

139 FERC ¶ 61,086
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Gulf South Pipeline Company, LP

Docket No. RP12-74-000

ORDER ON TECHNICAL CONFERENCE

(Issued April 30, 2012)

1. On November 30, 2011, the Commission issued an order accepting and suspending a proposal by Gulf South Pipeline Company, LP (Gulf South) to implement daily allocations of gas on its pipeline system to be effective May 1, 2012 subject to conditions. The order also directed the Commission's Staff to convene a technical conference to examine Gulf South's proposal.¹
2. On January 12, 2012, Commission Staff convened a technical conference. Accordingly, upon review of the comments presented by the parties to the instant technical conference proceedings, the Commission finds Gulf South's proposal to be just and reasonable subject to conditions, as discussed below.

I. Background

3. Pursuant to section 4 of the NGA, Gulf South proposes to allocate transportation quantities among its shippers on a daily basis, rather than its current practice of allocating on a monthly basis. Gulf South states it will continue to resolve shipper imbalances on a monthly basis, consistent with its current practice.
4. Gulf South states that when it restructured under Order No. 636, it implemented monthly allocations and monthly balancing. Gulf South claims monthly allocations were appropriate at that time because many meters on its system were not yet capable of providing daily measurement information. Because of widespread upgrades in metering

¹ *Gulf South Pipeline Co., LP*, 137 FERC ¶ 61,170 (2011).

over the past two decades, Gulf South is now proposing to switch from monthly allocations to daily allocations. Gulf South states that through the use of electronic flow measurement technology it can now easily provide customers with daily information necessary to manage daily allocations, which will marry up with the current marketplace in which gas transmission is normally conducted on a daily or intra-day basis. Gulf South states that it will continue with monthly balancing, so customers will still have flexibility.

5. Under Gulf South's proposal, a customer's transportation quantities under each of its service agreements will be allocated on a daily basis. If a customer exceeds its Maximum Daily Quantity (MDQ), the customer will be charged the existing Overrun Rate for the use of capacity in excess of its firm capacity rights on any day. Gulf South states this ensures that customers pay for the capacity they use. Gulf South states its tariff does not contain any daily overrun penalties and it is not proposing any here. For monthly balancing, the sum of the daily allocations under each service agreement will establish the net imbalance position for each customer for the month. In addition, Gulf South states it is proposing to exempt customers utilizing the Small Customer Option of Rate Schedules NNS and FTS from daily allocations since the rate charged these shippers is a one-part, usage-based rate and these customers already pay for the daily capacity they use, both up to and in excess of their firm capacity rights.

6. Gulf South states its proposal will also eliminate the free arbitrage opportunity that is being exploited by certain customers. Currently, because Gulf South allocates on a monthly basis, a customer can overrun its Maximum Daily Quantity on individual days of the month without incurring overrun charges or otherwise paying for the excess daily capacity used. Gulf South states certain customers take advantage of the monthly allocation methodology to engage in arbitrage by taking or under-delivering gas during the month based on market prices, which is equivalent to obtaining free Parking and Lending service.

7. Finally, Gulf South states the proposal will increase transparency for all customers. Gulf South will make available in a timely manner information on daily gas flows, storage balance, and imbalances under each transportation and storage agreement. This daily information will allow customers to better manage their businesses, which are generally operated on a day-to-day or intraday basis. In addition, Gulf South states because most other interstate pipelines allocate daily, Gulf South's customers now will be able to use a similar business process to monitor and nominate capacity for all of their various transportation contracts.

8. Gulf South argues that its allocation proposal is consistent with the allocation methodology used by the majority of interstate pipelines, including Gulf South's sister interstate pipelines, Gulf Crossing Pipeline Company LLC and Texas Gas Transmission, LLC. Gulf South argues that its proposal is also consistent with Commission policy

holding that “daily allocations will more accurately accommodate the current marketplace, in which gas transmission is normally conducted on a daily or intra-day basis.”²

9. Public notice of Gulf South’s filing was issued on October 31, 2011. Several intervenors protested and requested that the Commission convene a technical conference. On November 30, 2011, the Commission issued an order directing Commission Staff to convene a technical conference.

10. The technical conference was convened on January 12, 2012. Based on the comments, questions, and concerns raised by the parties and Commission Staff, Gulf South submitted Initial Comments clarifying some of the issues discussed at the technical conference on February 3, 2012. All other parties submitted Post-Technical Conference Comments by February 17, 2012.³ On March 2, 2012, Gulf South submitted Reply Comments.

11. In its filings after the technical conference, Gulf South agreed to or submitted *sua sponte* a number of changes to its initial filing to address the concerns of the parties. The Commission accepts Gulf South’s proposal, as revised after the technical conference, except as detailed below. Where necessary, Gulf South should file actual tariff records to formalize the revisions it agreed to in its comments and otherwise comply with this order within 30 days of the date that this order issues.

II. Support for Filing and Need to File NGA Section 4 Rate Case

12. In their post-technical conference comments, several shippers argue that Gulf South has failed to provide support demonstrating that shifting to daily allocations is just and reasonable. BP and Texla note that Gulf South has not argued that there is an operational need for its revisions, and that the revisions are opposed by virtually all shippers. BP argues that Gulf South should not modify the nature of its jurisdictional transportation services without a general section 4 rate filing.

² Gulf South November 15, 2011 Answer at 3 (citing *Southern Star Central Gas Pipeline, Inc.*, 111 FERC ¶ 61,212, at P 14 (2005).

³ In addition to Gulf South, the Commission received post-technical conference comments from BP America Production Company and BP Energy Company (BP); Devon Gas Services, L.P. (Devon); Mobile Gas Service Corporation (Mobile Gas); Southern Company Services, Inc. (SCS); Texla Energy Management Company, Inc., Atmos Energy Corporation, and Calpine Energy Services, L.P. (Texla); and United Municipal Distributors Group (UMDG).

13. Mobile Gas and Texla argue that Gulf South's Rate Schedule FTS shippers have paid and continue to pay for costs associated with 10 Bcf of storage capacity allocated to Gulf South's Rate Schedule FTS service, which Gulf South uses to manage system balancing. They argue that Gulf South's FTS rates reflect this flexibility premium, and that Rate Schedule FTS shippers should receive a credit for the incremental revenue from Gulf South's sale of storage capacity no longer needed to support Rate Schedule FTS service. Mobile Gas and Texla argue that this fundamental realignment of costs and services by a pipeline requires resolution in a section 4 rate case.

