

139 FERC ¶ 61,082
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Gulf Crossing Pipeline Company LLC

Docket No. RP12-520-000

ORDER ACCEPTING TARIFF RECORDS

(Issued April 30, 2012)

1. On March 28, 2012, Gulf Crossing Pipeline Company LLC (Gulf Crossing) filed records¹ pursuant to section 4 of the Natural Gas Act (NGA)², and a request for waiver of section 154.202(a)(1)(vi)³ and section of 154.202(a)(1)(viii)⁴ of the Commission's regulations to establish Enhanced Firm Transportation Service (EFT). Gulf Crossing requests a May 1, 2012 effective date for EFT. Gulf Crossing states that EFT service will provide accelerated hourly firm service to its customers' primary delivery points by allowing customers to receive delivery of gas quantities on a firm basis at a 1/16 hourly rate of flow, as opposed to a 1/24 hourly rate of flow. Gulf Crossing's filing includes (1) proposed tariff records establishing Rate Schedule EFT with corresponding maximum and minimum tariff rates, (2) revisions to certain *pro forma* service agreements needed to provide EFT service, and (3) minor conforming changes to the General Terms and Conditions of Gulf Crossing's FERC Gas Tariff needed to incorporate the new service along with some administrative changes. As discussed below, the Commission grants the requested waivers for good cause shown and accepts Gulf South's proposed tariff records effective May 1, 2012, as requested.

¹ See Appendix.

² 15 U.S.C. § 717c.

³ 18 C.F.R. § 154.202 (a)(1)(vi) (2011).

⁴ 18 C.F.R. § 154.202 (a)(1)(viii) (2011).

I. Background

2. According to Gulf Crossing, its traditional Firm Transmission Service (FTS) is designed for a 1/24 hourly rate of flow. Gulf Crossing states that with the increase in natural gas consumption by the electric generation market, as well as other changing customer needs, Gulf Crossing has seen an interest from parties for flexible hourly deliveries greater than those provided by its Rate Schedule FTS. Thus, Gulf Crossing is proposing the new Rate Schedule EFT to provide customers with firm transportation service at hourly rates that meet their business needs.

3. According to Gulf Crossing, the new EFT Rate Schedule is designed to meet customer demand to consume gas at hourly rates of 1/16 of customers' maximum daily quantities (MDQ). Gulf Crossing asserts that this added flexibility will meet the current needs of end use customers such as power generators, industrial customers, and local distribution companies. Gulf Crossing states that this firm service will be available to any customer satisfying the requirements of the Rate Schedule EFT, and will have no impact on the contractual and tariff rights of Gulf Crossing's existing firm customers. Gulf Crossing asserts that it will only agree to provide service under this rate schedule if firm capacity is available and the provision of such service will not adversely impact any other existing firm service. Gulf Crossing acknowledges that, EFT may have some impact on the availability of interruptible capacity.

4. Gulf Crossing anticipates that certain current FTS customers may wish to utilize the new EFT service. Therefore, Gulf Crossing includes in Rate Schedule EFT a provision through which Rate Schedule FTS customers may request to convert all or part of their existing FTS service to Rate Schedule EFT service, subject to available capacity. Gulf Crossing states that all requests to convert from FTS to EFT are subject to the evaluation of available capacity, the same as requests for new service.

5. Gulf Crossing points out that the 1/16 service will only be available at the customer's primary delivery point; however, a customer may continue to use secondary delivery points on a 1/24 hourly rate of flow. Gulf Crossing states a shipper's hourly consumption at the primary delivery point cannot exceed 1/16 of its MDQ, and once a Rate Schedule EFT customer has received quantities that equal its MDQ, any further service will be charged the proposed overrun rate.

6. Gulf Crossing states it is not proposing to allocate costs to Rate Schedule EFT. Instead, Gulf Crossing proposes a reservation charge for the EFT of one-and-a-half times the existing FTS reservation charge, based on its claim that a ratable take of 1/16 requires one-and-a-half times the amount of pipeline capacity required for a ratable take of 1/24. Further, Gulf Crossing proposes to charge the maximum commodity rate applicable to Rate Schedule FTS as the commodity rate for Rate Schedule EFT.

