144 FERC ¶ 61,115
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Gulf Shore Energy Partners, LP — Docket No. CP12-520-001

ORDER GRANTING IN PART AND DENYING IN PART REHEARING

(Issued August 8, 2013)

1. On December 12, 2012, the Director, Division of Pipeline Certificates, issued, pursuant to delegated authority, a certificate to Gulf Shore Pipeline Company, LP (Gulf Shore) pursuant to section 7(c) of the Natural Gas Act (NGA) authorizing it to acquire and operate the entire natural gas pipeline system of Dominion South Pipeline Company, LP (Dominion South), located in Matagorda County, Texas.[1] The facilities acquired consist of five feet of 12-inch diameter pipeline connecting the interstate pipeline systems of Transcontinental Gas Pipe Line Company, LLC (Transco) and Florida Gas Transmission Company, LLC (FGT).

2. On January 11, 2013, Gulf Shore filed a timely request for rehearing of the December 2012 Order. It alleges two principal errors: (1) that Gulf Shore should have been granted a waiver of certain North American Energy Standards Board (NAESB) standards relating to Operating and Unsubscribed Capacity, Nominations, Flowing Gas, Invoicing, and Capacity Release; and (2) that Gulf Shore should have been granted waivers of the requirement that it adhere to the Uniform System of Accounts (USofA) and certain other Commission filing requirements. For the reasons set forth herein, the Commission grants the request for rehearing in part and denies it in part.

The December 2012 Order

3. In addition to authorizing Gulf Shore's acquisition of Dominion South's facilities, the December 2012 Order authorized Dominion South to abandon its system by sale to Gulf Shore. The order also authorized Gulf Shore to install and operate an

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[1] *Gulf Shore Energy Partners, LP*, 141 FERC ¶ 62,183 (2012) (December 2012 Order).

800-horsepower electric compressor (the Markham Booster Station) on the facilities to be acquired from Dominion South; issued Gulf Shore a blanket construction certificate under Subpart F of Part 157 of the Commission's regulations and a blanket transportation certificate under Subpart G of Part 284 of the Commission's regulations; approved Gulf Shore's *pro forma* FERC gas tariff; approved initial transportation rates for service on Gulf Shore's system;[2] and waived Commission regulations concerning segmentation of capacity.[3] On May 9, 2013, Gulf Shore filed a notice of acquisition and commencement of service through the facilities acquired from Dominion South, which service began on May 1, 2013.

4. As relevant here, in its section 7 application Gulf Shore requested waiver of: (1) the necessary Commission's regulations to allow Gulf Shore to have an information-only website in lieu of a full electronic bulletin board; (2) specified NAESB standards, which Gulf Shore described as being related to Electronic Data Interchange (EDI), Electronic Data Management (EDM) and Internet Electronic Transport (IET); (3) the NAESB standards relating to the periodic reporting of gas quality; (4) the requirement that it keep its books and records according to the Uniform System of Accounts; and (5) all Commission reporting requirements other than reporting on page 520 of the Form 2-A as necessary for the Commission to determine the annual charge assessment (ACA) charge for Gulf Shore and the reporting required under the Commission's blanket construction certificate. As justification for the requested waivers, Gulf Shore generally cited the small size of its system and the fact it would initially have only one shipper. The December 2012 Order granted Gulf Shore's request for waiver of sections 284.12(b)(3) and 284.13 of the Commission's regulations to allow Gulf Shore to maintain an information-only website and of NAESB Standards 4.3.90 and 4.3.93, eliminating the reporting of gas quality specifications (WGC). The December 2012 Order also granted waiver of NAESB's EDI-, EDM-, and IET- related Wholesale Gas Quadrant (WGQ) standards.[4] However, the order denied Gulf Shore's requested waiver of other NAESB WGQ standards, finding they were actually Business Practice Standards pertaining to Operating and Unsubscribed Capacity, Nominations, Flowing Gas, Invoicing, and

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[2] A single shipper, BP Energy, subscribed the entire capacity (100,000 Dth/day) of the pipeline.

[3] 18 C.F.R. § 284.7(d) (2013).

