

121 FERC ¶ 61,118  
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.

Southern Natural Gas Company

Docket No. RP07-690-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS SUBJECT TO  
REFUND AND CONDITIONS AND FURTHER REVIEW

(Issued October 31, 2007)

1. On September 12, 2007, Southern Natural Gas Company (Southern) filed revised tariff sheets<sup>1</sup> to change sections 10.2 and 10.3 of the General Terms and Conditions (GT&C) of its tariff and its *pro forma* firm service agreement.<sup>2</sup> Southern requests the Commission accept the revised tariff sheets effective November 1, 2007. The filing was protested. For the reasons discussed below, the Commission accepts and suspends the revised tariff sheets to become effective the earlier of a date established by a subsequent order or April 1, 2008, subject to refund and conditions and further review.

**I. The Instant Filing**

2. Section 10.1 of the GT&C of Southern's tariff provides that, except as provided in section 10.2, Southern will deliver gas at rates as constant as operationally feasible throughout the day. Section 10.2 of the GT&C of Southern's tariff allows shippers to take gas at any delivery point at an hourly rate of flow necessary to serve their firm markets, provided that Southern is not obligated to deliver at an hourly rate in excess of 6 percent of the shipper's firm maximum daily delivery quantity (MDDQ) at such delivery point. Southern states that this percentage allows shippers to take up to their daily contractual MDDQ over a sixteen-hour day. Section 10.3 of the GT&C of Southern's tariff provides that, in the event it determines that a shipper's takes at an

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<sup>1</sup> Fifth Revised Sheet No. 123, Ninth Revised Sheet No. 177, Fourth Revised Sheet No. 218, Third Revised Sheet No. 222, and Second Revised Sheet No. 300 to its FERC Gas Tariff, Seventh Revised Volume No. 1.

<sup>2</sup> Southern also proposes changes to GT&C section 22.6(c)(14) concerning a releasing shipper's offer and to its transportation request form in Appendix A of its GT&C.

hourly rate in excess of 6 percent of the firm MDDQ for a delivery point threatens the integrity of its system, Southern can order the shipper to reduce its takes at that point to an hourly rate of not greater than 6 percent of the shipper's firm MDDQ at that delivery point.

3. In the instant filing, Southern proposes several changes to sections 10.2 and 10.3 of its GT&C and related changes to other tariff provisions. First, Southern proposes to modify section 10.2 to allow Southern and a shipper to agree mutually to an hourly flow rate of less than 6 percent. Southern states that the Commission has previously approved similar tariff language permitting pipelines to agree mutually with its shippers on hourly flow rates.<sup>3</sup> In addition, Southern proposes related changes in the following tariff provisions: its *pro forma* firm transportation service agreement to include a blank to be filled in for the agreed-upon hourly entitlement; the releasing shipper's notice in GT&C section 22.6(c)(22) to require that the hourly flow requirement for each delivery point be included; and its transportation request form and attachment B to that form in Appendix A of its GT&C to include hourly flow entitlement.

4. Southern proposes to revise Section 10.3 of the GT&C of its tariff such that, in the event it determines that a shipper's takes at an hourly rate in excess of 6 percent of the MDDQ for a delivery point threatens the integrity of its system, Southern can order the shipper to reduce its takes at that point to an hourly rate to equal to 6 percent of the scheduled volumes. Southern's specific proposed changes to section 10.3 are shown below in strike-out and italics:

If COMPANY determines in its reasonable judgment that SHIPPER'S takes-of gas in excess of an hourly rate of 6% of the firm Maximum Daily Delivery Quantity for a Delivery Point threaten the integrity of its pipeline system, including the ability to deliver to any other SHIPPER its Daily Entitlement, COMPANY shall give SHIPPER four (4) hours' prior notice to reduce its takes of gas at such Delivery Point to an hourly rate ~~not greater than~~ *equal to* 6% of the *scheduled quantities within SHIPPER's firm Maximum Daily*

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<sup>3</sup> Citing *Columbia Gas Transmission Corp.*, 99 FERC ¶ 61,053 (2002) (*Columbia Gas*); *Crossroads Pipeline Co.*, 97 FERC ¶ 61,126 (2001) (*Crossroads*); *Florida Gas Transmission Co.*, 109 FERC ¶ 61,357 (2004) (*Florida Gas*); and *Northern Natural Gas Co.*, 108 FERC ¶ 61,285 (2004) (*Northern*).