14. Devon, Mobile Gas, and Texla argue that monthly allocations have been a fundamental component of services on Gulf South since restructuring, and changing the allocation method will result in significant administrative burdens to shippers. Devon and Mobile Gas argue that the proposal would turn them into bill collectors for Gulf South's overrun charges. Parties assert that the gas requirements of end use markets such as refineries, power plants, and chemical plants will continue to be both highly variable and outside the shipper's control, so they argue that shippers would have little power to avoid overrun charges. As such, the parties argue, the proposal is unjust, unreasonable, and unduly discriminatory.

15. Gulf South argues in its Reply Comments that the courts and the Commission have been clear that under the Natural Gas Act, the pipeline has the initiative to propose rates, terms, and conditions for the service it provides.⁴ Gulf South argues that if the pipeline's proposal is reasonable, the Commission must accept it, regardless of whether other rates, terms, and conditions may be also be reasonable. Therefore, Gulf South argues, the Commission must accept its daily allocation proposal if it determines that the proposal is just and reasonable.

16. Gulf South argues that customers do not pay for the ability to utilize monthly allocations under current Rate Schedule FTS rates. Gulf South states that the 10 Bcf of working gas storage retained by Gulf South is necessary to ensure the reliability of the system and was never designed to manage or support monthly allocations. Gulf South states that demand spikes on its system will continue to cause large imbalances that must be supported by operational gas even after daily allocations are implemented, especially since Gulf South proposes to keep its monthly balancing methodology. Gulf South argues that even if the commenters were able to demonstrate that daily allocations will in fact reduce the amount of working storage gas needed to address operational issues on Gulf South's system, this reduction would not equate to a "rate change" or an adjustment

⁴ Gulf South Reply Comments at 2 & n.2 (citing *Columbia Gas Transmission Corp.*, 124 FERC ¶ 61,122, at P 26 (2008), *reh'g denied*, 133 FERC ¶ 61,217 (2010)).

of a cost of service item under NGA section 4, because no rates have been changed and no cost of service items have been adjusted. Gulf South argues that changes occur in a pipeline's operations between section 4 rate cases and pipelines commonly file for tariff revisions to address these changes rather than initiating a general rate case.

17. The Commission has found that switching to daily allocations is reasonable and does not unduly harm firm shippers. In *Southern Star*, for example, the Commission found that concerns regarding the creation of new administrative costs for shippers were outweighed by the benefits of more timely, accurate, and responsive operational information.⁵ The same finding applies here, where Gulf South has shown that daily allocations are expected to allow the pipeline to more reliably recover costs from customers that exceed their MDQ. While Devon and others are correct that end-use markets can be volatile, this does not excuse shippers from paying pipelines for services rendered, including paying overrun charges when they exceed their contractual allowances.

18. A pipeline need not demonstrate that its daily allocations proposal is necessary to meet some operational or market need. Rather, the Commission has found it sufficient to show that the proposal will permit better system management going forward.⁶ We find that Gulf South has so justified its proposal, demonstrating that its bookkeeping should be more timely, accurate, and responsive under a daily allocation regime. The parties at the technical conference suggested numerous reforms to Gulf South's proposal, many of which could potentially improve service or ease shipper burdens. However, under the statutory scheme set forth in the NGA, the pipeline has the initiative through a section 4 filing to propose how it will recover its costs.⁷ If the pipeline's proposal is just and reasonable, the Commission must accept it, even if other just and reasonable proposals may be available.⁸ Accordingly, except as noted below, Gulf South will not be required to adopt these suggested reforms because the Commission finds its proposal to be just and reasonable without such additions not sought by the pipeline.

⁵ *Southern Star Central Gas Pipeline, Inc.*, 105 FERC ¶ 61,034, at P 15 (2003) (Southern Star).

⁶ *Id.*

⁷ *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *ANR Pipeline Co. v. FERC*, 771 F.2d 507, 513 (D.C. Cir. 1985); *Public Services Commission v. FERC*, 642 F.2d 1335 (D.C. Cir. 1980).

⁸ *Western Resources, Inc. v. FERC*, 9 F.3d 1568, 1578 (D.C. Cir. 1993) (*Western Resources*); *Northwest Pipeline Corp.*, 71 FERC ¶ 61,012, at 61,042 (1995).

19. Further, we reject protestors' arguments that the Commission may only approve this daily allocation proposal as part of a general section 4 rate proceeding. In a section 4 rate proceeding, the Commission uses a pre-determined test period to determine the costs and revenues it will use to design a pipeline's rates. The Commission allows pipelines to make limited section 4 tariff filings for new services and new terms and conditions between section 4 rate proceedings. Even where a new service is offered, the Commission determines just and reasonable reference rates for that service until the pipeline's next section 4 rate proceeding. For approved changes to the terms and conditions of a pipeline's tariff that do not implement new services or change existing rates, if the effects on costs and revenues are not substantial, the Commission will commonly defer the rate-impact review until the pipeline's subsequent section 4 rate case. We find that Gulf South is not proposing to modify existing rates,⁹ but rather proposes a change to its terms and conditions of service. Whether Gulf South's proposal would have an impact on its working gas storage costs, and if so, at what level, is conjecture at this point. The rate impact of Gulf South's proposal to move to daily allocations can be explored in Gulf South's next section 4 rate proceeding.¹⁰

III. Real-Time Measurement Data

20. Gulf South initially proposed to provide real-time measurement data upon request by telephone. In its post-technical conference comments, Gulf South states that upon consideration of protestors' concerns, it agrees to post real-time data consistent with the model currently utilized by Southern Star and other daily allocating pipelines. Under this model, Gulf South will make available to point operators and their agents real-time measurement on its Internet Web Site for all locations where such measurement is available. Gulf South states that this data represents the best available estimate of delivered quantities at a location throughout the gas day and this model encourages customers and their point operators to communicate daily and work together to ensure that the appropriate quantities are delivered daily. If this model is approved, Gulf South states that it will implement posting of real-time measurement data no later than August 1, 2012. In addition, Gulf South will provide all shippers equal access to its operational flow data at the end of the gas day to assure the proper allocation of gas.

⁹ As discussed below, Gulf South proposed in its answer to the protests and comments after the technical conference to modify how it determines the overrun rate applicable to Rate Schedule FTS service, but the Commission is rejecting that proposal.

¹⁰ See *Southern Star*, 105 FERC ¶ 61,034 at P 38.

