

120 FERC ¶ 61,186  
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.

Texas Gas Transmission, LLC

Docket Nos. RP06-589-000  
RP06-589-001

ORDER ON TECHNICAL CONFERENCE

(Issued August 24, 2007)

1. On October 31, 2006, the Commission issued an order<sup>1</sup> accepting and suspending revised tariff sheets<sup>2</sup> that were submitted by Texas Gas Transmission, LLC (Texas Gas) on September 12, 2006.<sup>3</sup> The tariff sheets reflected adjustments to Texas Gas' Effective Fuel Retention Percentages (EFRPs) pursuant to section 16 of the General Terms and Conditions (GT&C) of its tariff. The October 31 order also accepted the subject tariff sheets effective November 1, 2006, subject to refund, and subject to the outcome of a technical conference as established by the order. In addition to exploring issues concerning Texas Gas' September 12, 2006 filing, the Commission permitted parties at the technical conference to explore proposed changes to the methodologies and tariff provisions concerning Texas Gas' fuel tracker. In its initial comments after the technical conference, Texas Gas filed *pro forma* tariff sheets that prospectively modify the fuel tracker mechanism. The tariff sheets that were accepted and suspended in the October 31 Order, subject to refund and other conditions, are approved effective November 1, 2006 without further condition. Additionally, the Commission directs Texas Gas to file actual

---

<sup>1</sup> *Texas Gas Transmission, LLC*, 117 FERC ¶ 61,138 (2006) (October 31 Order).

<sup>2</sup> Substitute Fifth Revised Sheet No. 36 and Substitute First Revised Sheet No. 36A to Texas Gas' FERC Gas Tariff, Second Revised Volume No. 1.

<sup>3</sup> The tariff sheets filed on September 12, 2006 superseded tariff sheets filed by Texas Gas on September 11, 2006, and corrected certain erroneous references in the superseded tariff sheets. In the October 31 order, the Commission rejected the September 11, 2006 tariff sheets as moot.

tariff sheets modifying section 16 of its GT&C effective September 1, 2007, based on the *pro forma* tariff sheets filed in its initial comments, subject to the conditions set forth below.

### **Background**

2. Texas Gas recovers fuel and lost and unaccounted for gas by retaining fuel. Section 16 of its GT&G requires Texas Gas to track its fuel costs. Texas Gas must file annually to revise its fuel retention percentages effective November 1 of each year. Section 16.5 requires that Texas Gas make its annual filing at least 60 days before the required effective date. Pursuant to GT&C section 16, fuel retained for each transportation service transaction under Rate Schedules NNS, SGT, SNS, FT, STF, and IT<sup>4</sup> is calculated as the product of the applicable EFRP and the applicable quantity of gas tendered for transportation. Fuel retained for each storage service transaction under Rate Schedules FSS and ISS<sup>5</sup> is calculated as the product of the applicable EFRP and the quantity of gas tendered for withdrawal or injection into storage. Texas Gas is required to establish separate EFRPs for its transportation services by zone and by season.<sup>6</sup> The requirement to establish and track fuel retention rates by service type, by season, by zone, and by injection and withdrawal from storage result in a fuel matrix for Texas Gas' system services containing 34 separate EFRPs.

3. The EFRP is made up of two components, the Projected Fuel Retention Percentage (PFRP) and the Fuel Adjustment Percentage (FAP). The PFRP is intended to compensate Texas Gas for its current fuel use during the year the EFRP is in effect. Section 16.3 requires that Texas Gas calculate a PFRP for each season and service category "by projecting seasonal zone distribution and storage utilization, then comparing these projections to historic fuel use and loss for comparable distribution and storage levels."

---

<sup>4</sup> Texas Gas Rate Schedules: FT is Firm Transportation Service; STF is Short-term Firm Transportation Service; IT is Interruptible Transportation Service; NNS is No-Notice Firm Transportation Service; SGT is Small Customer General Firm Transportation Service; SNS is Summer No-Notice Service.