[4] Specifically, waiver was granted of standards 0.3.21, 0.3.22, 0.4.2, 0.4.3, 0.4.1, 1.4.1- 1.4.7, 2.3.25, 2.3.32 - 2.3.35, 2.3.51 - 2.3.53, 2.4.1- 2.4.18, 3.3.23, 3.3.24, 3.4.1-3.4.4, 4.3.1-4.3.3, 4.3.5, 4.3.16-4.3.18, 4.3.20, 4.3.20, 4.3.22-4.3.36, 4.3.38-4.3.62, 4.3.65-4.3.69, 4.3.72-4.3.76, 4.3.78-4.3.87, 4.3.89-4.3.94, 4.3.96-4.3.102, 5.3.10, 5.3.13, 5.3.14, 5.3.35, 5.3.72, 5.4.14-5.4.17, 5.4.20-5.4.27, 10.3.1, 10.3.3-10.3.12, 10.3.14-10.3.27. *DR6275, LLC*, 141 FERC ¶ 62,184, at n.23 (2012).

Capacity Release,[5] and that Gulf Shore had failed to detail specific reasons why it sought waiver of those standards and address alternative methods by which it could comply with the objectives of the standards. The order also denied Gulf Shore's request for waiver of the NAESB WGC Definitions, since they do not require a pipeline to perform any action or incur any expense, and its request for waiver of NAESB WGC principles, since they are optional in any event.

The Rehearing Request

5. As noted in the December 2012 Order, the Commission has adopted various business practice standards for conducting business and electronic communication among interstate pipelines and those with whom they transact business, as promulgated by the NAESB's WGQ. The standards are intended to govern nominations, allocations, balancing measurement, invoicing, capacity release, and electronic communications. The NAESB Standards currently in effect are known as Version 2.0 and were adopted by the Commission on July 19, 2012,[6] when they were incorporated by reference into the Commission's regulations at 18 C.F.R § 284.12.

6. Gulf Shore contends that the Commission erred in not granting waiver of those NAESB standards listed in footnote 22 of the December 2012 Order. These standards concern nomination and capacity release timelines, detailed daily and hourly nomination procedures, detailed communication protocols, specific invoicing requirements, detailed protocols for capacity release, and EDI, EDM, and IET.

7. Gulf Shore also states that the Commission did not rule on its request for waiver of the requirements of keeping its books and records according to the USofA and of all the reporting requirements of the Commission except page 520 of Form 2-A, as necessary to determine Gulf Shore's ACA and the annual blanket construction certificate report.

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[5] Footnote 22 of the December 2012 Order listed the standards for which waiver was denied. Specifically, these standards were 1.3.2, 1.3.3, 1.3.4, 1.3.9, 1.3.11, 1.3.13, 1.3.22, 1.3.23, 1.3.27, 1.3.32, 1.3.33, 1.3.36-1.3.63, 1.3.72, 1.3.79, 2.3.6, 2.3.40, 2.3.42, 2.3.46, 3.1.1, 3.3.26, 4.3.95, 5.3.2, 5.3.11, 5.3.12, 5.3.18, 5.3.20, 5.3.24, 5.3.25, 5.3.31-5.3.34.

[6] *Standards for Business Practices of Interstate Natural Gas Pipelines,* Order No. 587-V, FERC Stats. & Regs. ¶ 31,332 (2012).

Discussion

The NAESB Standards

8. In Order No. 587-V, the Commission clarified its policy concerning requests for waiver of the NAESB Business Practice Standards and the information that must accompany such requests.[7] Generally, the Commission does not grant waivers of the Business Practice Standards because they describe the basic principles upon which the natural gas business must be conducted. In the December 2012 Order, the Commission determined that Gulf Shore had not detailed specific reasons why it sought waivers or addressed alternative methods by which it could comply with the objectives of the Standards.

9. Gulf Shore argues that since it is a very small pipeline with one firm shipper subscribing all of its firm capacity, it should not have to bear the expense of compliance imposed on larger pipelines. Gulf Shore states that BP Energy will flow gas at a high load factor, leaving little or no capacity available for interruptible service, making the expected number of potential interruptible shippers low. Gulf Shore states that it "expects its shippers to make monthly nominations of deliveries and make few if any changes in deliveries during the month."[8] In its original request for waivers, Gulf Shore contended that its sole shipper, BP Energy, had not requested that Gulf Shore implement the NAESB standards related to EDI, EDM, and IET.

