

147 FERC ¶ 61,258
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 27, 2014

In Reply Refer To:
Tennessee Gas Pipeline Company, L.L.C.
Docket No. RP14-1030-000

Milton Palmer, Jr.
Director, Rates and Regulatory Affairs
Tennessee Gas Pipeline Company, L.L.C.
1001 Louisiana Street, Suite 1000
Houston, TX 77002

Dear Mr. Palmer:

1. On May 30, 2014, Tennessee Gas Pipeline Company, L.L.C. (Tennessee) filed a tariff record,¹ to extend the time to recover the costs of remediating polychlorinated biphenyl (PCB) and other hazardous substance list (HSL) contamination on its system, pursuant to a May 15, 1995 Settlement filed in Docket Nos. RP91-203-058 and RP92-132-044² and an April 13, 2009 Amended Settlement³ filed in Docket Nos. RP91-203-076 and RP92-132-064 (collectively, Stipulation). Tennessee proposes to leave the PCB surcharge at \$0.00 per Dth during the extended period through June 30, 2016. The referenced tariff record is accepted effective July 1, 2014, subject to the conditions discussed below.

2. The Stipulation let Tennessee establish a PCB/HSL cost recovery mechanism for its government-mandated programs to assess and remediate contamination. The 1995 Settlement permits Tennessee to recover certain defined “eligible costs” related to the PCB/HSL remediation and established a PCB adjustment surcharge to recover eligible

¹ Tennessee Gas Pipeline Company, L.L.C., FERC NGA Gas Tariff, TGP Tariffs, [Sheet No. 389, PCB Adjustment, 5.0.0.](#)

² *Tennessee Gas Pipeline Co.*, 73 FERC ¶ 61,222 (1995), *order on reh’g*, 74 FERC ¶ 61,174 (1996).

³ *Tennessee Gas Pipeline Co.*, 129 FERC ¶ 61,105 (2009).

costs for the period from July 1, 1995 to June 30, 2000. The Stipulation states that the PCB Adjustment Period shall be extended in 24-month increments to eliminate the Recoverable Cost/Revenue Account (RCRA) balance or to reflect additional eligible costs.⁴ The 2009 Amended Settlement authorized Tennessee to refund the RCRA balance, which at that point had become substantial, but allowed Tennessee to keep the PCB/HSL cost recovery mechanism in its tariff, in case of future expenses.⁵

3. Public notice of the filing was issued on June 2, 2014. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.⁶ Pursuant to Rule 214,⁷ all timely filed motions to intervene and any unopposed motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. On June 11, 2014, National Fuel Gas Distribution Corporation (Distribution) filed comments.

4. Distribution states that it does not oppose Tennessee's filing but argues that Tennessee should be required to provide its customers with additional information regarding the activity in the RCRA, and Tennessee's calculation of the anticipated eligible costs associated with the ongoing remediation and monitoring that are to be allocated to its customers. Distribution requests that Tennessee provide more detail regarding the cost of the ongoing monitoring requirements and the charges and offsets that have been posted to the RCRA since the effectiveness of the 2009 Amended Settlement.

5. On June 23, 2014, Tennessee filed an answer to Distribution's comments. Tennessee notes that it is proposing to keep the PCB adjustment surcharge at zero, as it has been since 2000, and Tennessee expects that the funds retained in the RCRA will continue to be sufficient to cover PCB/HSL remediation. Given this trend, Tennessee argues, it should not be required to devote resources to gathering information on a surcharge mechanism that is not placing any financial burden on its customers. Furthermore, Tennessee notes that under the terms of the Stipulation, it must file its next general section 4 rate case in 2015, and suggests that this future proceeding would be a more appropriate venue to consider the future of the PCB adjustment mechanism.

⁴ See *Tennessee Gas Pipeline Co.*, 123 FERC ¶ 61,318, at P 2 (2008).

⁵ *Tennessee Gas Pipeline Co.*, 129 FERC ¶ 61,105.

⁶ 18 C.F.R. § 154.210 (2013).

⁷ 18 C.F.R. § 385.214 (2013).

6. We find that Tennessee's filing complies with Article XIII B of the Stipulation, which states, in relevant part:

The term shall be automatically extended if, at the end of such term, Tennessee is incurring Eligible Costs, or an extension of term is necessary to complete cost recovery or refunds.

7. In the instant filing, Tennessee asserts that it continues to incur Eligible Costs. As Distribution correctly notes, Tennessee's filing does not include any details regarding these costs. Based on Article XIII B alone, therefore, it would appear that there is not sufficient information to demonstrate that Tennessee is incurring eligible costs.

8. However, the Stipulation provides that, rather than filing this information with the Commission, it shall be provided through a mechanism unique to the Stipulation. Article VI of the Stipulation, states in relevant parts:

Tennessee's compliance with the terms and conditions of this stipulation shall be subject to audit every two years beginning July 1, 1995. ... The audit shall be performed by an independent auditor selected and retained by the Customer Liaison Group as defined in Article X.

9. Article X of the Stipulation states in relevant parts:

Tennessee shall keep a small group representing the customers ("Customer Liaison Group") informed of the proceedings in Tennessee's environmental insurance litigation and all matters related to the Stipulation. ... Tennessee's counsel in the environmental insurance coverage litigation shall provide periodic updates on the status of the insurance coverage proceedings to the Customer Liaison Group, if and when requested to do so by the Customer Liaison Group, but no more often than once every 90 days. At reasonable intervals, Tennessee shall also provide the parties with periodic status reports regarding Tennessee's remediation efforts, pending negotiations with governmental agencies, and other pertinent matters related to the PCB/HSL Project.

10. Section XXXII of Tennessee's General Terms and Conditions under part 5.5 states:

Not more than 60 days after this Article has been accepted by the Commission, Tennessee shall submit to the Customer Liaison Group as defined in the Stipulation a report showing the balance in the Recoverable Cost/Revenue Account. A similar report shall be submitted no later than 60 days following the end of each succeeding 12-month period commencing July 1 during which the PCB Adjustment was effective.

11. Accordingly, the Stipulation specifically provides for the information Distribution seeks through bi-annual audits and reports to the Customer Liaison Group. Therefore we find that Tennessee is acting in accordance with the Stipulation and we accept Tennessee's tariff record referenced in Footnote No. 1, effective July 1, 2014 as requested.

By direction of the Commission.

Kimberly D. Bose,
Secretary.