<sup>5</sup> FSS – Firm Storage Service; ISS – Interruptible Storage Service.

<sup>6</sup> The seasonal periods are a November through March winter season and an April through October summer season.

4. The FAP is intended to true up over and underrecoveries from past periods. Section 16.4 requires Texas Gas to maintain a Fuel Retention Deferred Account (Deferred Account), in which it records the monthly difference between the actual quantity of fuel retained under each of its PFRPs and the actual quantity of fuel use and lost gas allocated to all services. In each annual filing, Texas Gas calculates the FAP in order to amortize the net balance in the Deferred Account as of the preceding July 31. For transportation services the FAP is calculated for each zone and service on a seasonal basis. For storage services the FAP is calculated on withdrawals and injections.

5. In its September 2006 filing, Texas Gas proposed to revise its fuel retention percentages, effective November 1, 2006, as required by section 16 of its GT&C. Texas Gas did not propose to change the fuel retention methodology contained in section 16 of its currently effective tariff. Texas Gas stated that, while the filing reflected an overall increase in proposed fuel retention, due primarily to a net under-collection during the last tracker period, the impact of the fuel rate adjustments in the filing varied from zone to zone, rate schedule to rate schedule, and season to season. Texas Gas stated that of the 34 EFRPs filed by Texas Gas, 15 decrease and 19 increase.

6. Texas Gas stated that, while it did not propose any changes to the provisions of section 16 of its GT&C, it had projected its future fuel use and volumes in a different manner than it had used in previous EFRP filings. Texas Gas explained that the basic change was that actual throughput and actual fuel, use and loss from the last year's tracker period were used as the basis for projections for the upcoming tracker period, except for minor clearly identified exceptions where the use of last year's actuals was not reasonable. Texas Gas stated it had also changed the presentation and format of its supporting workpapers in order to more clearly explain its calculations. Texas Gas eliminated the use of multi-year cumulative comparisons, and now shows only the most recent year's activities. Texas Gas states that the revised fuel rates also reflect recent operational changes on the Texas Gas system that may now cause bi-directional flows on portions (Zones 1 and SL) of the Texas Gas system as a result of changes in usage patterns by customers.

7. In the October 31 order accepting and suspending Texas Gas' filing, the Commission noted that section 16.3 of the GT&C of Texas Gas' tariff described in only very general terms the methodology to be used by Texas Gas in determining its Projected Fuel Retention Percentage. The Commission observed that the tariff provision appeared to accommodate both the methodology Texas Gas used in prior fuel tracker filings which based its projections on historical data going back to November 1993, as well as the methodology used in the instant proceeding, which based projections on only more recent data. The Commission stated that the parties could consider whether Texas Gas' tariff should be revised to require use of a more specifically defined methodology for calculating the PFRP at the technical conference. In the October 31 order, the

Commission also determined that the parties could consider whether Texas Gas' tariff should specify in greater detail the information to be filed by Texas Gas to support each annual tracker filing.

8. Following the technical conference conducted by staff in January 2007, the parties engaged in additional discussions among themselves and submitted initial and reply comments in March.

9. PSEG Energy Resources & Trade, LLC (PSEG) filed a motion to intervene after the October 31 Order. The Commission finds that granting PSEG's unopposed motion will not adversely affect this proceeding, nor harm the other parties. Accordingly, the Commission accepts PSEG motion to intervene.

### **Initial Comments**

10. In its Initial Comments, Texas Gas submitted *pro forma* tariff sheets revising its fuel cost tracking mechanism set forth in section 16 of its GT&C. Texas Gas states that the proposed revisions are intended to add transparency to the fuel tracker process, and to simplify the fuel retention rate structure. Texas Gas states that the changes designed to improve transparency include:

- Specifically stating how projections of throughput and fuel, use and lost and unaccounted for gas are made;
- Specifically defining "lost and unaccounted for gas" (LAUF);
- Specifically requiring variations from these procedures in future annual filings to reflect only known and measurable changes or trends that are fully identified and supported;
- Acknowledging that Texas Gas retains its rights under section 4 of the Natural Gas Act (NGA) to propose modifications to, or elimination of, the fuel tracker provisions in its tariff; and
- Specifying in detail the workpapers and narrative support to be filed with the annual tracker filing.