10. On January 22, 2013, BP Energy filed a motion for leave to answer, with comments in support of Gulf Shore's request for rehearing.[9] As BP Energy notes, the Commission's rules generally do not permit answers to rehearing requests.[10] Since BP Energy's filing and comments will assist the Commission in the decision-making process, the Commission finds good cause to waive the prohibition against answers to rehearing requests,[11] and BP Energy's motion and comments are allowed.

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[7] *See* Order No. 587-V, FERC Stats. & Regs. ¶ 31,332 at PP 38-39.

[8] Rehearing Request at 6.

[9] BP Energy also intervened in the certificate proceeding in support of Gulf Shore's application.

[10] 18 C.F.R. § 385.713(d)(1) (2013).

[11] 18 C.F.R. § 385.213(a)(2) (2013).

11. Gulf Shore argues that the Commission should have approved the provisions of Gulf Shore's tariff relating to NAESB standards because the proposed tariff was modeled on one approved by the Commission in *Panther Interstate Pipeline Energy, LLC*,[12] particularly as it concerns the NAESB Standards delineated in footnote 22 of the December 2012 Order, relating to Operating and Unsubscribed Capacity, Nominations, Flowing Gas, Invoicing and Capacity release. Gulf Shore argues that such a waiver would be consistent with and is required by the waiver that the Commission granted Gulf Shore allowing it to operate an information-only website, giving it flexibility to handle any nominations and capacity releases manually.[13] Citing *Trans-Union*, Gulf Shore states that the Commission recently continued similar waivers which had been granted to KO Transmission and WestGas Interstate, pipelines which are also authorized to maintain information-only websites.[14] Gulf Shore argues that notwithstanding the fact that these pipelines were much longer than its system, they were nevertheless granted the requested waivers.

12. The December 2012 Order distinguishes Panther, KO Transmission, and WestGas Interstate, stating that each of those pipelines had only one interconnection to the interstate grid, while Gulf Shore's system interconnects at both ends of its system. According to Gulf Shore, this fact does not require a different result in its case. Gulf Shore asserts that the other three pipelines are connected to either an upstream or downstream pipeline that supports the standard nomination timelines. Gulf Shore argues that small pipeline systems should not have to comply with all the NAESB Standards relating to Operating and Unsubscribed Capacity, Nominations, Flowing Gas, Invoicing and Capacity Release if doing so would force them to incur unnecessary costs.

13. Gulf Shore states that if it is not granted a waiver of the NAESB Standards referenced in footnote 22 of the December 2012 Order, it will suffer increased costs and undue burdens in having to implement detailed daily and hourly nomination procedures, communication protocols, invoicing requirements, extra capacity release protocols and EDI, EDM and IET requirements. It also notes that no shipper requested implementation of the standards in question.

[12] 105 FERC ¶ 61,383 (2003). Gulf Shore also relies upon *Trans-Union Interstate Pipeline L.P.*, 141 FERC ¶ 61,167, at PP 22, 27, 35 (2012) (*Trans-Union*), which is the Commission's most recent order granting Panther a waiver from these standards.

[13] Rehearing Request at 6.

[14] *Trans-Union*, 141 FERC ¶ 61,167.

14. In the event that the Commission refuses to grant the requested waivers, Gulf Shore argues that the Commission should grant it an extension of time to comply with the NAESB Standards, since no shipper has requested Gulf Shore's compliance with the standards. In the event that a shipper requests compliance with any of the standards in footnote 22 of the December 2012 Order, Gulf Shore proposes that it be allowed at least 90 days to comply with such standard. Gulf Shore cites the Commission's most recent NAESB Standards order[15] in support of this argument, and states that the Commission has granted extensions of time to comply with NAESB Standards to several small pipelines.[16] Gulf Shore contends that these measures will keep it from being unnecessarily burdened with compliance costs in the event that no shipper requests service under a NAESB Standard.