Delivery Quantity for such Delivery Point; *provided, however, such takes shall not exceed SHIPPER's hourly flow rate entitlement at such Delivery Point as specified on Exhibit "B" to SHIPPER's Service Agreement.*<sup>4</sup> (Emphasis added)

Southern asserts that it is not proposing to change the current practice under its tariff of allowing shippers to take gas in excess of the hourly rate entitlement at no additional charge, so long as Southern's system is capable and service to other shippers is not degraded. Southern asserts that since it does not provide an hourly service, and a shipper's daily entitlements are based on scheduled quantities, then a shipper's hourly entitlements must also be limited in proportion to its scheduled quantities up to its MDDQ.

## **II. Public Notice, Interventions, Protests, and Answer**

5. Public notice of the instant filing was issued on September 14, 2007. Interventions and protests were due as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2007)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. The East Tennessee Group (ETG) and Calhoun Power Company I, LLC (Calhoun) filed protests. Southern filed an answer to the protests.<sup>5</sup> The details of protests and answer are discussed below.

## **III. Discussion**

6. The Commission accepts Southern's proposed change to section 10.2 of its GT&C and the related changes in the other parts of Southern's tariff. However, the Commission cannot find that the proposed change in section 10.3 is just and reasonable on the present record, and accordingly requires Southern to file a further explanation of its proposal, as discussed below.

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<sup>4</sup> Fifth Revised Sheet No. 123.

<sup>5</sup> The Commission's Rules of Practice and Procedure do not permit answers to protests (18 C.F.R. § 385.213(a)(2)(2007)). However, the Commission finds good cause to admit Southern's answer since it will not delay the proceeding, may assist the Commission in understanding the issues raised, and will ensure a complete record.

## Section 10.2

### Positions of the Parties

7. ETG and Calhoun both oppose Southern's proposal to allow the negotiation of hourly flow rates of less than 6 percent. ETG raises the concern that such an agreement may not be truly voluntary between Southern and shippers who lack bargaining power. ETG asserts that shippers who decline to agree to a reduced hourly flow may be subject to higher rates or less favorable negotiated or discounted terms. ETG is also concerned that some shippers' bids for capacity may be ranked lower than bids by shippers who have agreed to lower hourly flows. ETG also protests that Southern may overrecover its costs to the extent that reduced flow agreements allow it to sell additional capacity. ETG concludes that a tariff provision such as that proposed by Southern must be implemented and monitored with great care.

8. Calhoun also contends that Commission precedent does not allow pipelines to negotiate terms and conditions of service, including individual flow rates. Calhoun asserts that in its *Negotiated Rate Policy Statement*<sup>6</sup> the Commission rejected proposals to permit the negotiation of individual shippers' customized terms of service. Calhoun argues that, consistent with Commission policy, Southern must not be allowed discretion to negotiate with certain shippers to allow more restrictive hourly fluctuations. Calhoun asserts that this provision would allow Southern to discriminate against certain captive shippers and to tie the negotiation of its hourly fluctuations provision to the use of other services.