21. Texla argues that, consistent with Commission precedent a pipeline must satisfy two key information gathering/communications requirements before it can qualify for daily allocations: (i) it must install real-time measurement at all delivery points on its system; and (ii) it must be able to communicate real-time measurement data to point operators and shippers via website access on a 24/7 basis.¹¹ While Gulf South has agreed to provide the information to point operators and their agents, Texla and BP argue that the Commission has made clear that the pipeline needs to provide equal access to real-time data to both point operators and shippers, and Gulf South should be required to modify its proposal. In addition, Texla states that since Gulf South will not have in place the capability to post real-time measurement data on its website until August 1, 2012, it should not be allowed to collect daily overrun charges until that date. Texla also states that to the extent Gulf South does not intend to install real-time measurement and a web-based system to communicate the data for certain delivery points on its system, it should not be allowed to implement daily allocations at such points.

22. Gulf South states in its Reply Comments that its real-time measurement system measures almost all of Gulf South's throughput and meets the standard applied by the Commission in *Southern Star*, therefore, the Commission should find that Gulf South's measurement capabilities similarly entitle the pipeline to implement daily allocations. Gulf South argues that it should not be required to forego implementing daily allocations for more than 95 percent of its deliveries just because approximately 5 percent or less of its throughput is delivered at points where real-time measurement data has not been installed. Gulf South notes the Commission did not require *Southern Star* to forego implementing daily allocations at points without real-time measurement capabilities. Gulf South also states that much of the deliveries accounting for the 5 percent of throughput (i) are being made to customers that will be exempt from daily allocations because they are Small Customers; or (ii) are measured by the customer and provided to Gulf South pursuant to section 6.15 [1(b)] of the Gulf South tariff.

23. Gulf South states that it has committed to posting real-time measurement data on its internet website and making this information available to point operators and their agents on a 24/7 basis for all locations where real-time measurement is available. Customers will have equal access to operational flow data at each point at the end of the gas day, which Gulf South states will ensure that customer's have information on daily allocated gas flows in a timely manner. Gulf South states that the daily operational flow data is the most valuable data for a customer because it shows that particular customer's allocated volumes, as opposed to real-time data, which shows only unallocated total

¹¹ Texla Initial Comments at 9 (citing *Southern Star Central Gas Pipeline, Inc.*, 105 FERC ¶ 61,034 at P 22).

flows at a particular point in time. Gulf South states that customers have ready access to the real-time measurement data through their bilateral relationships with point operators or their agents and note that the real-time information belongs to the point operators to disseminate as they see fit.

24. Finally, Gulf South opposes Texla's request that it not assess overrun charges until Gulf South provides access to real-time data. Gulf South states it has designed a transition period that will give customers the opportunity to adjust to daily allocations and while Gulf South may not be able to provide web-based access to real-time data prior to August 1, 2012, such information will be available by telephone.

25. In *Southern Star*, the Commission expressed its concern that end-use shippers may not have equal access to real-time information if the pipeline only made such information available to point operators. The Commission required Southern Star to provide all shippers with equal access to its operational flow data.¹² End users and other shippers should have access to the data to assure the proper allocation of gas, and prevent or resolve any potential conflicts. Making the operational information available to end users and other shippers should not be overly burdensome for Gulf South, since it will already post such information on its EBB. Therefore, we direct Gulf South to provide all shippers with equal access to operational flow data.

26. We will approve Gulf South's proposal to collect overrun charges for the transition period prior to the start of their posting real-time data on August 1, 2012, subject to the details of the transition period discussed later in this order. Although Gulf South will not post real-time data until August 1, 2012, prior to this date it will only assess daily overrun charges to customers that exceed their MDQ by 5 percent or more for a period of ten or more days during any month or to the extent the overrun occurs during a Critical Period, Operational Flow Order (OFO), or when Gulf South implements its System Management Plan. Therefore, during this transition period Gulf South should only assess daily overrun charges in these circumstances. In addition, if a customer is concerned about possibly overrunning its MDQ prior to August 1, 2012, it may contact Gulf South to get updated flow information.

27. Finally, we will not exempt the points not covered by real-time measurement from daily allocations. This is a small portion of throughput on Gulf South's system and, as Gulf South states, much of these volumes are either exempt from daily allocations because they are Small Customers, or are measured by the customer and provided to Gulf South pursuant to section 6.15(1)(b) of the Gulf South tariff. Our ruling here is

¹² *Southern Star*, 105 FERC ¶ 61,034 at P 22.

consistent with past Commission orders allowing pipelines to charge non-telemetered shippers for the transportation service provided.¹³ However, in order for customers to be aware of which points are not covered by real-time measurement, we require Gulf South to clearly designate those points on its EBB.

IV. Overrun Rate

28. Gulf South's Rate Schedules NNS, FTS, and EFT provide that the rate for overrun service under each rate schedule "shall be the maximum applicable tariff rate, calculated on a 100 percent load factor basis unless another rate is agreed to by the parties in writing prior to the time the overrun occurs." Gulf South did not propose any change in that tariff language in its section 4 filing in this proceeding. Gulf South states that its current practice under that tariff language is to charge the maximum applicable tariff rate based upon the point pairs established in a customer's contract unless another pricing mechanism is agreed to by Gulf South and the customer. If a customer's contract contains point pairs in several different zone combinations, then the overrun rate is assessed based upon a weighted average rate that takes into consideration the maximum rates that are applicable to the various point pairs as well as the volumes applicable to such point pairs.

29. In its answer to the protests to its section 4 filing, Gulf South stated that it would use its average system rate for calculating overrun charges. Gulf South included in its Initial Comments after the technical conference *pro forma* tariff records modifying section 8 of its FTS Rate Schedule to require use of its average system rate as the applicable maximum tariff rate for calculating overrun charges for Rate Schedule FTS-related services.¹⁴ That rate is set forth in section 4.5 of Gulf South's Currently Effective Rates - ITS and is currently \$0.2414 per Dth. Gulf South explains that the average system rate sets forth the average rate for transportation across all of Gulf South's rate zones. Gulf South states that the average system rate is appropriate because it specifically takes into account the fact that Gulf South is unable to tie customers' use of capacity in excess of Maximum Daily Quantity to a particular rate zone or point pair. Gulf South also states that the average system rate is already used for a number of circumstances where there are no point pairs associated with a customer's use of

¹³ *El Paso Natural Gas Co.*, 125 FERC ¶ 61,309, at P 105 (2008).

¹⁴ Gulf South states that no change is needed for overruns under Rate Schedule NNS, because shippers under that rate schedule are already charged the same system-wide "postage stamp" rate, regardless of the rate zone in which their delivery points are located.

capacity, such as the determination of charges associated with trading of imbalances at Gulf South's Bistineau storage facility and non-Gulf South storage facilities as well as transfers of customers' unauthorized gas balances to customers' Rate Schedule ISS accounts.

