

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 17, 2006

In Reply Refer To:
Gulf South Pipeline Company, LP
Docket No. RP96-320-069

Gulf South Pipeline Company, LP
20 East Greenway Plaza, Suite 900
Houston, TX 77046-2002

Attention: Michael E. McMahon
Senior Vice President of Rates

Reference: Compliance for Non-Conforming Negotiated Rate Agreements

Dear Mr. McMahon:

1. On May 30, 2006, Gulf South Pipeline Company, L.P., (Gulf South) submitted tariff sheets¹ in compliance with the Commission's letter order issued on April 27, 2006 in Docket No. RP96-320-064, *et al.*² In that order, the Commission accepted four negotiated rate agreements with Atmos Energy Corporation (Atmos) and one negotiated rate agreement with Centerpoint Energy Resources Corp. (Centerpoint) for no-notice service under Rate Schedule NNS effective April 1, 2006, subject to conditions. The Commission found that a provision in each of the agreements concerning waiver of section 5 rights constituted a material deviation from Gulf South's form of service agreement. While the Commission found that material deviation to be permissible, the Commission noted that Gulf South's tariff contained no tariff sheet listing its non-conforming agreements, as required by section 154.112(b) of the Commission's regulations.³ Accordingly, the Commission required Gulf South to file a tariff sheet

¹ See Appendix.

² *Gulf South Pipeline Company, LP*, 115 FERC ¶ 61,123 (2006) (April 27 Order).

³ 18 C.F.R. § 154.112(b) (2006).

setting forth all of its non-conforming agreements, including the five negotiated rate letter agreements with Atmos and CenterPoint, as well as previously filed non-conforming agreements.

2. Finally, the April 27 Order stated that the negotiated rate agreements contain seasonally varying Maximum Daily Quantities (MDQs), and in some of the agreements the seasonal MDQs change from year to year. Gulf South's NNS Rate Schedule and service agreements provide all NNS customers the option of contracting for a level MDQ or a seasonal MDQ, but do not expressly provide for MDQs which vary from year to year. Therefore, the Commission directed Gulf South to explain, in its compliance filing, whether it offers annually varying MDQs to all its customers and, if not, explain why the inclusion of such annually varying MDQ provisions in the instant agreements is not an unduly discriminatory material deviation.

3. On May 30, 2006, Gulf South made the instant filing to comply with the requirements of the April 27 Order. Notice of Gulf South's filing was issued on June 7, 2006. Protests were due as provided in Rule 210 of the Commission's regulations. *See* 18 C.F.R. § 154.210 (2006). No protests or adverse comments were filed.

4. Gulf South's compliance filing includes tariff sheets listing its non-conforming agreements to conform to section 154.112(b) of the Commission's regulations.⁴ Gulf South asserts each of the non-conforming agreements set forth in those tariff sheets was previously filed with, and approved by, the Commission. However, our review of Gulf South's list of non-conforming agreements has identified several cases, listed below, where the contract does not appear to have been filed with the Commission, as required by section 154.112(b).

Company Name	Contract Number	Date
CenterPoint Energy Resources Corp.	No Notice Service Contract No. 30999	April 1, 2001
City of Pensacola, Florida	No Notice Service Contract No. 30432	April 1, 2002
Mobile Gas Service Corp.	No Notice Service Contract No. 30423	March 1, 2004
Okaloosa County Gas Dist.	No Notice Service Contract No. 29268	April 1, 2002
City of Vicksburg, Mississippi	No Notice Service Contract No. 30336	April 1, 2004

⁴ Section 154.112(b) requires, in part, that "contracts for service pursuant to part 284 that deviate in any material aspect from the form of service agreement must be filed."

Willmut Gas & Oil Co.	No Notice Service Contract No. 30441	March 1, 2004
City of Atmore	No Notices Service Contract No. 30392	March 1, 2004
North Baldwin Utilities	No Notice Service Contract No. 30395	April 1, 2002
City of Brewton, Alabama	No Notice Service Contract No. 30398	March 1, 2004
Town of Century, Florida	No Notice Service Contract No. 30404	April 1, 2002
Utility Board of the Town of Citronelle	No Notice Service Contract No. 30409	March 1, 2004
City of Fairhope	No Notice Service Contract No. 30417	March 1, 2004
Utilities Board of the City of Foley	No Notice Service Contract No. 30420	March 1, 2004
City of Pascagoula, Mississippi	No Notice Service Contract No. 30429	May 1, 2002
South Alabama Gas District	No Notice Service Contract No. 30438	April 1, 2002

5. Therefore, we direct Gulf South to either explain when the non-conforming agreements set forth in Gulf South's tariff sheets were previously filed with, and approved by, the Commission under the aforementioned contract number, including the docket number and date of filing, or, in the alternative, file the non-conforming agreements set forth in FERC Volume No. 1 of Gulf South's tariff for Commission approval, pursuant to section 154.112(b) of the Commission's regulations. We direct Gulf South to file this information within 15 days of the date this order issues.

6. With respect to the annually varying MDQ provision, Gulf South states in its compliance filing that Rate Schedule NNS and form of service agreement provide all NNS customers the option of contracting for a level MDQ or seasonal MDQ. Gulf South asserts that, for customers electing to contract for seasonal MDQs, Gulf South's tariff established minimum subscription levels for the summer and shoulder months. Gulf South states that both Atmos and CenterPoint have elected to contract for seasonal MDQs. Therefore, Gulf South avers that the agreements filed with the Commission are consistent with, and do not deviate from, its tariff.