Commission Response

15. With regard to intra-day nominations as set forth in NAESB Standard 1.3.2, the Commission recognizes that Gulf Shore's sole shipper, BP Energy, currently nominates on a monthly basis, has subscribed the entire 100,000 Dth per day of firm capacity on Gulf Shore, and takes service at a very high load factor. However, BP Energy has the option to decide to use daily nominations rather than monthly. In addition, the possibility exists that BP Energy may release its capacity to a shipper that prefers to use the NAESB nomination timeline. Also, there may be circumstances in which BP does not nominate all of its capacity. In such instances, the capacity would be available for interruptible shippers, who may prefer (or need) to use the standard timeline. Under these circumstances, we would expect Gulf Shore to accept nominations that conform to the NAESB timeline as required by NAESB WGQ standard 1.3.2. We note that while Gulf Shore does not anticipate providing interruptible service, it acknowledges that Dominion South has had five interruptible customers in the past when it was the owner of the pipeline.[17] Further, Gulf Shore's facilities serve as a connection between two interstate natural gas pipelines (Transco and FGT) that provide intra-day nominations.

16. Nevertheless, the Commission will grant Gulf Shore an extension of time to comply with NAESB Standard 1.3.2, but require Gulf Shore to provide intra-day nominations as well as nominations at the Timely and Evening Cycles immediately at such time as an interruptible shipper requests service. We find that this will impose no

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[15] Order No. 587-V, 140 FERC ¶ 61,036 at P 39(2).

[16] Rehearing Request at n.9. Gulf Shore cites six unpublished staff orders in which pipelines were granted extensions of time to implement NAESB standards in the event that service under the standards is requested.

[17] *See* Rehearing Request at n.6.

undue hardship to Gulf Shore since it will have advance knowledge of BP Energy's nomination of capacity for the upcoming month and, therefore, knowledge of what, if any, increment of capacity may be available for interruptible service. Gulf Shore will be required to post such information pertaining to available capacity for interruptible service on its information-only website.

17. With regard to partial day recalls of release capacity as set forth in NAESB Standard 5.3.2, the Commission recognizes that Gulf Shore and its one firm shipper currently do not anticipate any release of capacity. However, the possibility remains that at some point a new firm shipper may contract for capacity on Gulf Shore and request capacity release service or BP Energy may in the future decide to request capacity release service. Therefore, the Commission will grant an extension of time for Gulf Shore to implement NAESB Standard 5.3.2 pertaining to partial day recalls of release capacity. Gulf Shore will have 90 days to comply with the then applicable standard in the event that a firm shipper requests to release capacity.

18. Gulf Shore argues that while the December 2012 Order purported to grant waiver of the subset of NAESB Standards relating to EDI, EDM, and IET, it erred by denying waiver of standards 1.3.3, 1.3.27, 1.3.37, 1.3.45 to 1.3.50, 1.3.52 to 1.3.63, 1.3.79, 2.3.42, 5.3.24, 5.3.32, and 5.3.34,[18] which Gulf Shore contends also pertain to EDI, EDM, and IET. Upon further review, the Commission agrees that some of the referenced standards do indeed pertain to EDI, EDM and IET. Therefore, the Commission will grant rehearing and waiver of the following Standards: 1.3.47-1.3.50, 1.3.52-1.3.63, 1.3.79, 2.3.6, 2.3.42, and 4.3.95.

19. However, the Commission denies waiver of the remaining standards listed above that Gulf Shore claims are EDI, EDM and IET. The Commission finds these remaining standards pertain to Operating and Unsubscribed Capacity, Nominations, Flowing Gas, Invoicing, and Capacity Release. Therefore, the Commission will grant an extension of time for these standards and all of the remaining NAESB Standards pertaining to Operating and Unsubscribed Capacity, Nominations, Flowing Gas, Invoicing, and Capacity Release for which Gulf Shore seeks rehearing. These standards include the following: 1.3.3, 1.3.4, 1.3.9, 1.3.11, 1.3.13, 1.3.22, 1.3.23, 1.3.27, 1.3.32, 1.3.33, 1.3.36-1.3.46, 1.3.51, 1.3.72, 2.3.40, 2.3.46, 2.3.46, 3.3.1, 3.3.26, 5.3.11, 5.3.12, 5.3.18, 5.3.20, 5.3.24, 5.3.25, 5.3.31, 5.3.32, 5.3.33, and 5.3.34. Gulf Shore will have 90 days to comply with these NAESB standards in the event that a shipper requests service for which compliance with one of these NAESB Standards is required. However, Gulf Shore must