30. Mobile Gas, Texla, and BP urge the Commission to order Gulf South to charge only its maximum rate for service within the zone (the intra-zonal rate) where the delivery point at which the overrun occurred is located. They argue that this geographically-based rate ranges from \$0.14 to \$0.20 per Dth among Rate Zones, which is considerably less than the \$0.2414 per Dth system average rate proposed by Gulf South. Parties argue that the geographically-based rate also more accurately reflects a charge for linepack gas that Gulf South would employ in overrun situations and also conforms to Gulf South's current practice of allowing Rate Schedule FTS shippers to designate a Rate Schedule ITS contract for overruns, sourcing gas from the rate zone where the delivery point subject to overrun is located. In addition, Texla states that Gulf South acknowledges that it follows a current practice of using the maximum lawful rate based on the customer's contractual point pairs, which at least has a nexus between the service provided to the customer and the overrun. Parties argue that Gulf South's proposed use of the system average rate goes beyond any connection to the specific service provided. BP argues that Gulf South does not explain how its average system rate is derived and has not justified the proposed use of the rate on a reticulated system where the majority of the gas throughput, at least on the legacy system, would appear to be delivered by displacement.

31. Gulf South opposes use of the intra-zonal transport rate. Gulf South explains in its Reply Comments that while arguably all gas on the system is delivered from linepack, the commenters' assertions ignore the fact that gas in linepack must enter the system somewhere and that transportation capacity is utilized to move the gas from a receipt point to a delivery point, even if one or both of these locations is unknown. Gulf South states that using the intra-zonal transportation rate assumes that adequate supply of replacement gas is available at a receipt point within the zone of delivery and eliminates payment for transportation for replacement gas transported from a receipt point outside the zone of delivery. Gulf South argues that on its reticulated system, several zones have limited access to receipt gas and that the intra-zonal transportation rate would provide an artificially low transportation rate to customers that overrun their MDQ. Gulf South states that the average system rate is the most appropriate maximum applicable tariff rate for overruns, because it specifically takes into account the fact that Gulf South is unable to tie customers' use of capacity in excess of MDQ to a particular rate zone or point pair.

32. The Commission's policies require that the authorized overrun rate be designed based on a 100 percent load factor derivative of the pipeline's maximum firm transportation cost-based rate for the service in question.¹⁵ Consistent with that policy, Gulf South's current tariff provides that the overrun rate shall be "the maximum applicable tariff rate, calculated on a 100 % load factor basis unless another rate is agreed to by the parties..." and Gulf South states that it currently determines the maximum tariff rate applicable to each overrun transaction based upon the point pairs established in the customer's contract unless another pricing mechanism is agreed to by the parties. The Commission finds that Gulf South has not satisfied its burden under NGA section 4 to show that its proposal to instead use the average system rate of \$0.2414 per Dth is just and reasonable. Nor have the protesters satisfied their burden under NGA section 5 to show that Gulf South's existing practice is unjust and unreasonable and should be changed.

33. While Gulf South has provided sufficient evidence to support its proposal in this proceeding to switch from monthly to daily allocations, it has failed to demonstrate any substantive connection between that proposal and its proposed rate increase for overrun service under Rate Schedule FTS. Nor has Gulf South provided evidence that would support its rate increase as a stand-alone proposal. Gulf South claims that it cannot necessarily tie a customer's use of capacity in excess of its MDQ to a particular rate zone or the point pair in the customer's contract. This claim, however, seems to suggest that Gulf South cannot tie use of its capacity to any particular customer at all, which is belied by the fact that Gulf South has presented no evidence that it has done anything other than successfully charge its existing authorized overrun rate based on the point pairs in the customer's contract in years past.

34. On any pipeline system with rate zones, it could be argued that a particular overrun for a particular shipper relied on different facilities from those generally used to provide service with the MDQ of the underlying contract. Nevertheless, the Commission's consistent policy has been that the overrun rate should equal the 100 percent load factor equivalent of the maximum rate applicable to the contract whose MDQ was overrun. Gulf South has provided no compelling reason to permit it an exception from this longstanding policy. We find that Gulf South has failed its obligation

¹⁵ See *CNG Transmission Corp., et al.*, 51 FERC ¶ 61,267, at 61,800 ("The rate ... for any authorized overruns ... will be required to be set at the 100 percent load factor derivative of the firm transportation rate.") (1990); *ANR Pipeline Co., et al.*, 51 FERC ¶ 61,359, at 62,159 ("Further, we will set the rate for any authorized overruns of the maximum daily transportation quantity at the 100 percent load factor derivative of the firm transportation rates.") (1990).

under section 154.301 of our regulations to submit with its rate filing sufficient material to support the company's complete case-in-chief. Therefore, Gulf South's proposal to charge the average system rate for its authorized overrun rate is rejected.

35. We also reject the protesters' request that we act under NGA section 5 to require Gulf South to use an intra-zonal rate for overrun service. In order to take such section 5 action, we would have to first find that Gulf South's existing practice of charging the maximum tariff rate applicable to the point pairs in the underlying contract is unjust and unreasonable.¹⁶ However, above we have found Gulf South's pre-existing overrun rate to be just and reasonable.

V. Tools for Managing Overruns

A. Pre-Determined Allocation Agreement (PDA)

36. Section 6.13 of Gulf South's GT&C provides that it will allocate measured quantities at each point on its system among the shippers at that point based on Pre-Determined Allocation Agreements (PDA) provided by either the point operator or a shipper at the point. Section 6.13(2) states that the parties at a point may agree to various standard PDA allocation methods, including, for example, (1) a ranking method under which the customer designates the order in which such contracts are allocated volumes and limits the quantity allocated to a contract, (2) *pro rata* among the shippers at the point, (3) agreed-upon percentages for each shipper contract, or (4) a provision for any "swing" from scheduled quantities at the point to be attributed to a particular shipper. Section 6.13(2) also requires the upstream or downstream party providing the point confirmation to submit a PDA for each gas day before that day starts at 9:00 a.m. Central Clock Time.

37. Gulf South proposed in its answer to modify section 6.13(2) to allow the interconnecting party providing confirmation for gas flows the ability to submit its PDA to Gulf South up until 6:15 p.m. Central Time on the date of gas flow. Gulf South has filed *pro forma* tariff records reflecting such a change.

38. BP states that, if this provision would permit a shipper to nominate any deliveries above the shipper's MDQ to swing onto another existing firm contract of that shipper, then part of the problem of daily allocations could be lessened, provided that Gulf South accepts the shipper's efforts as sufficient to be excused from any overrun charges relating to the remainder of the gas day. BP states that it has dozens of contracts on Gulf South.

¹⁶ *Western Resources*, 9 F.3d at 1578.