7. In addition, Gulf South states that its tariff allows any customer to request to amend an effective service agreement to increase its MDQs to meet increasing demand requirements. In particular, Gulf South notes that section 7.4 of its tariff provides that a

request for service may be processed more than 90 days prior to the commencement of service if the request is associated with: an open season, new supply being attached to Gulf South's system, termination of an existing contract on another pipeline, construction of new facilities required to serve a new receipt or delivery point, or the modification of facilities that will result in a material increase in gas usage or production. Gulf South asserts that some of the increase in the MDQ of one of Atmos' contracts was the result of the construction of new delivery facilities that were needed to meet its increasing load. Gulf South maintains that the request for service provision in section 7.4 is applicable to all firm rate schedules. Thus, Gulf South states the application of the service provision in section 7.4 in this instance should not be considered a material deviation from Gulf South's tariff.

8. Gulf South's response to our request for an explanation whether it offers annually varying MDQs to all its customers is not sufficient for the Commission to determine whether the MDQ provisions of the instant contracts may constitute unduly discriminatory material deviations from its form of service agreement. Therefore, we require a further explanation, as discussed below.

9. As we stated in the April 27 Order, we recognize that Gulf South's Rate Schedule NNS and form of service agreement provide NNS customers the option of contracting for MDQs that vary by season. Therefore, the fact the four Atmos service agreements and one Centerpoint service agreement here at issue contain seasonally varying MDQs does not constitute a material deviation from Gulf South's form of service agreement. Our concern focuses on the fact that at least some of the MDQs also appear to vary from year to year. In addition, further review of the contracts has raised certain other related concerns.

10. Paragraph 1 of each of the five filed service agreements sets forth the overall MDQ for that agreement. In addition, Exhibits A and/or B to each of the agreements list separate MDQs for each of the primary receipt and/or delivery points included in the agreement. Paragraph 1 of each of the three Atmos service agreements relating to different capacity packages under contract no. 29865 lists an overall winter MDQ that does not vary on an annual basis. Thus, there is nothing in Paragraph 1 of those agreements that indicates that their overall MDQs vary from one calendar year to the next. However, the exhibits attached to each of those three service agreements listing MDQs for each of the primary points under the contracts include separate lists by season (winter, shoulder, and summer) for each calendar year the agreement will be in effect. Not only do the MDQs at each point vary on an annual basis, the total MDQs for all the points vary on annual basis, and those totals do not equal the winter MDQ listed in Paragraph 1 of the corresponding agreement.

11. With respect to these three Atmos contracts, we direct Gulf South to explain (1) the apparent discrepancy between the overall MDQ listed in Paragraph 1 of the agreements and total of the primary point MDQs listed in the exhibits of those agreements, (2) whether those contracts do provide for overall MDQs that vary by year, (3) whether Gulf South offers similar MDQ annual variations as are included in these three contracts to its other customers, and (4) if not, what unique characteristics of these contracts may justify offering the provisions to Atmos, but not to other NNS customers.⁵ We also note that section 7.5(a) of the General Terms and Conditions (GT&C) of Gulf South's tariff provides that, *inter alia*, exclusive of the adjustment for fuel retention, if applicable, the total primary receipt or delivery point MDQ must equal the total agreement MDQ, except in cases of capacity release. Therefore, we direct Gulf South to explain, in its compliance filing, whether these three agreements are consistent with GT&C section 7.5(a) and, if not, whether Gulf South offers exceptions from the requirements of that section to all its customers on a not unduly discriminatory basis or there is some other justification for the special treatment given these contracts.

12. Paragraph 1 of the Atmos service agreement for contract no. 31137 lists overall winter, shoulder and summer MDQs that do not vary on an annual basis. In addition, Exhibit A to that service agreement lists primary point MDQs that do not vary on an annual basis. Thus, this Atmos contract does not raise any issue about annually varying MDQs. However, the total of the primary point MDQs listed in Exhibit B appears to exceed the overall MDQs provided for in Paragraph 1 of this agreement. Thus, the Commission requires Gulf South to explain whether this agreement is consistent with GT&C section 7.5(a) and, if not, whether Gulf South offers exceptions from the requirements of that section to all its customers on a not unduly discriminatory basis or there is some other justification for the special treatment given this contract.

13. Paragraph 1 of the Centerpoint service agreement provides for separate overall MDQs for the periods April 1, 2006 through March 31, 2007 and April 1, 2007 through March 31, 2016. In addition, the total primary receipt and primary delivery shoulder MDQs listed in Exhibits A and B to the Centerpoint agreement for each period exceed the overall shoulder MDQ set forth in Paragraph 1. Therefore, we direct Gulf South to provide the same explanations of this contract as we have required for the Atmos contracts above.

⁵ In its compliance filing at page 2, Gulf South gave an explanation as to why "one of the Atmos contracts" had an increase in MDQ. However, Gulf South did not identify which of the contracts this explanation applied to, and, in any event, it appears that at least three of the Atmos contracts have annually varying contract demands.

14. Accordingly, the Commission accepts the tariff sheets listing the non-conforming negotiated rate agreements effective June 30, 2006, subject to the above conditions.

By direction of the Commission.

Magalie R. Salas,
Secretary.

Appendix

Gulf South Pipeline Company, LP
Docket No. RP96-320-069
Accepted Tariff Sheets, Subject to Modification
Sixth Revised Volume No.1

Fourth Revised Sheet No. 1
Sheet Nos. 4021-4029
Original Sheet No. 4030
Original Sheet No. 4031
Sheet Nos. 4032-4099