9. ETG and Calhoun contend that if the Commission decides to approve Southern's tariff changes, Southern must be required to implement additional tariff requirements to guard against undue discrimination similar to those required in *Northern Natural Gas Co.*<sup>7</sup> Calhoun states that Southern should be required to file the negotiated agreement and post the terms of the hourly flow rate agreements. Calhoun further contends that Southern should be required to explain how it would handle transactions at secondary points and in the capacity release market. Finally, Calhoun requests that the Commission require releasing shippers to include the hourly flow requirement when posting capacity

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<sup>6</sup> *Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines*, Docket No. RM95-6-000, and *Regulation of Negotiated Transportation Services of Natural Gas Pipelines*, Docket No. RM96-7-000, 74 FERC ¶ 61,076 (1996) (*Negotiated Rate Policy Statement*).

<sup>7</sup> *Citing Northern Natural Gas Co.*, 105 FERC ¶ 61,172, at 61,883-85 (2003), *order on reh'g*, 107 FERC ¶ 61,252 (2004).

for release so that replacement shippers know they are bidding on capacity that has a tighter hourly flow. ETG also requests that Southern be required to explain how hourly flow limits would affect the net present value (NPV) of bids for capacity.

10. In its answer, Southern asserts that the basis for the proposed hourly flow rate revision is to provide shippers with additional contract flexibility. Southern further asserts that its proposal is consistent with the Commission's objective in Order No. 637 of expanding shippers' opportunities to use capacity in a more flexible and efficient manner.

11. Concerning posting requirements and undue discrimination, Southern states that any deviation from a 6 percent of the hourly entitlement in a service agreement would constitute a special detail required to be posted by section 284.13 (b)(viii) of the Commission's regulations,<sup>8</sup> and, therefore, Southern agrees that information in any firm service agreement including an hourly flow entitlement of less than 6 percent should be posted on its Electronic Bulletin Board (EBB).

12. Southern asserts that the provision for the bidding process for available capacity will remain as stated in Southern's current tariff which does not provide for hourly flow to be factored into the net present value calculations, and, therefore, the value of the bids will not be influenced by hourly flow rate. Southern contends that implementation of its proposal would allow for non-discriminatory flexibility for shippers.

13. Southern argues that whether a shipper has bargaining power or not is irrelevant. Southern asserts that mutual agreement of Southern and a shipper must be met for its obligation to be less than a 6 percent hourly rate at a firm delivery point. Southern further asserts that, if the parties do not reach mutual agreement, the shipper will be entitled to the 6 percent rate by default. Southern further argues that Calhoun's suggestion that Southern may attempt to tie hourly service provisions to other services is speculative. Southern contends that the authority it seeks is comparable to that provided to other pipelines. In response to ETG's protest, Southern asserts that if it were to overrecover its costs as a result of lower hourly flow rates, this overrecovery would ultimately benefit the ratepayers in lower rates determined in Southern's future section 4 rate proceedings.

14. With respect to hourly entitlements for secondary points and capacity release, Southern states, in its answer, that its existing tariff addresses the hourly entitlements for secondary points in section 10.1 which provides that Southern shall not be obligated to deliver gas in excess of uniform hourly rates, except as provided in section 10.2. Southern further states that section 10.2 addresses firm markets only, and, therefore, any deliveries to secondary points are required to flow at uniform hourly rates in the event of

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<sup>8</sup> 18 C.F.R. § 284.13(b)(viii) (2007).

an Operational Flow Order (OFO) due to excessive hourly flow takes. Southern contends that its system was not designed to serve secondary points, which are defined in the tariff as preferred interruptible, on a 6 percent hourly entitlement basis.

15. Southern contends that the hourly flow entitlement is fixed by delivery point and not by shipper. Southern further asserts that, therefore, if capacity is released to another shipper at a firm delivery point, the existing hourly flow entitlement would remain at the agreed-upon hourly flow rate in the releasing shipper's service agreement unless otherwise stated in the acquiring shipper's service agreement for such delivery point. Southern contends that, in such case, the shipper will be entitled to the hourly flow rate it requests based on the MDDQ available at such delivery point, not to exceed 6 percent. Southern further contends that this hourly flow rate is to be stated in the releasing shipper's offer to release capacity as provided in the proposed GT&C section 22.6(c)(22).

