

132 FERC ¶ 61,074
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

July 27, 2010

In Reply Refer To:
Florida Gas Transmission
Company, LLC
Docket Nos. RP10-21-002
and RP04-249-008

Mr. Michael T. Langston
Sr. Vice President, Government and Regulatory Affairs
5444 Westheimer Rd.
Houston, TX 77056

Re: Letter Order Approving Uncontested Settlement

Dear Mr. Langston:

1. On October 1, 2009, Florida Gas Transmission Company, LLC (Florida Gas) filed revised tariff sheets pursuant to section 4 of the Natural Gas Act (NGA) proposing revised rates for existing services and certain changes to its General Terms and Conditions (GT&C), to be effective November 1, 2009.
2. Florida Gas proposed, *inter alia*, to (1) change the gas quality tariff standard for liquefiable hydrocarbons in its Market Area from an existing 0.12 mole percent C5+ limit to a cricondentherm hydrocarbon dew point (CHDP) of 25 degrees Fahrenheit and (2) allow Florida Gas to post gas quality standards for gas flowing from its Western Division into the Market Area as necessary to ensure

that gas meets applicable specifications in the Market Area¹ and to comply with the Commission's orders in Opinion No. 495.² In Opinion 495, the Commission limited certain proposed changes to Florida Gas' gas quality standards to the Market Area only, creating different standards for Florida Gas' Market Area and Western Division. The Commission also required that all gas entering Florida Gas's Market Area from its Western Division satisfy the Market Area gas quality standards.

3. On October 30, 2009, the Commission issued an order accepting some of Florida Gas' proposed tariff sheets to be effective November 1, 2009 and accepting and suspending the remaining proposed tariff sheets to be effective April 1, 2010, subject to conditions and the outcome of a hearing on Florida Gas' rate proposals.³ Second Revised Sheet No. 206 and Second Revised Sheet No. 206A were accepted and suspended to become effective April 1, 2010, subject to Florida Gas making a compliance filing answering questions posed by the Commission regarding its gas quality proposal.⁴

4. On December 7, 2009, Florida Gas made its compliance filing submitting additional information regarding the proposed gas quality tariff provisions. On February 4, 2010, Florida Gas provided additional temperature and CHDP data in response to a January 15, 2010 data request from the Commission.

5. On March 26, 2010, the Commission issued an order that, *inter alia*, accepted Florida Gas' proposal to substitute a CHDP of 25 degrees Fahrenheit for its existing 0.12 mole percent C5+ limit for the Market Area.⁵ The order also

¹ The tariff sheets relevant to the gas quality proposals are: Florida Gas Transmission Company, LLC, FERC Gas Tariff, Fourth Revised Volume No. 1, Second Revised Sheet No. 206 and Second Revised Sheet No. 206A.

² *AES Ocean Express LLC v. Florida Gas Transmission Co., et al.*, Opinion No. 495, 119 FERC ¶ 61,075 (2007), *order on reh'g*, Opinion No. 495-A, 121 FERC 61,267 (2007), *order on reh'g*, Opinion No. 495-B, 125 FERC 61,137 (2008).

³ *Florida Gas Transmission Company, LLC*, 129 FERC ¶ 61,092 (2009) (October 30, 2009 Order). The rate proposals currently remain pending at hearing.

⁴ *Id.* P 30.

⁵ *Florida Gas Transmission Company, LLC*, 130 FERC ¶ 61,250, at P 36 (2010) (March 26, 2010 Order).

found that Florida Gas' proposal to post gas quality standards as necessary for gas flowing from the Western Division into the Market Area was amenable to settlement and established settlement judge procedures.⁶ Indicated Shippers⁷ and Florida Power & Light Company (FPL) filed requests for rehearing of the Commission's decision in the March 26, 2010 Order regarding Florida Gas' proposal to post gas quality standards for gas flowing from the Western Division into the Market Area. FPL filed a separate request for rehearing of the Commission's decision to accept Florida Gas' proposal to change the gas quality standard in the Market Area to a CHDP of 25 degrees Fahrenheit.

6. On May 14, 2010, the United States Court of Appeals for the District of Columbia Circuit issued a decision generally affirming the Commission's orders in the Opinion No. 495 proceeding. However, the court vacated the Commission's holding that Western Division gas must satisfy the Market Area gas quality standards where it enters the Market Area.⁸ Indicated Shippers filed a motion to lodge the decision in this proceeding.

