temporary interconnections with Trunkline. Under the agreements, Venice has installed connecting pipes, valves, fittings and other appurtenances necessary to deliver up to 60 MMcf/day and 100MMcf/day of natural gas respectively. The temporary interconnections permit deliveries from the South Timbalier Block 177 gas fields and all other receipt points on Venice's system to bypass the Venice Plant and to instead flow into Trunkline's system at the South Timbalier Block 151 Production II Platform. From that point, the gas is transported onshore by Trunkline's system, where it is delivered into other nearby processing plants. Once processed, the gas is redelivered into Trunkline's system for transportation to downstream markets.

6. Venice is providing the emergency services under its existing Rate Schedules FTS-2 and ITS.² Venice states that the costs of the temporary interconnection to transport gas from the South Timbalier Block 177 field approximate \$175,000, which costs it proposes to recover through a facilities reimbursement surcharge of \$0.0858/Dth, and that the temporary interconnection to transport gas from all other receipt points costs approximately \$800,000, which it proposes to recover through a facilities reimbursement surcharge of \$0.2367/Dth. Venice states that it will assess a "true-up" surcharge based on volumes actually shipped in the event that the energy services terminate before the full amount of the facilities' costs have been recovered. Venice states that because no other services are currently being provided on its facilities, the emergency services are not degrading any existing services and will not have any effect on existing rates.

7. Venice requests that the Commission issue three waivers in connection with its emergency transactions. First, it asks that the Commission waive the time limitation under section 284.264(b) of the Commission's regulations that restricts emergency transactions to an initial 60-day period, with an additional, one-time 60-day extension, so

² Service through the first interconnection commenced on November 18, 2005, and service through the second interconnection commenced on December 26, 2005.

that it can continue to provide its emergency services for six months or until the Venice Plant is recommissioned, whichever occurs first. Second, Venice seeks authority to waive portions of its tariff which it believes to be inappropriate and unduly burdensome in the circumstances of the temporary services being provided. Third, Venice requests authority to waive the life-of-lease dedication requirement under Rate Schedule FTS-2 for the emergency services.

Discussion

8. Subpart I of Part 284 of the Commission's regulations governs emergency natural gas sale, transportation, and exchange transactions and provides for the exemption of a person who engages in an emergency natural gas transaction from the certificate requirements of section 7 of the Natural Gas Act and from the conditions of section 284.10 of the Commission's regulations.³ The regulations define emergencies as including four situations:

- (1) Any situation in which an actual or expected shortage of gas supply or capacity would require an interstate pipeline company, intrastate pipeline, local distribution company, or Hinshaw pipeline to curtail deliveries of gas or provide less than the projected level of service to any pipeline customer, including any situation in which additional supplies or capacity are necessary to ensure a pipeline's contracted level of service to a customer ...
or
- (2) A sudden unanticipated loss of natural gas supply; or
- (3) An anticipated loss of natural gas supply or capacity due to a foreseeable facility outage resulting from a landslide or riverbed erosion or other natural forces beyond the participant's control ... [or]
- (4) A situation in which the participant, in good faith, determines that immediate action is required for protection of life or health or for maintenance of physical property.⁴

9. The extreme disruptions to natural gas production, transportation, and processing caused by Hurricane Katrina fit into all four of these categories. The inability of Gulf-

³ See 18 C.F.R. § 284.261 (2005). Section 264.10, 18 C.F.R. § 284.10 (2005) establishes requirements regarding rates for transportation services.

⁴ See 18 C.F.R. §284.262 (2005).

area pipelines to access supplies may result in their not being able to provide customers previously projected levels of service; the hurricane has created a sudden and unanticipated loss of natural gas supply and capacity; this natural force has caused production, transportation, and processing outages beyond anyone's control; and it may well be the case that immediate action, such as that proposed here to continue the current emergency services, is needed to protect life, health, and property, all of which could be put at risk if adequate energy supplies are not available. Thus, it is beyond doubt that an emergency situation exists on the Gulf Coast.

10. Given these findings, we concur with Venice that its construction of facilities and services to reroute natural gas supplies that otherwise would be shut in are authorized and self-implementing under Part 284, Subpart I of our regulations,⁵ and in view of this finding, do not require a certificate under section 7 of the NGA.⁶ Section 284.271 of the Commission's regulations provides that the Commission may, by order, waive the requirements of Subpart I in conjunction with any emergency natural gas transaction to the extent required by the public interest.⁷ Based on the exigencies of the current situation in the Gulf Coast, we will waive the 120-day limit on emergency transactions for six months from the date of issuance of this order or until the resumption of processing at the Venice Plant, whichever comes first.⁸ Venice states that it will take the emergency facilities out of service and resume normal operations upon the conclusion of the emergency, when the Venice Plant resumes operation.