### **Commission Ruling**

16. The Commission accepts Southern's proposal to revise section 10.2 to permit it to negotiate hourly flow rates less than 6 percent of the shipper's MDDQ at the delivery point, as generally consistent with Commission policy. Southern's proposal would allow it to manage its capacity more efficiently and enhance its operational flexibility resulting in more service options. The Commission has approved similar proposals allowing pipelines to negotiate hourly flow rates with their customers. In the *Northern* proceeding, the Commission approved the negotiation of hourly flow rates less than 6.3 percent of the shipper's firm daily entitlement. The Commission accepted Northern's proposal to allow Northern and the shipper to negotiate and mutually agree to more restrictive hourly flow limitations than otherwise provided for in Northern's generally applicable tariff provisions.<sup>9</sup> The Commission noted that any agreed-upon restriction would be voluntary and would free up capacity and increase operational flexibility on Northern's system. The Commission also noted that since the provision was part of Northern's generally applicable tariff it must be offered in a non-discriminatory manner and, therefore, concerns about possible negotiation of a term and condition of service are allayed.

17. Calhoun mistakenly asserts that the *Columbia Gas* proceeding does not support allowing pipelines to implement tariff provisions to negotiate individual hourly flow restrictions since, in that case, Columbia Gas already had existing contracts containing negotiated hourly takes and minimum flow provisions, citing *Columbia Gas*, 99 FERC ¶ 61,053. However, in an earlier order in that proceeding, the Commission expressly stated that "Columbia [Gas] can revise its tariff and form of service agreement so that in the future it can enter these types of provisions without them constituting material deviations or negotiated terms and conditions of service." *Columbia Gas Transmission Corp.*, 97 FERC ¶ 61,221, at 62,007 (2001).

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<sup>9</sup> 105 FERC ¶61,172, at P 47.

18. The Commission rejects ETG's protest that negotiating a lower guaranteed hourly flow is unduly discriminatory against shippers who lack bargaining power and Calhoun's assertion that Southern would be allowed to discriminate against captive shippers and tie negotiation of hourly flows to other services. These assertions are unsupported and speculative. As Southern points out, shippers are entitled to the 6 percent hourly flow rate, in lieu of a mutually agreed-upon lower hourly flow rate. Further, Southern is required to post the agreed-upon hourly flow rate matters, as discussed below. Shippers who believe that Southern has unduly discriminated against them may avail themselves of the Commission's complaint process.

19. The Commission also rejects Calhoun's protest that the instant proposal would permit the negotiation of terms and conditions of service contrary to the Commission's *Negotiated Rate Policy Statement*. Calhoun is correct that the Commission generally does not permit negotiated terms and conditions of service.<sup>10</sup> However, the Commission has held that negotiated terms and conditions of service include any provisions that result in a customer receiving a different quality of service than that offered other customers under the pipeline's generally applicable tariff. If a pipeline tariff provides all customers the right to negotiate a particular term, such as the hourly flow rate as Southern proposes here, then the negotiation of that term is not considered to result in a different quality of service, than that offered other customers under the tariff.<sup>11</sup> With respect to the protestor's concern about the posting of negotiated hourly flow provisions, any deviation from a 6 percent hourly flow entitlement would constitute a "special detail" within the meaning of section 284.13(b)(viii). Therefore, as Southern asserts, in its answer, it will be required to post any such agreements. The posting of these special details will give notice to other shippers as to what flows have been negotiated by Southern, and this public reporting requirement will enable all of Southern's shippers to monitor Southern's contracting practices and guard against any perceived discrimination or market power abuse. If shippers perceive discrimination on the part of Southern, they may file a complaint with the Commission.

20. With respect to Calhoun's request concerning posting of capacity release transactions, in the *Northern* proceeding, the Commission determined that any revised hourly flow restriction presents an important operating parameter and should be included in any notice for a capacity release.<sup>12</sup> Southern proposes in this filing to revise the

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<sup>10</sup> 97 FERC ¶ 61,126, at 62,003.