BP expresses concern that Gulf South's daily allocation proposal could discourage shippers from using their full MDQ because of the threat of overrun charges on throughput over which the shipper has little control and no real time information. BP requests that Gulf South confirm in its reply comments that BP's interpretation of Gulf South's proposal is correct. In addition, BP states that Gulf South should, consistent with its proposed modification of section 6.13(2), delete or qualify GTC section 6.13(14), which states that "Gulf South will not be required to allocate receipt or delivery points to conform to a producer's or end user's allocation statement prepared after gas flow."

39. Gulf South states in its Reply Comments that it would not be appropriate to eliminate overrun charges simply because the overrun occurred after the PDA submission deadline. The overrun charge will be assessed for service provided by Gulf South to a customer in excess of its contracted MDQ. Gulf South argues that the PDA process provides sufficient flexibility for customers to manage daily allocations and avoid unnecessary overrun charges. However, Gulf South agrees to modify GTC section 6.13(14) to state that "Gulf South will not be required to allocate receipt or delivery points to conform to any allocation statement prepared after 6:15 p.m. CT on the day of gas flow," except in the straddle plant situation described below.

40. Gulf South's proposed modifications to section 6.13(2) and (14) permitting allocation statements to be submitted up until 6:15 p.m. on the day of gas flow address BP's concerns described above. Therefore, we find those modifications to be just and reasonable, and we direct Gulf South to file actual tariff records revising its tariff accordingly.

41. BP also requests that Gulf South modify GTC section 6.13(10) consistent with its daily allocation proposal. Section 6.13(10) states "At straddle plants, Gulf South will allocate PTR [Plant Thermal Reduction] quantities in accordance with the plant allocation statement." BP states plant allocation statements are not available until the following month which means that there will be out of period allocations to correct for PTR estimates in the prior month and corresponding adjustments to the remainder of the gas stream. BP states that Gulf South's tariff needs to be revised to state that out-of-period allocation adjustments shall not be subject to overrun charges, rather these are part of the monthly imbalances versus daily allocations.

42. Gulf South agrees in its Reply Comments that clarification is needed for this unique straddle plant situation, and offers to modify section 6.13(10) as follows: "Gulf South shall not assess overrun charges due to prior period adjustments caused by allocations under this provision." Gulf South notes this modification is limited to the handling of straddle plant allocation statements. We find the straddle plant clarification to be just and reasonable; Gulf South is directed to modify its tariff accordingly.

43. BP also requests a change to GTC section 6.13(3) in order to clarify that “only one PDA allocation methodology can be applied per allocation period.” BP argues that this is an unnecessary limitation and could restrict the submission of an Operator PDA by 6:15 p.m. on the day of gas flow to swing any deliveries in excess of MDQ to another firm contract. Gulf South states in its Reply Comments that BP appears to be concerned that there may be a need for at least two PDA methodologies on any given day. However, Gulf South states its tariff is consistent with the requirements of NAESB Standard 2.3.4, therefore, Gulf South does not propose any change to this provision.

44. NAESB standard 2.3.4 states, “Only one PDA allocation methodology should be applied per allocation period.” Gulf South’s section 6.13(3) currently states, in its next-to-last sentence, “Only one PDA allocation methodology can be applied per allocation period.” This complies with the NAESB almost verbatim; therefore, no further change is required.

B. Use of Underutilized FTS Contracts and Retroactive Nominations

45. Texla argues that, if the flexibility that shippers currently have with monthly allocations is removed and shippers must pay for any daily overruns, then offsetting adjustments must be made to allow shippers to better manage their service to achieve savings. Texla notes that this is what other pipelines that have implemented daily allocations have allowed on their systems. For example, Texla states, Transco allows shippers to retroactively adjust their PDA and/or make retroactive nominations to move Rate Schedule FTS volumes to other Rate Schedule FTS contracts once measurement data is provided. On the pipeline of Southern Natural Gas Company (Southern Natural), Texla states, shippers may aggregate volumes and Southern Natural’s system allocates volumes automatically to underutilized Rate Schedule FTS contracts to avoid overruns on a given contract. Texla, SCS, and BP argue that these measures allow shippers both to maximize the Rate Schedule FTS service that they have paid for and provide a tool for management of overruns. Texla states that both Southern Natural and Transco have recognized the imprecise nature of daily allocations and the inherent unfairness of charging a Rate Schedule FTS shipper for IT service when the Rate Schedule FTS service the shipper has paid for goes unutilized, by no fault of the shipper, and these pipelines have given shippers the necessary tools to deal with the inaccuracies inherent in attempting to match nominations and deliveries. Texla argues that Gulf South should be required to do the same.

46. Gulf South states that it is not willing to agree to further changes to its proposal because it believes a customer already has significant control over how volumes are allocated among its contracts through the PDA process. Gulf South explains that a PDA outlines how volumes will be allocated across multiple contracts and the customer can use the PDA to designate one or more swing contracts, which will be allocated any excess volumes. Gulf South argues that under its proposal the customer may also

designate the order in which such contracts are allocated volumes and limit the quantity allocated to a contract.

47. Further, Gulf South argues that “both the Southern Natural and Transco provisions would result in meaningless nomination, scheduling, and allocations processes,” which would “eliminate[] any incentive for the customer to nominate its contracts in an accurate manner or attempt to confirm flow quantities based upon scheduled quantities.”¹⁷ Gulf South argues that it cannot manage its system without reasonably accurate scheduled quantities upon which it can base operational decisions.

48. In addition, Gulf South states that the Southern Natural provision requires the pipeline to reallocate to a firm transportation contract volumes that the customer nominated to an interruptible transportation contract. Gulf South states that its cost of service includes an allocation of substantial dollars to Rate Schedule ITS service and the Southern Natural provision would inappropriately require Gulf South to forego Rate Schedule ITS revenues by requiring Gulf South to reallocate Rate Schedule ITS volumes after the fact. Finally, Gulf South argues that provisions such as Southern Natural’s and Transco’s have not been required by the Commission as a condition for implementing daily allocations, but are unique provisions tailored to meet the needs of each individual pipeline system. Gulf South states that these provisions are not industry standard and are not necessary to manage daily allocations.

49. Although Transco and Southern Natural may have agreed to offer the services described above as tools to help shippers manage daily allocations on their pipeline systems, the Commission has not required pipelines to implement those types of provisions as a condition to moving to daily allocations. As Gulf South points out, most pipelines using daily allocations do not offer customers the renomination rights offered by Transco and Southern Natural. Shippers have other tools, including Gulf South’s modifications to its PDA procedures, to help them manage their daily business on Gulf South. Accordingly, the Commission finds Gulf South’s proposal to implement daily allocations just and reasonable without the modifications requested in this section.¹⁸

¹⁷ Gulf South Initial Comments at 13.

