148 FERC ¶ 61,186
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 12, 2014

In Reply Refer To:
Carolina Gas Transmission Corporation
Docket No. RP14-1179-000

Carolina Gas Transmission Corporation
Attention: Michael P. Wingo,
Director-Rates, Regulatory and Compliance
220 Operation Way
Cayce, SC 29033

Dear Mr. Wingo:

1. On August 13, 2014, Carolina Gas Transmission Corporation (Carolina) filed revised tariff records to make miscellaneous updates, clarifications and error corrections to its tariff, and to modify its Operational Flow Order (OFO) provisions.[1] Carolina requests a September 12, 2014 effective date for the instant filing. As discussed below we waive the Commission's 30-day notice requirement and accept the subject tariff records for filing, to be effective September 12, 2014.

2. Carolina proposes revised tariff records to update its Table of Contents and its General Terms and Conditions (GT&C) to reflect the removal of obsolete tariff section 22. Carolina also proposes modification to its GT&C to: (1) reflect changes in industry publication name references and to correct a typographical error; (2) clarify that prepayments are not required from customers in all instances; (3) provide more flexibility in the periodic testing of measurement equipment; (4) assign Parking and Lending (PAL) Service a priority subordinate to firm and other interruptible service; (5) reflect that firm transportation (FT) service maximization for billing purposes will not apply to a shipper's receipts or deliveries on days when an OFO is in effect and those receipts or deliveries are not in compliance with the OFO; (6) reflect changes to its OFO penalty provisions; (7) provide more flexibility for the time during which a capacity release contract may be nominated; (8) clarify the time period applicable for calculation of interest for late

[1] *See* Appendix.

payments; (9) delete and reserve for future use section 22 of the GT&C, Transition Cost Recovery Surcharge, because this section is now obsolete; (10) change the *Force Majeure* and Limitation on Service Obligation to conform to Commission policy with respect to reservation charge credits; (11) reflect that information must be posted and logged only for affiliate waivers; and (12) reflect a change in Carolina's mailing address.

3. Public notice of Carolina's filing was issued on August 15, 2014. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.[2] Pursuant to Rule 214,[3] 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 intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

4. On August 25, 2014, the Patriots Energy Group (Patriots) filed a protest to the instant filing.[4] Patriots argues that Carolina has failed to support its proposal to change section 15 of its GT&C related to System Management and Operational Flow Orders. On September 3, 2014, Carolina filed an answer to Patriots' protest. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits answers to protests or answers unless otherwise permitted by the decisional authority.[5] We will accept Carolina's answer because it provided information that assisted us in our decision-making process.

5. With respect to the protested OFO modifications, Carolina proposes to modify section 15 of its GT&C to reflect changes to its penalty provisions. Carolina states that it proposes to assess shippers a penalty of $15.00 per Dekatherm (Dth) on the first 1,000 Dths flowed in violation of a Standard OFO. Carolina asserts that during this Standard OFO, all quantities in excess of the 1,000 Dths will be assessed the $15.00 per Dth penalty, plus the cost of a gas adder from a published index.[6] For violations of an Emergency OFO, Carolina proposes that shippers will pay a penalty which will be the

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[2] 18 C.F.R. § 154.210 (2014).

[3] 18 C.F.R. § 385.214 (2014).

[4] Patriots states that it is a joint action agency whose members are York County Natural Gas Authority, Chester County Natural Gas Authority, and Lancaster County Natural Gas Authority.

[5] 18 C.F.R. § 385.213(a)(2) (2014).

[6] According to the filing, any amount over 1000 Dths will be assessed a penalty of $15.00 per Dth, plus the highest price shown among all of the pricing points listed for Transcontinental Gas Pipe Line Company, LLC, (Transco) and the pricing points listed for Southern Natural Gas Company, L.L.C. (Southern), South Louisiana-Southern Natural as published in Natural Gas Intelligence Daily Gas Price Index.

higher of $60.00 per Dth or $15.00 per Dth plus three times the cost of an adder from a published index.[7] Carolina asserts that its proposed penalty levels and provisions are consistent with those on interconnecting pipelines Southern and Transco.

6. In its protest, Patriots claims that aside from a reference to extreme conditions experienced last winter, Carolina has provided no support for its determination that it needed to revise its OFO procedures to better enable it to manage its system during OFO conditions.[8] Patriots argues that Carolina has provided no evidence of bad behavior by shippers or a need for a greater penalty deterrent. Patriots further argues that Carolina has provided no information concerning system operation difficulties influenced by, much less caused by, the level of OFO penalties in its tariff.

7. Patriots also asserts that as part of these modifications, Carolina proposes, without explanation, to abandon the historical use of the average of two specific pipeline indices representing the two pipelines that feed its system, and instead substitute a wide range of gas prices that includes all six (6) Transco rate zones and one on Southern. Patriots argues that this penalty proposal would apply a gas price index different than the index under a shipper's supply contract because such supply contracts are point specific whereas the proposed penalty brings in the highest price point on all the above mentioned zones. Further, Patriots asserts that Carolina proposes to use a three day time period to determine the highest price on these systems, which Patriots claims ignores the fact that a gas supply contract is day specific and prices gas for the day on which delivery is made, not the day before or the day after. Patriots argues that Carolina proposes to use the multi-zone and three-day price variables to apply the highest price in calculating an OFO penalty. Patriots asserts that it is not aware of any precedent for such an approach.