[18] These standards are enumerated and briefly described in the Appendix to Gulf Shore's rehearing request.

seek renewal of any such waivers or extensions of time granted herein for each version of the standards that the Commission adopts in the future.[19]

Uniform System of Accounts and Other Filing Requirements

20. Gulf Shore requests that the Commission act on its request for a waiver of the requirement that it keep its books and records according to the Commission's USofA. Gulf Shore also requests waiver of reporting requirements other than the information reported on page 520 of the Form 2-A, which the Commission uses to determine Gulf Shore's ACA and the reporting required under the Commission's blanket construction certificate. Gulf Shore states that these requests were included in Gulf Shore's certificate application but were not acted upon in the December 2012 Order.[20]

21. As with its requests for waiver of the NAESB Standards, Gulf Shore contends that such waivers are justified because its facilities are very small and it will have a very limited customer base and a total annual net income expected to be about $150,000. Gulf Shore states that beyond the ACA-related information and the information needed to review its activities under its blanket construction certificate, providing any additional information would serve no useful purpose for the Commission or the public.

22. Gulf Shore argues that the Commission has granted similar waivers to other small pipelines in *Alliant Techsystems Operations, LLC, Duke Energy Indiana, LLC,* and *Port Dolphin*. Gulf Shore contends that although all these pipelines were sole-use or proprietary pipelines, the rationale of these decisions applies here, in that its own facilities, customer base, activities and relevant information are similarly limited and situated.[21]

23. In the alternative, Gulf Shore contends that if the Commission will not grant the requested waivers, Gulf Shore could be allowed to make the annual Form 2-A filing along with the blanket certificate report. Gulf Shore says that "this solution would recognize that Gulf Shore has such a limited size and will engage in limited activity and

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[19] In *B-R Pipeline Co.*, 128 FERC ¶ 61,126, at P 6 (2009), the Commission stated that "each time the Commission adopts new versions of [the] standards … pipelines must request waiver [or extension of time] of the new standards."

[20] Gulf Shore states that it will compile and retain information on its General Plant and Accumulated Depreciation so that the Commission can determine the net book value of its facilities in case they are ever sold to a new owner.

[21] Rehearing Request at 11.

relieve the unnecessary burden on Gulf Shore but would not upset the Commission's precedent regarding sole use or proprietary pipelines."[22]

Commission Response

24. While the Commission, as pointed out by Gulf Shore, has previously granted the requested waivers to small, single purpose[23] pipelines, it has done so only for those pipelines that were operating on a sole-use or proprietary basis for which the Commission approved a waiver of the open-access requirements under Part 284 of the Commission's regulations.[24]

25. The Commission has not waived its accounting and reporting requirements in cases where a pipeline has been authorized to provide Part 284 open-access transportation service and to charge cost-based rates, as is the case here. Gulf Shore will need to present appropriate and complete accounting information to justify the continued use of, or any requested changes in, cost-based rates. The information to be included in these filings needs to be accounted for and reported in accordance with the Commission's USofA and reporting requirements in order to facilitate cost-based ratemaking and for the Commission to be able to carry out its duties and responsibilities under the NGA to ensure that pipeline rates are in the public interest. In fact, Gulf Shore is required, consistent with Commission precedent, to make a filing at the end of its first three years of operation to justify its existing firm and interruptible cost-based rates. Accordingly, a waiver of the accounting and reporting requirements under Parts 201, 250, and 260 is inappropriate and is denied.

The Commission orders:

(A) The request for rehearing filed by Gulf Shore is granted, in part, and denied, in part, as described in this order.

(B) The extensions of time requested by Gulf Shore are granted, subject to the limitations and requirements described in this order.

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[22] *Id*.

[23] By this is meant pipelines intended to serve a single facility, such as an electric power plant.

[24] *Alliant Techsystems Operations, LLC*, 141 FERC ¶ 62,218 (2012); *Duke Energy Indiana, LLC*, 135 FERC ¶ 61,238; *Port Dolphin Energy, LLC*, 129 FERC ¶ 61,199 (2009).

(C) Gulf Shore is directed to file a revised tariff record reflecting the findings in this order within 15 days.

(D) The comments filed by BP Energy are accepted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.