¹⁸ If the pipeline’s proposal is just and reasonable, the Commission must accept it, even if other just and reasonable proposals may be available. *See Western Resources, Inc. v. FERC*, 9 F.3d 1568, 1578 (D.C. Cir. 1993); *Northwest Pipeline Corp.*, 71 FERC ¶ 61,012, at 61,042 (1995).

C. Operational Balancing Agreements (OBAs)

50. Devon states that providing shippers with daily information will not help those shippers that provide gas supply requirements to their end-use customers, such as refineries or chemical plants. Devon states that such shippers have no control over the operations of the customer's facility. Devon argues that under Gulf South's proposal if the end user's facility uses more gas volumes than were nominated by its shipper, it will be the shipper that is charged with the daily overrun rate. Devon argues that this amounts to penalizing a party that did not cause the overrun.

51. Devon recommends that the Commission reject Gulf South's proposed filing or, in the alternative, require Gulf South to enter into OBAs with end users on its system. Devon states that an OBA would allow Gulf South to analyze the type of industry and facility of the end user, its operational history and fuel requirements, and the location of the delivery point on Gulf South's system. Devon argues that such a requirement would not be unduly burdensome on Gulf South because it has existing OBAs in place with certain end users.

52. Texla also urges that Gulf South be required to offer OBAs to end use point operators on a non-discriminatory basis to help manage daily deliveries and overruns. Texla states that while the shipper schedules gas, the point operator through management of consumption determines how much gas is actually taken on a given day. Texla states that OBAs would take the shipper out of the middle in case of an overrun and allow Gulf South and the end user to better manage deliveries.

53. Gulf South states that such requests are beyond the Commission's past actions. Gulf South states that the Commission requires only that pipelines enter into OBAs at interconnections with other interstate or intrastate pipelines. Gulf South states that it is willing to evaluate requests for OBAs on a non-discriminatory basis; however, it maintains that it will not enter into OBAs for the purpose of circumventing the proposed daily allocation methodology.

54. The Commission's regulations require interstate pipelines to enter into OBAs at all points of interconnection between its system and the system of another interstate or intrastate pipeline.¹⁹ The Commission supports their use "to manage physical imbalances between the point operators and ensure that shippers will not be subject to scheduling or imbalance penalties based on the actions or the inactions of the OBA operator."²⁰

¹⁹ 18 C.F.R. § 284.12(b)(2)(i) (2011).

²⁰ *Millennium Pipeline Co., L.L.C.*, 129 FERC ¶ 61,089, at P 18 (2009).

However, Devon and Texla are proposing to require OBAs at end use delivery points where those point operators have direct control of the downstream facilities and can manage their takes appropriately. Requiring pipelines to enter into OBAs at delivery points goes beyond what the Commission has previously required and is not necessary to implement daily allocations. Gulf South's tariff already allows a shipper to use its PDA to allocate volumes across multiple contracts at the delivery point and designate a swing contract, if needed.

55. If a shipper overruns its contract demand because the end-user it is serving requires more gas than can be supplied within the shipper's contract demand, then it is reasonable for Gulf South to charge the shipper for the additional service Gulf South has provided. Such a charge is not a penalty, but simply a charge for service received by the shipper. The shipper's ability to pass that additional cost along to its end-use customer is a non-jurisdictional contractual matter between the shipper and its end-use customer.

VI. Impact on Rate Schedule NNS Service

56. UMDG expresses concern that the daily allocation method could potentially impose overrun charges on Rate Schedule NNS customers whose conduct did not give rise to the overrun. For example, if an LDC with a Rate Schedule NNS contract and several industrial customers with Rate Schedule FTS contracts use the same delivery point and the industrial customers use a large quantity of gas without nominating any service, the gas delivered to the city gate could be allocated to the Rate Schedule NNS contract (either in the absence of a Pre-Determined Allocation Agreement (PDA) or as the swing contract in the PDA, potentially resulting in the LDC overrunning the MDQ of its Rate Schedule NNS contract because of the failure of the industrial customer to properly nominate service. UMDG states that other pipelines that allocate gas on a daily basis have established a renomination opportunity that allows allocations to be corrected after the fact and requests that Gulf South be required to implement a retroactive nomination option for Rate Schedule NNS point operators subject to daily allocation.

57. Mobile Gas states that Gulf South's proposal will degrade the value of Rate Schedule NNS service. While Gulf South offers in its Initial Comments to allow the interconnecting party the ability to submit its PDA until 6:15 p.m. Central Time on the day of gas flow, Mobile Gas asserts that gas-fired electric generation loads are unpredictable and events may transpire that affect such loads in the gas day's remaining 15 hours after 6:15 p.m., including overruns. Mobile Gas argues that it would be inequitable to penalize the Rate Schedule NNS customer carrying the swing in such impossible-to-predict, interdependent gas industry and electric industry situations.

58. Mobile Gas requests that the Commission order Gulf South to file new tariff records for participants' review based on the model of Transcontinental Gas Pipeline Company LLC (Transco).²¹ Mobile Gas asserts that under that model Rate Schedule NNS customers may adjust PDAs retroactively, or make retroactive nominations based on actual, allocated natural gas flows among their Rate Schedule NNS transportation and storage components.

59. Gulf South states that Rate Schedule NNS service will not be degraded and that such customers will retain the same service they have had since Gulf South restructured under Order No. 636. Other than those changes directly related to daily allocations, Gulf South states that it has proposed no modification to the terms and conditions of Rate Schedule NNS service. Gulf South asserts that Rate Schedule NNS customers will continue to be able to utilize unominated capacity, which is up to 50 percent of their MDQ in the winter. However, Gulf South argues that no Rate Schedule NNS customer has ever been entitled to receive more service than its contracted MDQ and Gulf South's daily allocation process will ensure that a customer pays for the capacity it uses in excess of its contracted MDQ.

60. Gulf South states in its Reply Comments that while Mobile Gas attempts to characterize its concerns as unique to Rate Schedule NNS customers, such concerns are no different than those faced by other commenters who serve power plants or other end use customers. As with any transportation customer, Gulf South states, Rate Schedule NNS customers must communicate with their power plant end users to manage gas deliveries and assess ongoing gas requirements. Gulf South states that parties can ensure that the PDA accurately reflects how volumes are allocated among the contracts making deliveries at a given delivery point. Gulf South asserts that any concerns Mobile Gas has with its Rate Schedule NNS contract becoming a swing contract may be mitigated by Mobile Gas modifying its PDA, so that the shipper can ensure that the PDA accurately reflects how volumes are allocated among the contracts making deliveries at a given delivery point and to ensure that its NNS contract does not become the swing contract.²²

61. Gulf South has proposed no changes to its NNS service. The concerns of UMDG and Mobile Gas that daily allocations will degrade NNS service at this point are speculative. As Gulf South states, section 6.13 of its GT&C permits shippers to include various methods of allocating deliveries at a point in the PDAs they supply to Gulf South.