7. Gulf Crossing points out that it has no actual cost or revenue experience related to this new service and does not plan to allocate costs to the EFT for purposes of rate design. Gulf Crossing expects that the initial Rate Schedule EFT customers will be existing customers who convert from existing firm and interruptible contracts to this new service, and the difference in revenue from this service during the initial twelve-month period compared to the revenue from existing firm and interruptible contracts that will be converted and terminated will be de minimus. Gulf Crossing thus requests a waiver of the section 154.202(a)(1)(vi) requirement to submit an explanation of why the proposed rate design and proposed allocation of costs are just and reasonable, and of the section 154.202(a)(1)(viii) requirement to submit a projection of revenues for the twelve month period commencing upon the effective date of the tariff sheets.

II. Notice, Protest, and Answer

8. Public notice of the filing issued on March 29, 2012, with interventions, comments, and protests due as provided under section 154.210 of the Commission's regulations.⁵ Pursuant to Rule 214,⁶ all timely filed motions to intervene and any unopposed motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late interventions at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

9. On April 9, 2012, BP America Production Company and BP Energy Company (collectively, BP) filed a timely motion to intervene and protest. On April 13, 2012, Gulf Crossing filed a motion to answer BP's protest. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (a)(2) (2011), prohibits answers to protests or answers unless otherwise permitted by the decisional authority. We will accept Gulf Crossing's answer because it assisted in the disposition of the issues raised by the protesting party.

A. Protest

10. In its protest, BP states it is supportive of Gulf Crossing's efforts to offer more flexible services to support gas use in the electric generation markets. However, BP claims that non-ratable flows will place significant additional demand upon Gulf Crossing's system. BP protests Gulf Crossing's proposal to offer EFT service at the same fuel and lost and unaccounted for rate (FL&U rate) of one percent that is currently applicable to FTS customers.⁷ BP states the proposed FL&U rate appears to be unduly

⁵ 18 C.F.R. § 385.214(2011).

⁶ 18 C.F.R. § 385.214 (2011).

⁷ Section 4.4 of proposed Rate Schedule EFT.

discriminatory and preferential, and asserts that Gulf Crossing failed to provide any support for its proposed FL&U rate.

11. BP asserts that the Rate Schedule EFT allows an EFT shipper to receive gas at its Primary Delivery Points at an hourly flow of 1/16 of the shipper's MDQ but does not appear to require Gulf Crossing's receipts into the pipeline to be at the same hourly flow rate. BP contends that Gulf Crossing's EFT will require higher operating pressures, which will lead to more fuel being consumed to render service as compared to FTS. BP suggests that the FL&U rate for EFT service be 1.5 percent, instead of the one percent rate applicable to FTS service, due to the alleged higher fuel costs and greater pipeline capacity required to render the service. BP contends that the above formula is consistent with Gulf Crossing's methodology for determining the proposed EFT recourse transportation rate.

12. BP argues that Gulf Crossing bears the burden pursuant to NGA section 4 of justifying all aspects of its proposed EFT service, including the applicable FL&U. Accordingly, BP requests that Gulf Crossing file a simulation study to support a different FL&U rate for EFT.

13. Finally, BP requests the Commission require Gulf Crossing to clarify whether it will reserve 150 percent of flow path capacity or only 150 percent of primary delivery point capacity to provide EFT service and also whether primary receipt point capacity will be reserved assuming 1/16 hourly flows or only 1/24 hourly flows.

B. Answer

14. In its answer, Gulf Crossing notes that a similar service with a comparable rate and fuel structure was approved for Gulf South Pipeline Company LP, which, like Gulf Crossing, has a fixed, postage-stamp fuel rate.⁸ Gulf Crossing claims that BP's protest relies on a faulty premise that because deliveries pursuant to EFT will require 50 percent more capacity to be reserved, 50 percent more fuel must also be consumed. Gulf Crossing avers that fuel and capacity are calculated based on different variables, and an increase in capacity reserved does not automatically lead to an increase in fuel consumed.