11. As noted above, Venice requests permission to waive certain provisions of its tariff. Specifically, Venice asks for authority to waive the Unaccounted For Gas Retention Percentage (UGRP) otherwise applicable under Rate Schedules FTS-2 and ITS. Given the temporary nature of the emergency transactions and the added administrative burden of tracking UGRP for these temporary transactions, we concur with Venice's determination that the application of UGRP is inappropriate. Venice also seeks to waive the lease-of-life dedication requirement under Rate Schedule FTS-2 for

⁵ Because subpart I of Part 284 is self-implementing, Venice does not need our prior authorization to engage in the emergency transactions. However, we have noted here our concurrence with the company's conclusion that its proposal does properly fall under subpart I.

⁶ See 18 C.F.R. § 284.263 (2005).

⁷ See 18 C.F.R. § 284.271 (2005).

⁸ See *Discovery Gas Transmission LLC, et al., (Discovery)*; 113 FERC ¶ 61,025 at 61,067 (2005).

the emergency services. In *Discovery*, we found that such conditions are not appropriate and have no meaning for a short-lived emergency.⁹ Accordingly, we will grant the requested authority.

12. Also, as noted above, Venice proposes to recover the \$175,000 cost of the temporary interconnection from the South Timbalier Block 177 through a facilities reimbursement surcharge of \$0.0858/Dth, and to recover the \$800,000 cost of the temporary interconnection from all other receipt points through a facilities reimbursement surcharge of \$0.2367/Dth. Venice will assess a “true-up” surcharge based on volumes actually shipped in the event that the emergency services terminate before the full amount of the facilities’ costs have been recovered. Venice states that this surcharge will recover only actual costs. Additionally, Venice states that it plans to book the interconnection costs to Venice’s plant accounts and to credit the cost reimbursements received from shippers to those accounts until a zero balance is reached. In this way, the costs will not be reflected in any future rate filing made by Venice. We will approve Venice’s facilities reimbursement charges. However, we will require that Venice record the costs and revenues of the emergency facilities to Account 185, Temporary Facilities.

13. We wish to do everything we can to help alleviate the problems caused by Hurricane Katrina and the subsequent Hurricane Rita, and believe that our actions here are consistent with that goal. At the same time, we do not wish to act precipitously. Therefore, if any entities believe themselves to be adversely affected by our grant of emergency authorization,¹⁰ we urge them to make prompt filings with us, so that we can address their concerns.¹¹

The Commission orders:

(A) Pursuant to Part 284, subpart I of the Commission’s regulations, Venice may perform the emergency services described in this order, without the need to obtain certificate authorization under section 7 of the NGA.

⁹ *See Id.*

¹⁰ The emergency exemption and waivers are premised on the proposed service having no impact on the rates or services of Venice’s existing customers, as required by the regulations. See 18 C.F.R. § 284.264(a)(3) (2005).

¹¹ Because of the need to respond quickly to the emergency situation in the Gulf Coast, we are issuing this order without noticing Venice’s request for extension of the time limits in Part 284, subpart I for emergency transactions. However, this order will be subject to rehearing.

(B) The capacity to be offered by Venice pursuant to the emergency authorization and waivers granted in this order must be allocated in a not unduly discriminatory manner.

(C) The services offered by Venice pursuant to the emergency authorizations and waivers granted in this order may not adversely affect service to their existing customers.

(D) Section 284.264(b) of the Commission's regulations is waived to allow Venice to provide the services authorized by this order for six months from the issuance of this order or until the Venice Plant returns to service, whichever comes first.

(E) With respect to transportation service provided under the emergency authorization granted in this order, Venice is authorized to waive the provisions of its Gas Tariff, Rate Schedules FTS-2 and ITS governing Unaccounted For Gas Retention, and Rate Schedule FTS-2 governing the lease-of-life dedication requirement. Waiver is granted of section 284.10 of the Commission's regulations to approve Venice's surcharges to recover the costs of constructing facilities to provide emergency services.

(F) Venice shall book the interconnection costs and revenues to Account 185, Temporary Facilities.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.