125 FERC ¶ 61,285
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

December 12, 2008

In Reply Refer To:
Gulf South Pipeline Company, LP
Docket No. RP09-74-000

Gulf South Pipeline Company, LP
9 Greenway Plaza, Suite 2800
Houston, TX 77046

Attention: J. Kyle Stephens
Vice President of Rates

Reference: Tariff Sheet Conditioning a Customer's Right to Change Primary Points

Ladies and Gentlemen:

1. On November 13, 2008, Gulf South Pipeline Company, LP (Gulf South) filed Fourth Revised Sheet No. 1408 to its FERC Gas Tariff, Sixth Revised Volume No. 1, to add a provision to section 7.4 of the General Terms and Conditions (GT&C) of its tariff conditioning a customer's right to change primary points under FTS and FTS-SSO service agreements. Gulf South requests that the proposed tariff sheet become effective December 13, 2008. We grant waiver of the Commission's 30-day notice requirement, and accept the referenced tariff sheet, effective December 13, 2008, subject to Gulf South filing a revised tariff sheet reflecting the modifications discussed below, within 20 days of the date of issuance of this order.

2. Public notice of Gulf South's filing issued on November 17, 2008. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214 (2008)). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. On November 25, 2008, the Indicated Shippers[1] filed a request for clarification. On December 4, 2008,

[1] Indicated Shippers are BP America Production Company, BP Energy Company, Chevron U.S.A. Inc., and ConocoPhillips Company.

Gulf South filed an answer to the request. Generally, the Commission does not permit answers, however, the Commission will accept Gulf South's answer as it aids in the Commission's review of the instant proposal.

3. Gulf South has a zone rate structure. Under Gulf South's current tariff, Gulf South allows primary point changes to firm transportation contracts even when the change reduces reservation charges due to Gulf South. The instant filing allows Gulf South to continue to charge the reservation rates agreed to in a customer's service agreement, including any incremental reservation charges, if the customer requests to change primary point pairs in a manner that would otherwise result in a reduction of the reservation charges due Gulf South because a lower maximum rate would apply to new primary path.

4. Gulf South states that the provision will apply to both existing and new service agreements, ensuring non-discriminatory treatment of all FTS and FTS-SSO customers. In addition, the provision will protect a customer's right to modify primary points, while preserving the benefit of the bargain entered into by the pipeline in its firm transportation service agreement. Furthermore, Gulf South states that the provision will ensure the continued integrity of Gulf South's capacity auction process and that capacity will be awarded to the customer that values it most.

5. The Indicated Shippers request that certain clarifications be made to Gulf South's proposed tariff provisions. Specifically, the Indicated Shippers request that Gulf South clarify in its tariff: (1) how usage charges will be determined if a shipper changes its primary point(s); (2) that the reservation rate for a shorter haul resulting from a primary point change will be the reservation rate applicable for ROFR-posted capacity; and (3) that the reservation rate should reflect the new primary point when Gulf South implements new rates in a rate case.

6. The Indicated Shippers state that it appears that the intent of Gulf South's proposal is to apply a shipper's contract reservation rate when it changes its primary point(s); however, the proposed tariff provisions do not address whether the contract usage rate for the actual primary point will apply. The Indicated Shippers request Gulf South clarify that shippers that change their primary point(s) will be charged usage rates based on their actual gas flow. Indicated Shippers state that other pipelines that include tariff provisions similar to Gulf South's proposal explicitly address how usage rates will be determined following a shipper's primary point change. For example, if a shipper changes its receipt point on the Gulf South affiliate, Texas Gas Transmission, LLC (Texas Gas) to a location downstream of a supply lateral, the shipper will continue to be charged the same

reservation charge until Texas Gas' next rate case.[2] However, the shipper would pay a usage rate for its new actual primary point immediately.[3]

7. Furthermore, the Indicated Shippers argue that Gulf South states in its transmittal that the reservation charge for a right-of-first-refusal (ROFR) auction would be the new primary point's reservation rate; however, Gulf South's proposed tariff provision does not specifically state how Gulf South will handle shorter primary points in a ROFR context. Indicated Shippers request that Gulf South clarify in its tariff that the new primary point would apply for determining the applicable primary point and reservation rates in a ROFR posting.