11. Texas Gas states that the draft *pro forma* tariff sheets require it to use an average of the last two years' actual data to calculate projected throughput volumes and fuel use, and an average of the last four years' actual LAUF data to calculate projected volumes of LAUF. Texas Gas states that in the current tracker filing, it made projections of throughput and fuel and use on the basis of the last twelve months of actual data. Texas Gas also states that it made projections of LAUF based on the average of the last five years LAUF. Texas Gas states that it is willing to consider other methods for its projections.

12. Texas Gas states that the primary changes in the *pro forma* tariff sheets that are intended to simplify the fuel retention rate structure include:

- Submitting the annual filing thirty days, rather than sixty days, before the effective date of the rate change;
- Replacing the existing seasonal fuel retention rates for Rate Schedules FT, STF and IT with annual fuel retention rates, but retaining seasonal fuel retention rates for Rate Schedules NNS, SGT, and SNS;
- Combining Zones 2/2 and Zones 2/3 with Zone 3/3, and Zone 2/4 with Zone 3/4 for purposes of determining fuel retention rates for Rate Schedules FT, STF and IT;
- Adopting a single fuel injection rate for Rate Schedules FSS and ISS.

13. Texas Gas contends that moving the tracker filing date closer to the effective date of the rate change will enable Texas Gas to incorporate an additional month of actual data in the annual Fuel Adjustment Percentage (FAP) and that should make the annual true-up more accurate. Texas Gas also contends that using annual rather than seasonal fuel retention rates would reduce volatility and simplify the process for establishing fuel rates. Texas Gas states that while the *pro forma* tariff sheets provide for annual rather than seasonal fuel retention provisions only for Rate Schedules FT, STF and IT, it is also willing to consider the use of annual fuel retention percentages for its no-notice services, if those customers agree to adopt annual fuel rates.

14. Texas Gas explains that the proposed elimination of separately determined fuel rates for FT, STF and IT transportation originating in Zone 2 is based upon the extremely low volumes originating in that Zone. Texas Gas characterizes these volumes as statistically insignificant, and asserts that they contribute to the volatility of fuel rates in Zone 2, and create difficulties in making projections. Finally, Texas Gas asserts that using a single injection rate, instead of separate injection and withdrawal rates, for storage fuel under Rate Schedules FSS and ISS should simplify the projections and calculations related to storage fuel.

15. The Public Service Company of North Carolina (North Carolina), PSEG and the Western Tennessee Municipal Group, *et al.*,<sup>7</sup> support Texas Gas' proposal.

---

<sup>7</sup> The following entities filed comments collectively: the Western Tennessee Municipal Group, the Jackson Energy Authority, the City of Jackson, Tennessee, and the Kentucky Cities.

16. The Dominion LDCs<sup>8</sup> support Texas Gas' proposal, but believe the proposed tariff language reserving Texas Gas' rights and obligations under section 4 of the NGA is unnecessary and creates confusion by failing to mention other parties' rights under section 5 of the NGA. The Dominion LDCs also state that they reserve their right to make further comments based on revisions that may be proposed in other parties' comments.

17. The Indicated Shippers<sup>9</sup> also support Texas Gas' proposal, except that part of the proposal that provides for the use of the average of the last four years' data to calculate volumes of lost and unaccounted for gas because they assert the data is stale. The Indicated Shippers state they would prefer twelve months' of data, but would accept a two-year average as proposed for throughput and fuel use. The Indicated Shippers assert that the same time period of historical data (a two-year average) should be used for projecting throughput, fuel use, and LUGF volumes.