15. Gulf Crossing maintains it reviewed the fuel aspect of its proposal and confirmed that EFT service will result in no appreciable difference in the amount of fuel consumed as compared to FTS. Gulf Crossing states this is primarily due to the fact that, during any given day, the same volume of gas will flow under an EFT contract and an FTS contract

⁸ Gulf Crossing Answer at 2 (citing *Gulf South Pipeline Co. LP*, 136 FERC ¶ 61,086 (2011) (*Gulf South*)).

that have the same MDQ, regardless of the hourly rate of flow. Hence, Gulf Crossing avers that the one percent proposed fuel rate is just and reasonable.

16. Moreover, Gulf Crossing states that its tariff provides for a fixed fuel rate for existing services, and that existing services will not be affected by the approval of EFT. Gulf Crossing asserts that its existing customers will continue to pay the same fixed fuel rate regardless of the level of fuel consumed by EFT customers. Thus, Gulf Crossing claims existing customers will not subsidize EFT customers. Gulf Crossing argues that because of the currently effective FL&U fixed rate, in the event that EFT service causes it to use more fuel than it currently recovers through the existing FL&U rate, Gulf Crossing, not its customers, will be at risk for the additional fuel costs.

17. Gulf Crossing argues that BP's demand for a simulation study is neither required nor necessary. Gulf Crossing reiterates that because it has a fixed fuel rate, fuel consumption allocated to existing customers will not change. Consequently, Gulf Crossing argues that it should not be required to submit a fuel study and its EFT proposal should be approved by the Commission, without modification, as just and reasonable.

18. Finally, with regard to BP's requested clarification, Gulf Crossing clarifies that its proposed EFT service, like those of other pipelines, is a primary delivery point-specific service. Therefore, Gulf Crossing states that firm capacity is reserved to accommodate 1/16 hourly flows only at the primary delivery point(s) and on the contractual path(s), not the primary receipt points.

III. Discussion

19. The Commission approves Gulf Crossing's proposed EFT service as just and reasonable. The Commission has previously approved several pipelines' requests to offer hourly firm transportation service that provides increased flexibility to their customers provided such service does not degrade the services provided to the pipeline's existing shippers.⁹ Here, Gulf Crossing states it will only provide service under Rate Schedule

⁹ See, e.g., *Texas Eastern Transmission, LP*, 134 FERC ¶ 61,068 (2011) (Commission accepted enhanced hourly flexibility proposal with the proviso that all existing firm shippers retain their current hourly flow flexibility); *Portland Natural Gas Transmission System*, 106 FERC ¶ 61,289 (2004) (Pipeline sought to implement an hourly reserve service that permitted shipper to contract for specified hourly flow rights to have their MDQ delivered at an accelerated rate over a specified number of hours. The Commission permitted the pipeline to implement the new service but expressly rejected the limitations the pipeline proposed on the rights of existing customers to exceed uniform hourly flows.); *Vector Pipeline, L.P.*, 103 FERC ¶ 61,391 (2003) (accepting hourly firm service offered in response to shipper suggestions that provided additional

(continued...)

EFT if firm capacity is available and only if the provision of the EFT service will not adversely impact any other existing firm service.

20. The Commission finds BP's contentions regarding Gulf Crossing's one percent FL&U rate unpersuasive. As indicated by Gulf Crossing, it has a fixed fuel rate set forth in its Commission-approved tariff. Thus, in the event service under Rate Schedule EFT causes Gulf Crossing to use more fuel than it recovered from its existing FL&U rate, Gulf Crossing will bear the risk of any under recovery.¹⁰ Therefore, existing customers will not subsidize the EFT customers' FL&U charges.