²¹ Mobile Gas Comments at 4-5.

²² Gulf South Reply Comments at 11.

Therefore, parties can modify their PDA to ensure that volumes are allocated to the proper party and NNS shippers will continue to be able to utilize unominated capacity, which is up to 50 percent of their MDQ in the winter. Accordingly, the Commission does not believe that the quality of Gulf South's NNS service will be significantly degraded by its implementation of daily allocations. For the reasons discussed in the preceding section, the Commission will not require Gulf South to permit retroactive nominations.

VII. Contract Consolidation

62. In its Answer prior to the technical conference, Gulf South offered to consolidate contracts under a new, superseding contract to the extent they meet certain requirements, including, but not limited to: (i) the ability to combine point pairs where all point pairs are subject to the same rate schedule; (ii) all point pairs on the consolidated contract must have identical rates and contract durations; (iii) all point pairs must be subject to the same maximum rate, discounted rate, or negotiated rate, as applicable; and (iv) all consolidations must be revenue-neutral to Gulf South.²³ Gulf South continues to offer this option in its Initial Comments. However, Gulf South states that consolidating contracts with different expiration dates would cause diminished reporting transparency. Gulf South states that it is unable to provide the necessary detail in the footnotes to its Index of Customers to adequately describe how contracted capacity with various expiration dates and point locations would terminate under any consolidated agreement. Therefore, Gulf South is not willing to expand this option beyond the above eligibility requirements.

63. Texla asserts that Gulf South has in place a mechanism to automatically aggregate multiple Rate Schedule FSS contracts held by the same customer into a "master contract" as a tool to help customers manage firm storage service under Rate Schedule FSS and to appropriately allocate to those individual contracts the customer's requested service. Texla argues that Gulf South should offer this tool to Rate Schedule FTS customers as a condition to implementing its daily allocation proposal.

64. SCS states that Gulf South's proposal is unfair to shippers with multiple contracts under the same rate schedule because these shippers may incur overrun charges under one contract even though they have not used their total aggregated contractual MDQ under all of their contracts. SCS supports the use of a single master contract for multiple contracts and states that Gulf South's sole objection in its Initial Comments – that it is unable to provide the necessary detail in the footnotes to its Index of Customers to adequately describe how contracted capacity with various expiration dates and point

²³ Gulf South November 15, 2011 Answer at 15.

locations would terminate under any consolidated agreement – is insubstantial when compared to the potential harm to shippers. SCS claims that Gulf South’s objection is belied by its historic and current practice of appending footnotes to its Index of Customers reports that advise that certain contracts cover capacity packages with different expiration dates that are stated in the footnotes along with the capacity associated with those dates.

65. Gulf South offers in its Reply Comments to expand the contract consolidation option by allowing customers to consolidate contracts that contain different rates if the parties mutually agree to the rates that will be applicable under the consolidated contract. Gulf South also offers to modify its tariff to allow customers to extend the terms of their contracts, subject to available capacity and existing bid and post requirements, to align the terms of such contracts to facilitate contract consolidation. However, Gulf South remains unwilling to consolidate contracts that continue to have different expiration dates, because of the difficulty of identifying varying expiration dates in the Index of Customers.

66. The Commission generally has approved tariff provisions that allow shippers to combine multiple service agreements into a single service agreement to ease administrative burdens,²⁴ but the Commission has not required pipelines to offer such provisions. Gulf South has proposed a modified version of this service to assist shippers in managing their contracts as the pipeline moves to daily allocations. Although Texla and SCS may desire that Gulf South offer additional enhancements to a shipper’s ability to consolidate contracts, doing so is not required in order for Gulf South to implement daily allocations. Gulf South’s revisions as proposed in its comments are just and reasonable and Gulf South is directed to file records that modify its tariff accordingly.

VIII. Tolerance Level

67. Gulf South states in its Initial Comments that, after the transition period discussed below, it is not willing to implement a tolerance level which would allow customers to exceed their MDQ by a certain percentage without paying an overrun rate for the additional capacity utilized. Gulf South believes tolerances are appropriate in circumstances where there is a potential for elevated penalties, such as the tolerances in Gulf South’s tariff for Critical Periods and OFOs. By contrast, Gulf South states the overrun charge is simply a transportation charge that compensates Gulf South for the extra-contractual transportation service provided to the customer.

²⁴ *E.g., Columbia Gas Transmission Corp.*, 104 FERC ¶ 61,326, at P 8 (2003).

68. Commission policy does not require Gulf South to offer a safe harbor or tolerance level in order to implement daily allocations. It is just and reasonable for customers to pay for any additional capacity they utilize above their MDQ.²⁵ Accordingly, we require no further changes to Gulf South's tariff.

IX. Not Assessing Overrun Charges When Initial Real-Time Measurement Does Not Exceed MDQ

69. Texla states that it is not uncommon for variations to occur in Gulf South's measurement data throughout the month as Gulf South refines its measurement based on after-the-fact information. Texla asserts that shippers and point operators must be able to rely on Gulf South's real-time data in making an initial determination of whether there has been an overrun and states that Gulf South agreed to address this at the technical conference but failed to do so in its Initial Comments. Texla and BP argue that Gulf South's proposal needs to be modified to provide that allocated deliveries will not be assessed an overrun charge if the real-time measured quantity at such point for a given Gas Day does not exceed its MDQ. Otherwise, they argue, the shipper is being penalized for events over which it has no information or control.

70. Gulf South states in its Reply Comments that it agreed to consider whether such a provision would be appropriate and, after consideration, determined that such a provision would not be appropriate because it would result in free transportation. Gulf South asserts that estimated measurement data, while the best available in real-time, is preliminary and subject to adjustment. Under its current proposal, Gulf South states that it will bill customers for actual services utilized, not estimated services utilized. Accordingly, Gulf South does not propose any exception for instances where there are discrepancies in the estimated measurement data.