18. ProLiance Energy, LLC (ProLiance) supports a greater span of years to calculate relevant data since it would flatten any aberrations in data, but opposes requiring only two years' actual data to calculate projected throughput volumes and fuel use. ProLiance states that it supports the use of three years' data instead to avoid extreme fluctuations in fuel retention rates. It also states it opposes requiring only four years' actual data to calculate projected volumes of LUGF, but would support using five years' actual data.

19. Memphis Light, Gas and Water Division, City of Memphis, Tennessee (Memphis) supports a majority of Texas Gas' proposal, and asserts that Texas Gas has adequately supported the instant EFRPs. Memphis opposes Texas Gas' retention of seasonal fuel retention rates for Rate Schedules NNS, SGT and SNS while proposing annual fuel retention rates for Rate Schedules FT, STF and IT as discriminatory. Memphis states it would support annual fuel retention rates for Rate Schedules NNS, SGT, and SNS, similar to the proposed annual fuel retention rates for FT, STF and IT.

20. ProLiance supports the calculation of the EFRP under Rate Schedules FT, STF and IT, and the PFRP under Rate Schedules FSS and ISS, on an annual basis, but questions why the EFRP for transportation under Rate Schedules NNS, SGT and SNS remains calculated on a seasonal basis. ProLiance states that it would support fuel rates

---

<sup>8</sup> The Peoples Natural Gas Company, d/b/a Dominion Peoples, and Hope Gas, Inc., d/b/a Dominion Hope.

<sup>9</sup> The Indicated Shippers consist of BP America Production Company, BP Energy Company, Chevron U.S.A. Inc. and Marathon Oil Company.

on an annual basis for all customers because rates established for an annual period will provide greater predictability and allow shippers to better project their costs. Finally, ProLiance states it opposes combining short haul rates in Zones 2, 3 and 4 because it may result in an increased rate for some customers.

21. Louisville Gas and Electric (Louisville) supports Texas Gas' retention of seasonal fuel retention rates for Rate Schedule NNS, and opposes the proposed calculation of fuel retention rates for Rate Schedule FT on an annual basis. Louisville asserts that proposed annualization is beyond the scope of this proceeding. Louisville argues that annualizing these rates would result in summer customers subsidizing winter customers and departs from the principles of fuel reimbursement rates reflecting cost causation. Louisville also requests clarification of Texas Gas' proposal to combine certain rate zones only for so long as receipts are too low for Texas Gas to calculate meaningful fuel reimbursement rates.

22. Baltimore Gas and Electric Company and Constellation NewEnergy-Gas Division, LLC (jointly, BGE) opposes Texas Gas' instant proposal and its current methodology for calculating EFRPs. BGE asserts that the comments and protests filed in the instant proceeding, as a general matter, reflected the opaque nature of Texas Gas' filing and workpapers. BGE attached to its Initial Comments an affidavit by Dr. George E. Briden, who asserts that Texas Gas' fuel tracker calculations are plagued by numerous methodological inconsistencies, unsupported allocation schemes and other technical problems. Dr. Briden asserts that Texas Gas' fuel retention numbers are not robust, and do not survive a reasonable sensitivity analysis. Specifically, Dr. Briden notes certain inconsistencies, such as on Table 6 of Texas Gas' workpapers, in which Texas Gas allocates winter storage fuel based on actual withdrawals and summer storage fuel based on actual injections. But on Table 7.2 of Texas Gas' workpapers, Texas Gas allocated winter storage fuel to transportation paths based on a factor derived as 50% of injections plus 100% of withdrawals. Additionally, Dr. Briden argues that LAUF should be allocated on the basis of throughput, and contends that Texas Gas does not develop throughput projections based on actual, historical data.

23. BGE requests the Commission to direct Texas Gas to: 1) allocate LAUF on the basis of throughput rather than on the basis of pro rata zone fuel usage;<sup>10</sup> 2) base throughput projections on historical data that is altered, if at all, in a uniform fashion from year-to-year in accordance with a prescribed methodology set forth in its tariff (so they can be verified); 3) discontinue Texas Gas' allocation of both winter storage fuel and summer storage fuel using the identical 100 percent of withdrawals factor; 4) make

---

<sup>10</sup> Briden Affidavit at pages 1-3.

downward demand adjustment for deliveries from Zone 1 to Zone SL in recognition of displacement, in order to be consistent with Texas Gas' acknowledgement that such displacement occurs along that path (so these shippers don't subsidize other transactions; and, 5) remove all inconsistencies and contrary-to-fact imputations in its methodologies.