<sup>11</sup> *Id.*

<sup>12</sup> 107 FERC ¶ 61,252, at P 55.

requirements for a releasing shipper's notice in GT&C section 22.6(c)(22) to include the hourly flow rate entitlement for each delivery point. Accordingly, Calhoun's request is denied as unnecessary.<sup>13</sup>

21. In the *Northern* proceeding, the Commission did require an explanation of how the negotiated hourly flow rates affect the NPV of bids for capacity.<sup>14</sup> The Commission approved Northern's explanation that it would not take into account the hourly flow provisions. In this case, Southern similarly states that the provision for the bidding process for available capacity will remain as stated in Southern's current tariff which does not provide for hourly flow to be factored into its NPV calculations, and, therefore, the value of the bids will not be influenced by hourly flow rate. Consistent with the determination in *Northern*, the Commission finds that Southern's use of the NPV methodology without factoring in hourly flow rates is acceptable.

22. In response to the protestor's concerns about how a negotiated hourly flow would affect the shipper's rights at secondary points, Southern asserts that existing section 10.1 establishes the hourly entitlements for secondary points by stating that Southern is not obligated to deliver gas in excess of uniform hourly rates, except as provided in section 10.2, which only addresses deliveries at primary points where the shipper has an MDDQ. Southern concludes that any deliveries to secondary points are required to flow at uniform hourly rates in the event of an OFO due to excessive hourly flow takes. Southern further asserts that, if capacity is released to another shipper at a firm delivery point, the existing hourly flow entitlement remains at the agreed-upon hourly flow rate in the releasing shipper's service agreement unless otherwise stated in the acquiring shipper's service agreement for such delivery point. Southern contends that, in such circumstances, the shipper is entitled to the hourly flow rate it requests based on the MDDQ available at such delivery point, not to exceed 6 percent.

23. The Commission finds that Southern's explanation is satisfactory. While Southern explains that its tariff requires uniform hourly flows at secondary points, Southern will permit firm shippers to schedule service up to their firm daily MDDQ at secondary points, if capacity is available. Thus, the negotiation of an hourly flow limit of less than 6 percent at a shipper's primary point will not affect its rights at secondary points. This

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<sup>13</sup> Calhoun also expresses a concern that Southern has not demonstrated that it can accommodate different hourly flow restrictions from different shippers. However, GT&C section 11 of Southern's tariff provides that it "may elect to construct, install, and operate flow control equipment at any location on its pipeline system whenever it determines in its reasonable judgment that such equipment will contribute to the safe, reliable, efficient, and orderly operation of its pipeline system in a manner that is consistent with its obligations to provide service under all of its rate schedules."

<sup>14</sup> 107 FERC 61,252 at 62,081-82.

contrasts with the situation in *Northern*, where the pipeline was proposing to apply the negotiated hourly flow limit at secondary points in a manner that would prevent the shipper from flowing its full daily MDDQ at secondary points.<sup>15</sup>

24. In response to ETG's protest that Southern may overrecover its costs, Southern asserts that if Southern were to overrecover its costs as a result of lower hourly flow rates, this overrecovery would ultimately benefit the ratepayers in lower rates determined in Southern's future section 4 rate proceedings.<sup>16</sup> As Southern states, impacts on recovery of the costs resulting from the reduced hourly flow rates may be considered in Southern's next section 4 rate proceeding.