71. We find it just and reasonable for Gulf South to assess daily overrun charges if a shipper exceeds its MDQ, even if the initial real-time measurements suggested that the volumes were not in excess. Provided that Gulf South fulfills its ongoing obligation to measure its services accurately, Gulf South is simply billing its shippers for the services rendered. While the Commission has not allowed pipelines to assess penalties when shippers are making decisions based on incomplete or incorrect information provided by the pipeline, Gulf South is not assessing a penalty if a shipper with no contractual right to exceed its MDQ uses capacity that it has not paid for. Rather, Gulf South is simply collecting a transportation rate for the transportation service provided.

²⁵ See *Southern Star*, 105 FERC ¶ 61,034 at P 27.

X. Reservation Charge Credits

72. Gulf South did not propose any changes to its reservation charge crediting provisions, and no intervenor raised any issue about Gulf South's reservation charge crediting provisions in a protest to Gulf South's filing. However, in its comments after the technical conference, BP argues that Gulf South's tariff is inconsistent with Commission policy regarding reservation charge crediting. BP argues that the Commission requires a pipeline to provide firm shippers with reservation charge credits when the pipeline fails to provide the requested level of service up to the shipper's MDQ. BP states that Gulf South's existing tariff provides for reservation charge crediting, but only if firm service is disrupted as a result of "scheduled routine repair" and "maintenance." BP urges the Commission to require Gulf South to revise its tariff to comply with Commission policy that a pipeline must provide a full credit in connection with curtailment due to a non-*force majeure* situation, and a partial credit in connection with curtailment due to a *force majeure* event.

73. BP also notes that the definition of *force majeure* in Gulf South's tariff includes "the necessity for testing or for making repairs or alterations to machinery or lines of pipe...." BP argues that this definition violates Commission policy that *force majeure* includes curtailment due to unscheduled or emergency repairs, but not curtailment due to scheduled or non-emergency repairs. BP requests that the Commission require Gulf South to clarify its tariff accordingly.

74. Gulf South argues in its Reply Comments that the Commission's order setting this matter for technical conference explicitly limited discussion to the daily allocation issues raised by Gulf South's filing. Gulf South asserts that neither BP, nor any other party raised the issue of reservation charge crediting before the technical conference. Gulf South argues that BP's comments fall outside the scope of this proceeding and are unresponsive to Gulf South's filing. Gulf South argues that BP's attempt to raise the issue now is an abuse of this proceeding and should be rejected by the Commission.

75. The Commission recently explained its reservation charge credit policy in *NGSA*, an order on a petition by various industry associations,²⁶ and in two contemporaneously-issued decisions.²⁷ In *NGSA*, the Commission determined that, in the interest of obtaining pipeline compliance with our longstanding reservation charge crediting policy,

²⁶ *Natural Gas Supply Assn., et al.*, 135 FERC ¶ 61,055 (2011) (*NGSA*).

²⁷ *Southern Natural Gas Co.*, 135 FERC ¶ 61,056 (2011) and *Kern River Gas Transmission Co.*, 135 FERC ¶ 61,050 (2011).

we will permit parties to “raise the issue in any section 4 filing by that pipeline.”²⁸ However, parties seeking to take advantage of this exception to the Commission’s general policy of discouraging unrelated filings in section 4 proceedings should raise the reservation charge crediting issue in their initial comments or protests of a pipeline’s section 4 filing. Raising the issue at the beginning of the proceeding is necessary to give fair notice to the pipeline and other parties that the issue will be addressed in the proceeding, so that they have a reasonable opportunity to brief the issue in whatever further procedures the Commission establishes. BP did not voice its concerns in this docket until after the Commission’s initial order establishing a technical conference. Raising the reservation charge credits issue at this stage of the proceeding would disrupt the proceeding and place additional burdens on the pipeline and any other parties that would have an interest in briefing the issue. Therefore, we decline to exercise our discretion to initiate action under section 5 of the NGA to address Gulf South’s reservation charge crediting policy in this proceeding. Our decision here is without prejudice to BP (or any other interested party) raising the issue at the appropriate time in any forthcoming section 4 filing by Gulf South.

XI. Transition Period

76. In its Initial Comments, Gulf South reiterates its offer to establish a transition period to implement daily allocations from the effective date of the proposal (May 1, 2012) until October 1, 2012, which marks the end of the summer season on Gulf South. During the transition period Gulf South will allocate on a daily basis but will not assess overrun charges. However, to avoid abuse during the transition period, Gulf South reserves the right, on a not unduly discriminatory basis, to charge the daily overrun rate to any customer who exceeds its MDQ by 3 percent or more for a period of ten or more days during any month and to charge the daily overrun rate to the extent it issues a Critical Period, OFO, or implements its System Management Plan. Commencing on October 1, 2012, Gulf South will fully implement the daily allocation proposal, including assessing daily overrun charges. Gulf South states the transition period represents the best opportunity for the pipeline and customers to adjust to the new daily allocation process. It will also provide customers additional time to re-negotiate any outstanding contracts with third parties that do not currently take daily allocations into account.

77. UMDG supports the delayed application of overrun charges, given the novelty of the daily allocation method on Gulf South, the differences between Gulf South and other pipelines and the numerous factual permutations that it believes will likely arise as the daily allocation method is applied. Texla also supports Gulf South’s proposed transition

²⁸ *NGSA*, 135 FERC ¶ 61,055 at P 13.

period but believes that the program should continue until November 1, rather than ending on October 1, and that its proposed 3 percent tolerance should be increased to at least 5 percent. Texla asserts that Gulf South will not have the capability to post real-time measurement data on its website until August 1, 2012. Texla states that if the transition period is limited to a two-month period after Gulf South begins posting real time information there will be little time for shippers to make corrections because customers will not receive their first month's billing statements until the middle of the second month. Also, given that Gulf South's tariff requires that measurements be accurate within 2 percent, Texla argues that Gulf South's proposed 3 percent tolerance really gives customers only a 1 percent margin of error during the transition period. Texla suggests that 5 percent would be more appropriate. Finally, Texla states that the proposal should not be fully implemented until November 1, 2012, the beginning of the winter heating season and the expiration date for many existing one year contracts for gas supply and transportation on Gulf South.

78. Gulf South states in its Reply Comments that it agrees with Texla's request to extend the transition period until November 1, 2012 and to increase the tolerance to 5 percent. Accordingly, the Commission will accept Gulf South's transition period proposal, as revised.

The Commission orders:

(A) The remainder of Gulf South's tariff records are effective May 1, 2012, subject to the conditions discussed in this order.

(B) Within 30 days of the date this order issues, Gulf South shall file revised tariff records, incorporating the conditions discussed above.

(C) Within 30 days of the date this order issues, Gulf South shall file actual tariff records consistent with the language of its *pro forma* tariff records, except for the proposed revision to its authorized overrun rate in section 8, which is not accepted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.