### **Reply Comments**

24. In its Reply Comments, Texas Gas asserts that BGE is the only customer objecting to the proposed fuel retention factors submitted in the instant proceeding. Texas Gas contends that BGE has made its various assertions without data or analysis, and that these unsupported assertions consist of little more than hyperbole and generalization.

25. Texas Gas disputes each assertion that BGE makes, and concludes that the proposed fuel retention rates are just and reasonable. Texas Gas states that BGE provides no data or analyses when it claims that: 1) Texas Gas imputes LAUF based on "its own value judgment rather than based on objective criteria"; 2) the tariff lacks a "standard uniform tariff provision" for making throughput projections that can be tested; and 3) the workpapers reflect inconsistencies. Texas Gas states that it allocated LAUF *pro rata* across its zones and its projections are based on historic actuals. Further, Texas Gas maintains that BGE has not demonstrated that its proposed alternatives, to the extent they are even articulated, are just and reasonable. Finally, Texas Gas asserts that the *pro forma* tariff sheets, which had been circulated previously among the parties for discussion and evaluation, reflect minor changes to the existing fuel tracker provisions, and that Texas Gas has reached a general consensus supporting these proposed changes. In addition, Texas Gas notes that the parties are continuing to meet to explore more fundamental changes to Texas Gas' fuel tracker mechanism, and that if the parties reach a consensus on such proposed changes, Texas Gas will submit them at a future date in a separate section 4(c) filing. Texas Gas concludes by reasserting its earlier position that the revisions to its tariff set forth in the draft *pro forma* tariff sheets would enhance transparency and promote simplification of the fuel tracker mechanism.

26. In its Reply Comments, BGE asserts that even though Texas Gas knew that BGE was dissatisfied with the outcome of the attempts of both sides to resolve the issues raised in BGE's protest, Texas Gas made no effort to address BGE's concerns. BGE contends that the other intervenors to the instant proceeding do not delve into the specifics of the protests lodged by BGE. BGE concludes by renewing its objections as stated in its protest, its initial comments and Dr. Briden's affidavit. BGE recommends reconvening a technical conference.

27. In their Reply Comments, the Dominion LDCs observe that all but one party supported in large part the proposed changes suggested by Texas Gas, although most of these parties suggested various revisions. The Dominion LDCs submit that BGE's

objections were more substantive, and that Dr. Briden's affidavit raised substantial questions about Texas Gas' calculation of LUF to merit further investigation.

28. Memphis filed Reply Comments, reiterating its position that the continued use of seasonal fuel retention rates for some rate schedules, while annual fuel retention rates are established for others would be discriminatory. Memphis urges the Commission to determine that, if Texas Gas adopts an annualized calculation of EFRPs for any service, it must adopt such annualized calculation for all of its relevant services.

29. Louisville also filed Reply Comments, and reiterated its opposition to the proposed calculation of fuel retention rates for Rate Schedule FT on an annual basis.

### **Discussion**

30. The Commission finds that the fuel retention percentages Texas Gas proposed in its September 2006 filing for the period November 1, 2006 through October 31, 2007 were calculated consistent with section 16 of Texas Gas' GT&C as now in effect, and accordingly we approve those percentages. The Commission also finds that Texas Gas' *pro forma* proposal to modify section 16 for future PFRP filings is reasonable, subject to one condition. Accordingly, the Commission directs Texas Gas to file actual tariff sheets revising section 16 effective September 1, 2007. This will enable Texas Gas to make its next PFRP filing consistent with the revised tracking mechanism.