8. Similarly, the Indicated Shippers assert that Gulf South should clarify that a shipper that changes its primary point(s) will pay a reservation rate that reflects the new primary point when Gulf South implements new rates in its next rate case. Indicated Shippers aver that when Gulf South develops the proposed rates for a new rate case, it can design the rates to recover its revenue requirements, taking into account the actual rate zones and primary points utilized by shippers, including shippers that have changed their primary points. Accordingly, Indicated Shippers state, the new rates are able to reflect Gulf South's revenue requirements in connection with any changed primary point(s). This approach also addresses Gulf South's concerns of potential shipper gaming because shippers changing their primary points will be required to pay their contract rates until new rates are implemented as part of a pipeline rate case.

9. On December 4, 2008, Gulf South filed an answer in response to Indicated Shippers' request for clarification. Gulf South agrees with the Indicated Shippers that its tariff does not address whether the contract usage rate or the usage rate for the new point pair will apply, and whether the rate will be based on the actual gas flow. Accordingly, Gulf South offers to add the following language, which mirrors the language from Texas Gas' tariff that was cited by the Indicated Shippers:[4]

> Unless otherwise agreed to in writing by Gulf South and Customer, Customer shall also pay Gulf South the applicable maximum commodity charge per Dth of gas delivered by Gulf South for FTS pr FTS-SSO services rendered to Customer.

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[2] Texas Gas Transmission, LLC, FERC Gas Tariff, Rate Schedule FT § 5.1, Original Sheet Nos. 102 and 103.

[3] *Id.*

[4] *See* Indicated Shippers' Request for Clarification at p. 2.

10. In addition, the Indicated Shippers requested that Gulf South incorporate the commitment that, for purposes of a ROFR, the maximum reservation charge will be the applicable charge for the primary point pairs in effect at that time, not the reservation charge under the initial contract. Accordingly, Gulf South offers the following additional language:

> If Customer exercises a right of first refusal pursuant to Section 30, the applicable reservation charge shall be determined based upon the primary point pairs in effect at the time the right of first refusal process is initiated.

11. Furthermore, Gulf South agrees that a shipper that changes its primary point(s) should pay a reservation charge that reflects the new flowpath when Gulf South implements new rates in its next rate case. Thus, Gulf South offers the following language be included in its tariff:

> Unless otherwise agreed to in writing, such reservation charge shall continue until the earlier of the initial service agreement expiration or the effective date of Gulf South's next Section 4(e) rate case filing.

12. The Commission finds that with the tariff clarifications proposed by Gulf South, the instant filing is consistent with Commission's policy[5] to prevent a pipeline from losing revenue under a specific transportation service agreement due to a customer's request to change its primary points. In addition, Gulf South's proposed tariff provisions are generally similar to the tariff provisions of other pipeline tariffs.[6] Accordingly, we accept the referenced tariff sheet, effective December 13, 2008, subject to Gulf South

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[5] *See El Paso Natural Gas Co.*, 106 FERC ¶ 61,103, at P 23 (2004).

[6] *See, e.g.,* El Paso Natural Gas Company, FERC Gas Tariff, Second Revised Volume 1A, Ninth Revised Sheet No. 288 and Third Revised Sheet No. 288A; CenterPoint Energy – Mississippi River Transmission Corporation, FERC Gas Tariff, Third Revised Volume No. 1, Original Sheet No. 20; and Natural Gas Pipeline Company of America, LLC, FERC Gas Tariff, Seventh Revised Volume No. 1, Original Sheet Nos. 291 and 292.

filing the agreed to changes discussed above, within 20 days of the date of issuance of this order.

By direction of the Commission.

Kimberly D. Bose
Secretary.