### **Section 10.3**

#### **Positions of the Parties**

25. ETG and Calhoun observe that currently, pursuant to section 10.3 of the GT&C, whenever Southern needs to limit hourly flows in response to a threat to the integrity of the system, it does so based on a percentage of a shipper's MDDQ, rather than on a percentage of the scheduled volumes at a firm delivery point, as proposed by Southern. ETG and Calhoun protest that the instant proposal would result in a reduction of service to all shippers on any day on which they have not scheduled their full MDDQ. That is because, in that circumstance, an hourly limit based on 6 percent of scheduled volumes would be less than an hourly limit based on 6 percent of MDDQ. ETG asserts that this change would represent a significant degradation of service and that Southern has not justified such a loss of the flexibility currently enjoyed by all shippers and which is already built into its system. Calhoun argues that this is not a mere clarification as Southern suggests. ETG and Calhoun assert that Southern has not explained or justified this more restrictive procedure and, therefore, it should be rejected.

26. In its answer, Southern contends that one reason for basing the calculation of the limitation on scheduled versus contract volumes or MDDQ is to prevent undue restrictions for other shippers on the system. Southern asserts that, for example, if the hourly flow rate during a Type 2 OFO<sup>17</sup> was calculated based on MDDQ without taking into account the amount of gas scheduled for that cycle and a shipper nominated 600

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<sup>15</sup> *Id.* at P 52.

<sup>16</sup> Southern asserts that the stipulation and agreement in Docket No. RP04-523 requires it to file another rate case no later than March 2010.

<sup>17</sup> Section 41 of Southern's GT&C provides that the hourly market demand exceeds capacity provisions of section 10.3 constitute an OFO or critical period.

Dth/d of its 10,000 Dth/d MDDQ to a primary delivery point and 9,400 Dth/d to a secondary point, Calhoun would argue that this shipper would be entitled to flow 600 Dth at their firm point along with 391 Dth<sup>18</sup> at the secondary point in one hour. Southern further asserts that this would equate to 9.9 percent of the shipper's MDDQ, when Southern's system is only designed to deliver 6 percent of all shippers' MDDQ at firm delivery points. Southern concludes that this action could restrict other shippers' use of alternate points under their firm contracts or restrict other shippers' flexibility to obtain service if it had to reserve the capacity for such unscheduled use.

27. Southern further contends that this method is consistent with Order No. 698, which states that shippers should "not operate without an approved scheduled quantity."<sup>19</sup> Southern states that it does not provide an hourly service under its tariff. Southern argues that, therefore, any hourly flow entitlement should follow the North American Energy Standards Board (NAESB) daily scheduling cycles and shippers should not have a disproportionate hourly right to what they have scheduled on a daily basis. Southern states that it does, nonetheless, by its tariff and its procedures, allow a shipper to increase its nomination at a firm delivery point either in a subsequent scheduling cycle or, if operating conditions permit, outside the four scheduling cycles to meet increased needs if necessary. Southern further states that, if a shipper is not taking its full MDDQ, it is unreasonable to expect that it has an incongruent hourly right to its daily entitlements, and the end result would be unfair to shippers who are properly scheduling their requirements.

28. Southern contends that its current tariff is not explicit as to how the hourly flow is calculated in an OFO event, but states the maximum level that Southern is obligated to, and the shipper entitled to, in this event. Southern further contends that, therefore, this proposed revision to the hourly flow provision is not a modification to the current tariff, but a clarification consistent with current NAESB scheduling guidelines.

### **Commission Ruling**

29. The Commission finds that Southern's answer does not fully address the issues raised by its proposal to revise section 10.3. Existing section 10.3 authorizes Southern to limit a shipper's hourly flow flexibility at its primary point based upon a finding that the shipper's takes of gas in excess of 6 percent of its daily MDDQ at that point threaten system integrity. Consistent with that finding, existing section 10.3 permits Southern to limit the shipper's hourly flows to no more than 6 percent of its daily MDDQ. Southern

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<sup>18</sup> This is apparently a uniform hourly flow rate of 391 Dth resulting from the 9,400 Dth being divided by 24 hours.