### **Fuel Retention Percentages for the November 2006 – October 2007 Period**

31. BGE is the only party which is apparently still contesting the fuel retention percentages which Texas Gas filed for the period November 2006 through October 2007. BGE contends that Texas Gas should allocate LAUF solely on the basis of throughput, so that there is a single system-wide fuel retention percentage for the recovery of LAUF. Section 16.3 of Texas Gas' GT&C currently requires it to determine a projected fuel retention percentage for each season and service category "by projecting seasonal zone distribution and storage utilization, then comparing these projections to historic fuel use and loss for comparable distribution and storage levels." Thus, Texas Gas currently recovers both its fuel use and LAUF costs through an overall fuel retention percentage, which varies by zone. Texas Gas states that, consistent with section 16.3 of its tariff, it currently allocates LAUF to each zone, based on the amount of fuel used in each zone to provide service, including storage. Because this methodology allocates LAUF for gas based upon system utilization, proportionately more lost and unaccounted gas is allocated to those transportation services and paths that use more of the Texas Gas system. Therefore, the Commission could only require Texas Gas to adopt a single system-wide fuel retention percentage for recovering LAUF by taking action under NGA section 5 to

modify section 16.3 of Texas Gas' tariff. Even assuming that BGE's suggested methodology might be reasonable, BGE has not met its burden under section 5 of presenting evidence to justify a Commission finding that Texas Gas' current methodology is unjust or unreasonable. Texas Gas asserts that, while by definition it is not possible to pinpoint the locations where gas is lost, it is reasonable to assume that gas flowing along a longer path will encounter more physical facilities, such as compressors, storage fields, generators, separators, regulators, valves, flanges, and dehydration units, that can contribute to gas loss. The Commission finds nothing in the present record to show that Texas Gas' assumption of increased loss of gas over longer paths to be unreasonable. The Commission accordingly rejects BGE's contentions concerning Texas Gas' recovery of LAUF.

32. With regard to BGE's assertion that Texas Gas does not develop throughput projections based on actual, historical data, the Commission disagrees, and finds that Texas Gas has traditionally used historical throughput data, and other historical data, to calculate its projections. The question in the current proceeding is not whether Texas Gas should use historical data, but rather how many months or years of historical data Texas Gas should consider. The Commission will address this below.

33. The Commission finds that Texas Gas's reply comments adequately address the remaining issues raised by BGE.

### **Texas Gas' Proposed Revisions to Section 16**

34. Most of the comments following the technical conference focus on whether and how Texas Gas' fuel cost tracking mechanism in section 16 of its GT&C should be changed for future EFRP filings. In its Initial Comments in the instant proceeding, Texas Gas submitted *pro forma* tariff sheets proposing various changes in section 16 of its GT&C in order to render its annual tracker filing simpler and more transparent. For the reasons discussed below, the Commission finds that all but one of Texas Gas' proposed changes are just and reasonable.

35. The Commission agrees with Texas Gas' contention that moving the tracker filing date closer to the effective date of the rate change will enable Texas Gas to incorporate an additional month of actual data in the annual Fuel Adjustment Percentage (FAP) that should make the annual projections more accurate. The Commission therefore accepts Texas Gas' proposal to move the filing date to thirty days, rather than sixty days, before the effective date of the rate change.

36. The Commission accepts Texas Gas's proposal to determine projected throughput volumes and fuel use based on an average of the last two years' actual data and to determine projected LAUF based on an average of the last four years' actual LAUF data.

The Commission has held that, while a pipeline may reasonably make such projections based only on data for the preceding year,<sup>11</sup> a pipeline may also reasonably base such projections on data for a multi-year past period.<sup>12</sup> As most of the parties recognize, use of a longer historical period should decrease rate volatility when calculating and projecting fuel retention percentages for the next twelve month-period. Although the parties disagree on exactly how long these historical periods should be, the Commission finds that the benefit of reduced volatility may be achieved using the historical periods proposed by Texas Gas, and the proposal is therefore reasonable. Under the NGA, the Commission must accept a just and reasonable tariff proposal by a pipeline, regardless of whether other tariff provisions would also be just and reasonable.<sup>13</sup> Accordingly, the Commission accepts Texas Gas' proposal to use the last two years' actual data to calculate projected throughput volumes and fuel use volumes, and the last four years' actual data to calculate projected volumes of LAUF.