7. As a product of the settlement proceedings concerning Florida Gas' gas quality proposals established by the March 26, 2010 Order, Florida Gas submitted an Offer of Settlement (Settlement) pursuant to Rule 602 of the Commission's Rules of Practice and Procedure on June 8, 2010. Among other things, the Settlement requires Florida Gas to file tariff sheets eliminating the proposed provision of its tariff allowing Florida Gas to post gas quality standards for gas flowing from the Western Division into the Market Area. Consistent with the court's decision, the Settlement also removes the tariff provision requiring gas entering the Market Area from the Western Division to satisfy the Market Area gas quality standards. The Settlement also requires Subject Parties to withdraw any request for rehearing filed in the captioned proceeding with respect to issues concerning Florida Gas' gas quality standards, with the exception of FPL's request for rehearing regarding CHDP.

⁶ *Id.* P 38.

⁷ The Indicated Shippers are: BP America Production Company and BP Energy Company; Chevron U.S.A. Inc.; ExxonMobil Gas & Power Marketing Company, a division of Exxon Mobil Corporation; and Shell Offshore, Inc.

⁸ *Florida Gas Transmission Company v. FERC*, 604 F.3d 636 (D.C. Cir. 2010).

8. Commission Trial Staff, Florida Gas, FPL, Indicated Shippers, and Florida Power Corporation d/b/a Progress Energy Florida, Inc. filed initial comments to the Settlement. These comments either supported or did not oppose the Settlement. No reply comments were filed.
9. On July 2, 2010, the Settlement Judge certified the Offer of Settlement to the Commission as uncontested.⁹
10. The main provisions of the Settlement may be summarized as follows.
11. Article I states that the Settlement is submitted in accordance with Rule 602 of the Commission's Rules of Practice and Procedure to resolve certain gas quality issues pending in the captioned proceeding.
12. Article II sets forth the background and procedural history of this proceeding.
13. Article III defines the terms Subject Party and Non-Consenting Parties; defines the rights and restrictions placed on Florida Gas, Subject Parties, and Non-Consenting Parties; and sets forth the applicability of the terms and conditions of Settlement.
14. Article IV states that the Settlement gas quality standards and posting requirements are contained on the Pro Forma Settlement Tariff Sheets attached as Appendix A. The Article provides that Florida Gas shall file tariff sheets conforming to the Pro Forma Settlement Tariff Sheets to be effective upon the first day of the first month following the date of the Final Order. The Article states that the Subject Parties and Florida Gas stipulate and agree that Section 2.A.9 of Florida Gas' GT&C is deleted in its entirety and Section 2.B of Florida Gas' GT&C is modified to eliminate from the first paragraph the following language: "...and gas entering the Market Area from the Western Division (as measured at Transporter's Compressor Station No. 12)...."
15. Article V states that the Subject Parties agree to withdraw any request for rehearing filed in the captioned proceeding with respect to issues concerning Florida Gas' gas quality standards, except that FPL is not required to withdraw its April 26, 2010 request for rehearing entitled "Request for Rehearing of Florida Power & Light Company addressing Cricondenthem Hydrocarbon Dew Point" filed in Docket No. RP10-21-005.

⁹ *Florida Gas Transmission Company, LLC*, 132 FERC ¶ 63,002 (2010).

16. Article VI discusses when the Settlement shall become effective, the conditions under which Florida Gas may withdraw from the Settlement, and what shall constitute a Final Order approving the Settlement.

17. Article VII contains miscellaneous provisions. The Article provides that the standard of review for proposed changes to the terms and conditions of the Settlement by any party shall be the “just and reasonable” standard of review.

18. The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission’s approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

19. If Florida Gas has made its baseline electronic tariff filing pursuant to Order No. 714, and did not file the settlement in the eTariff format required by Order No. 714, it is required to make a compliance filing in eTariff format to ensure that its electronic tariff provisions reflect the Commission action in this order.¹⁰ Such a compliance filing also is necessary for any settlement filing containing *pro forma* tariff sheets, but is not necessary if the settlement was filed in eTariff format with actual tariff records (as opposed to *pro forma* records).

20. This order terminates Docket Nos. RP10-21-002 and RP04-249-008.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: All parties of record

¹⁰ See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 96 (2008).