

122 FERC ¶ 61,199
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 4, 2008

In Reply Refer To:
Tennessee Gas Pipeline Company
Docket No. RP96-312-178

Tennessee Gas Pipeline Company
1001 Louisiana Street
Houston, TX 77002

Attention: Melissa G. Freeman
Senior Counsel

Reference: Gas Transportation Agreement and Negotiated Rate Letter Agreement
Comprising Service Package No. 66812

Dear Ms. Freeman:

1. On February 5, 2008, Tennessee Gas Pipeline Company (Tennessee) filed a gas transportation agreement under Rate Schedule FT-A between Tennessee and Statoil Natural Gas, LLC (Statoil) dated February 1, 2008, and a related negotiated rate letter agreement, dated January 24, 2008, to implement service for Statoil effective February 1, 2008. Tennessee states that the agreements result from the permanent release and assignment of transportation rights on an off-shore lateral to Statoil by Hydro Gulf of Mexico, L.L.C. (Hydro). Tennessee states that the provisions of the transportation agreement with Statoil do not deviate materially from Tennessee's FT-A Form of Gas Transportation Agreement, and that Statoil's negotiated rate is the same as that which the Commission approved in Hydro's negotiated rate service package. Accordingly, Tennessee requests that the Commission accept the filing and approve the negotiated rate arrangement with Statoil to be effective February 1, 2008. The Commission accepts the agreements for filing effective February 1, 2008, subject to Tennessee refiling the gas transportation agreement and the negotiated rate letter agreement within 15 days of the date of issuance of this order in accordance with the discussion that follows.

2. Public notice of the filing was issued on February 7, 2008. 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. No protests or adverse comments were filed.

3. The Commission notes that while the gas transportation agreement as filed by Tennessee in this proceeding does not materially deviate from Tennessee's FT-A Form of Gas Transportation Agreement, the first two sentences of paragraph 1(d) of the related negotiated rate letter agreement provide an annual contract demand reduction option of up to 50 percent of the shipper's maximum Transportation Quantity (TQ) for the remaining term of the contract, as permitted by Article XXVIII, section 5.2, of the General terms and Conditions (GT&C) of Tennessee's tariff.¹ That provision of the letter agreement constitutes a non-rate provision that should be included in Exhibit B of the gas transportation agreement, instead of the negotiated rate letter agreement.² Tennessee is therefore directed to remove the first two sentences of paragraph 1(d) from the negotiated rate letter agreement and may include comparable language in Exhibit B of the gas transportation agreement.

4. We note, however, that paragraph 1(d) also constitutes a rate provision in that the last sentence of the paragraph states that the negotiated rate will apply to the TQ remaining after the shipper has exercised the contract reduction option. Therefore, to preserve the meaning of paragraph 1(d), Tennessee may revise the paragraph to state that the negotiated rate will apply to the remaining TQ in the event the shipper exercises the contract reduction option under Exhibit B of the gas transportation agreement.

5. In addition, we reject paragraph 1(a) of the negotiated rate letter agreement which permits Tennessee to immediately terminate the negotiated rate letter agreement or charge the maximum rate if the shipper violates any term of either the negotiated rate letter agreement or the transportation agreement. While the terms of paragraph 1(a) of Statoil's negotiated rate letter agreement also appeared in Hydro's negotiated rate letter agreement, such language was rejected by the Commission in an intervening proceeding based on the finding that it would create a substantial risk of undue discrimination.³ Therefore, consistent with previous Commission action, we direct Tennessee to remove the language in paragraph 1(a) from Statoil's negotiated rate letter agreement when it

¹ See *Tennessee Gas Pipeline Co.*, 97 FERC ¶ 61,225 at 62,031 (2001).

² *Tennessee Gas Pipeline Co.*, 121 FERC ¶ 61,116 at P16 (2007), *order on reh'g*, 122 FERC ¶ 61,097 (2008). Section 5.2 also requires the shipper to give Tennessee three month's prior notice that it will exercise the reduction option. However, the prior notice period for a shipper to exercise a contract reduction option may be shorter than the default one-year prior notice period for contracts with a term greater than one year. Statoil's gas transportation agreement is for a primary term of approximately five years.

³ *Tennessee Gas Pipeline Co.*, 121 FERC ¶ 61,116 at P15 (2007), *order on reh'g*, 122 FERC ¶ 61,097 (2008).

refiles such agreement. Tennessee may revise the paragraph consistent with the revised language we accepted in the intervening proceeding by letter order dated February 5, 2008.⁴

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁴ *Tennessee Gas Pipeline Co.*, 122 FERC ¶ 61,097 (2008).