37. The Commission agrees with Texas Gas that the volumes in Zone 2 are statistically insignificant, and accordingly accepts Texas Gas' proposal to combine zones for the purposes of determining fuel retention rates for Rate Schedules FT, STF and IT. The Commission also agrees with Texas Gas that using a single fuel retention percentage applicable to injections into storage, instead of separate fuel retention percentages applicable to injections and withdrawals for storage fuel under Rate Schedules FSS and ISS should simplify the projections and calculations related to storage fuel. Accordingly the Commission accepts Texas Gas' proposal to use a single fuel retention percentage applicable to injections under Rate Schedules FSS and ISS.

38. Section 16 of Texas Gas' GT&C currently requires it to establish seasonal fuel retention percentages for all its rate schedules. Texas Gas proposes to shift to annual fuel retention percentages for Rate Schedules FT, STF, and IT on the ground that using annual rates would reduce volatility and simplify the process. Texas Gas states that, while it has not proposed annual fuel retention percentages for its other three rate schedules (Rate Schedules NNS, SGT and SNS), it would also be willing to consider the use of annual fuel retention percentages for its no-notice services. However, not all the parties agree with this aspect of Texas Gas' proposal. ProLiance and Memphis state that they would support fuel rates on an annual basis for all customers, while Louisville states that the rates for FT customers should continue to be calculated on a seasonal basis, and that

---

<sup>11</sup> *ANR Pipeline Co.*, 110 FERC ¶ 61,069 at P 51 (2005).

<sup>12</sup> *High Island Offshore System*, 112 FERC ¶ 61,050 at P 131 (2005).

<sup>13</sup> *Consolidated Edison Co. v. FERC*, 165 F.3d 992, 998, 1002-1004 (1999).

Texas Gas' proposal to annualize the rates for some rate schedules is beyond the scope of this proceeding.

39. The Commission rejects Louisville's argument that the issue of annualization of fuel retention rates is beyond the scope of this proceeding. In the October 31 order, the Commission stated that the parties could consider Texas Gas' methodology in determining its fuel retention percentages. The issue of annual or seasonal rates is a product of that methodology. However, the Commission finds that Texas Gas has not met its burden under NGA section 4 to show that this aspect of its proposal is just and reasonable. In particular, Texas Gas has not explained why it is reasonable to use annual fuel retention percentages for Rate Schedules FT, STF and IT, while using seasonal fuel retention percentages for Rate Schedules NNS, SGT and SNS. Such a difference in the design of the fuel charges between rate schedules could be reasonable, if Texas Gas could show, for example, that its incurrence of fuel costs in providing service under Rate Schedules FT, STF, and IT does not vary on a seasonal basis, but its incurrence of such costs in providing service under Rate Schedules NNS, SGT, and SNS does vary on a seasonal basis. But Texas Gas has provided no such explanation. Its only justification for shifting to annual fuel charges under Rate Schedules FT, SFT, and IT is that the change would reduce volatility and simplify the process. However, this justification would appear to apply equally to all the services at issue. Accordingly, the Commission rejects this aspect of Texas Gas' proposal, and directs Texas Gas to revise its proposal so as to retain the calculation of fuel retention percentages for all rate schedules on a seasonal basis.

The Commission orders:

(A) Texas Gas' Substitute Fifth Revised Sheet No. 36 and Substitute First Revised Sheet No. 36A to its FERC Gas Tariff, Second Revised Volume No. 1, are accepted effective November 1, 2006.

(B) Texas Gas is directed to file actual tariff sheets based on the pro forma tariff sheets filed with its Initial Comments, modified as discussed in the body of this order and effective September 1, 2007, within 10 days of the date of issuance of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Acting Deputy Secretary.