21. The Commission also denies BP's request to require Gulf Crossing to file a simulation study. As stated above, Gulf Crossing has a fixed fuel rate and the fuel use allocated to its existing customers will not change. Further, as indicated above, under its proposal, Gulf Crossing will be the entity at risk for failure to recover its fuel costs.

22. Finally, for good cause shown, the Commission will grant Gulf Crossing's request for waiver of the requirement in section 154.202(a)(1)(vi) (2011) to submit an explanation of why the proposed rate design and proposed allocation of costs are just and reasonable, and of the requirement in section 154.202(a)(1)(viii) (2011) to submit a projection of revenues for the twelve-month period commencing upon the effective date of the instant tariff records. The Commission previously approved new rate schedules for innovative services derived from the rates for existing firm transportation services rather than via cost allocation methods.¹¹ Under these circumstances, the Commission has not always required the pipeline to submit workpapers containing twelve-month cost and revenue estimates.

23. For the reasons set forth above, the Commission grants the requested waivers and accepts the tariff records to implement Gulf Crossing's Rate Schedule EFT.

flexibility without restricting flexibility of current services); *Panhandle Eastern Pipe Line Co.*, 90 FERC ¶ 61,119 (2000) (accepting an hourly firm transportation service where the pipeline already provided an hourly service but where existing services did not provide the degree of hourly flexibility, and where existing services were not restricted in conjunction with the provision of the new service).

¹⁰ Gulf Crossing's existing tariff FL&U rates cannot be changed absent a proceeding under section 4 or section 5 of the NGA.

¹¹ See, e.g. *Gulf South*, 136 FERC ¶ 61,086 at P 23; *CenterPoint Energy Gas Transmission Co.*, 125 FERC ¶ 61,334 (2008); *Great Lakes Gas Transmission L.P.*, 120 FERC ¶ 61,105 at P 8-10 (2007).

The Commission orders:

(A) The proposed tariff records listed in the Appendix are accepted effective May 1, 2012.

(B) The waivers requested by Gulf Crossing are granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

Gulf Crossing Pipeline Company LLC
FERC NGA Gas Tariff
First Revised Volume No. 1
Tariff Records Accepted Effective May 1, 2012

[Section 1, Table of Contents, 4.0.0](#)

[Section 4.4, Currently Effective Rates for EFT Service, 0.0.0](#)

[Section 5.5, Rate Schedule EFT, 0.0.0](#)

[Section 6.6, GT&C - Primary, Secondary, Comprehensive, And Pooling Points, 2.0.0](#)

[Section 6.8, GT&C - Requests for Service, 3.0.0](#)

[Section 6.10, GT&C - Right of First Refusal, 2.0.0](#)

[Section 6.17, GT&C - Segmentation of Capacity, 2.0.0](#)

[Section 7.1, Form\(s\) of Service Agreement - Rate Schedule FTS / EFT, 2.0.0](#)

[Section 7.1.1, Form\(s\) of Service Agmts - Rate Schedule FTS/EFT - Exhibit A, 2.0.0](#)

[Section 7.5, Form\(s\) of Service Agmt-FTS/EFT Discounted Rate Letter Agmt, 3.0.0](#)

[Section 7.5.1, FTS/EFT Discounted Rate Letter Agmt - Exhibit A, 3.0.0](#)

[Section 7.5.2, FTS/EFT Discounted Rate Letter Agmt - Exhibit B, 1.0.0](#)

[Section 7.5.3, FTS/EFT Discounted Rate Letter Agmt - Exhibit C, 1.0.0](#)

[Section 7.7, Form of FTS/EFT Negotiated Rate Letter Agreement, 1.0.0](#)

[Section 7.7.1, FTS/EFT Negotiated Rate Letter Agreement - Exhibit A, 1.0.0](#)

[Section 7.7.2, FTS/EFT Negotiated Rate Letter Agreement - Exhibit B, 1.0.0](#)

[Section 7.7.3, FTS/EFT Negotiated Rate Letter Agreement - Exhibit C, 1.0.0](#)