<sup>19</sup> *Citing Standards for Business Practices for Interstate Natural Gas Pipelines*, 119 FERC ¶ 61,317, at P 28 (2007) (Order No. 698).

does not propose to modify section 10.3's provision concerning the finding it must make in order to limit the shipper's hourly flow flexibility. Thus, Southern would continue to impose the limit based upon a finding that the shipper's takes of gas in excess of 6 percent of its daily MDDQ threaten system integrity. However, Southern does propose to modify the remedy it can impose once it finds a threat to system integrity. Under its proposal, Southern would be able to limit the shipper's hourly flows to no more than 6 percent of the amount the shipper has scheduled at its primary point.

30. Southern's proposal appears to result in a mismatch between the finding it must make in order to limit a shipper's hourly flow flexibility and the remedy it may impose. As the protesters point out, if the shipper has scheduled less than its full MDDQ at its primary point, Southern's proposal would permit it to impose a more stringent limit than existing section 10.3 permits. It is not clear why a finding that hourly takes in excess of 6 percent of MDDQ threaten system integrity should justify Southern limiting hourly takes to an even lower level. Therefore, Southern's proposal requires further support and explanation.

31. As sections 10.1 through 10.3 of Southern's tariff are currently structured, Southern appears to permit a shipper to take up to 6 percent of its daily MDDQ at a primary point on any day, regardless of how much service it has scheduled for that day. This effectively permits a shipper greater hourly flexibility in its takes of scheduled amounts on days when it has scheduled less than its full MDDQ. For example, a shipper with an MDDQ of 100 Dth at its one primary point can take 6 Dth in any hour, regardless of whether it has scheduled deliveries of 100 Dth for the day or as little as 6 Dth for the day. In its compliance filing, Southern should explain whether its system can, as an operational matter, handle greater variability in hourly gas flows at lesser scheduled amounts, as its current tariff appears to presume, and, if so, why any limit tied to scheduled amounts should be permitted.

32. The Commission accepts and suspends the proposed tariff sheets, to become effective the earlier of a date established by a subsequent order or April 1, 2008, subject to refund and conditions and further Commission review. The Commission directs Southern, within twenty days of the date of this order, to provide further information and explanations with adequate support necessary to fully address the issues raised by its proposal to revise section 10.3, as discussed above. The Commission will permit parties ten days from the date Southern's response is filed to file reply comments.

#### **IV. Suspension**

33. Based upon a review of the filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable,

unduly discriminatory, or otherwise unlawful. Accordingly, the Commission accepts the tariff sheets for filing, subject to refund, and suspends their effectiveness for the period set forth below, subject to the conditions set forth in this order.

34. It is the Commission's policy generally to suspend rate filings for the maximum period permitted by statute if preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.<sup>20</sup> It is also recognized however, that shorter suspensions may be warranted under circumstances in which suspension for the maximum period may lead to harsh and inequitable results.<sup>21</sup> Such circumstances do not exist here. Accordingly, the Commission will exercise its discretion to suspend the tariff sheets for the maximum period and permit the tariff sheets to be effective the earlier of a date established by a subsequent order or April 1, 2008, subject to refund and the conditions and further review as set forth in the body of this order and in the Ordering Paragraphs below.

The Commission orders:

(A) The tariff sheets listed in footnote No. 1 of this order are accepted and suspended, to become effective the earlier of a date established by a subsequent order or April 1, 2008, subject to refund and conditions and further review, as discussed in this order.

(B) Within twenty days of the date this order, Southern shall file further information and explanations with adequate support necessary to fully address the issues raised by its proposal to revise section 10.3, as discussed in the body of this order.

(C) Parties may file comments on Southern's filing required by Ordering Paragraph (B) above within 10 days from the filing date of that filing.

By the Commission.

( S E A L )

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

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<sup>20</sup> See *Great Lakes Gas Transmission Co.*, 12 FERC ¶61,293 (1980) (five-month suspension).

<sup>21</sup> See *Valley Gas Transmission, Inc.*, 12 FERC ¶61,197 (1980) (one-day suspension).