8. Patriots argues that Carolina's proposal will lead to excessive penalties especially for the Emergency Response OFO, which envisions a penalty of three times the index price penalty plus $15 per dekatherm. Patriots states that it takes all prudent measures to obtain natural gas for its consumers and to avoid pipeline penalties and that higher penalty levels will not influence Patriots' behavior.

9. Patriots challenges Carolina's claim that its proposed OFO penalty levels and provisions are consistent with those in place on pipelines interconnected with Carolina. Patriots asserts that a review of the OFO provisions on Transco and Southern Natural reveals that Carolina's proposal is more extreme in that the highest minimum penalty is

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[7] According to the filing, for Emergency OFOs the price will be the highest price listed for all of the pricing points shown for Transco and the pricing point listed for South Louisiana-Southern Natural in Natural Gas Intelligence Daily Gas Price Index for any day in the delivery month and the first seven days of the next calendar month.

[8] Patriots Protest at p. 2 (citing, Carolina Transmittal letter at p. 3).

$50 on Transco, not $60 as Carolina proposes. Patriots asserts that the application of the OFO penalties under the tariffs of Southern or Transco would yield a less onerous penalty than that proposed by Carolina.

10. Patriots also maintains that Commission policy requires that pipelines not use penalties as revenue centers but to deter undesirable shipper conduct, and thus pipelines must credit penalty revenues to non-offending shippers. Patriots asserts that in this instance, the larger OFO penalties proposed may benefit Carolina and its corporate family. Patriots states that pursuant to Carolina's tariff, for each month in which Carolina collects OFO penalties, each non-offending Shipper shares in the penalty revenue, net of costs, collected during that month based on the non-offending Shipper's actual fixed cost contribution as a percentage of the total fixed cost contribution of all non-offending Shippers for that month. Patriots asserts that in past years, Carolina's affiliate South Carolina Electric & Gas Company (SCE&G), also a wholly-owned subsidiary of SCANA Corporation, has in practice received the vast majority of penalty revenues credited by Carolina.[9] Moreover, Patriots asserts that there is no way of knowing whether Carolina correctly calculates its penalty revenue credit "net of costs" because Carolina makes no accounting for such costs in its annual penalty crediting filing. Patriots states that the Commission should direct Carolina to state in its annual penalty crediting filings both the amount of penalties collected and the basis for any claimed offsetting costs.

11. In its answer, Carolina claims that during the periods of extreme cold weather in January and February of 2014, it experienced an unusually high level of OFO infractions and penalty payments. Carolina asserts that it modeled its proposed penalty rate and penalty quantity revisions on those in Transco's tariff, taking into consideration specific operational factors on Carolina's system, namely that it has no storage and thus must rely on line pack to correct imbalances, and that it is subject to flow control by its upstream interconnecting pipelines.[10]

12. Carolina states that Patriots is simply mistaken that Carolina or its affiliates may be profiting from costs associated with penalty revenues. Carolina states that contrary to Patriots' assertions, in each of its annual penalty revenue crediting filings Carolina has clearly stated that it did not incur any costs that it would propose to net against the revenues collected. Moreover, Carolina notes, each such filing does state the total amount of penalties. Carolina claims that the annual filings demonstrate that its proposed changes are not motivated by the desire to profit financially because they show that the total amount credited equals the total amount collected.

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[9] Patriots claims, for example, that in 2013, SCE&G received up to 86 percent of the penalty revenue credit. Patriots' protest at 5 and n.7.

[10] Carolina answer at 2. Carolina also claims those operational factors justify choosing a slightly higher fixed penalty amount ($60) than Transco's ($50).

13. Carolina also challenges Patriots' contention that it is abandoning the use of the pipeline indices representing the pipelines that feed Carolina's system. While acknowledging that it is changing from an average price in favor of the relevant market price, Carolina states that it is still proposing to use Transco and Southern indices. Carolina asserts that because virtually all its shippers are also shippers on the interconnecting pipelines, it is reasonable to presume that if gas required by an OFO to be delivered to Carolina is transported elsewhere, that it will be delivered to the highest price market on the interconnecting pipelines. Carolina states that its proposed indices represent the prices in the markets on those two pipelines.

14. Carolina also asserts that Patriots' argument that Carolina's proposal would apply a different gas index price than that under a shipper's supply contract is irrelevant. According to Carolina the indices chosen for its OFO provisions represent where that supply may be sold instead of being delivered to Carolina's system. It argues that the price the shipper pays for its supply is irrelevant because the object is to ensure that under OFO conditions, gas expected to be delivered to Carolina does not get delivered to an alternate market to the detriment of Carolina's customers.

15. With respect to Patriots' protest regarding the use of a three day range for choosing the index price, Carolina states that the three day period is not a change from its current tariff. Carolina further claims that there is nothing unique with the use of a specific time period instead of single day to determine the highest price, noting that Transco uses "the highest weekly Reference Spot Price for the current month."[11]

16. Finally Carolina challenges Patriots' claim that Southern's or Transco's tariffs would yield a lower penalty than under its proposal. Carolina claims that it is not clear that in any particular circumstance that Carolina's penalty would be higher and that Patriots' bald assertion is unsupported. Further, Carolina states that comparing penalty levels and rates is misplaced because the purpose of the penalties is to influence shipper conduct to comply with OFOs, thereby resulting in fewer penalties overall. Carolina states that it has no interest in penalizing shippers that act in good faith to comply with OFO requirements, noting that it has a tariff provision allowing shippers to seek penalty waiver in such situations.

17. Upon review of Carolina's proposal, Patriots' protest and Carolina's answer, the Commission finds that the proposed tariff records are just and reasonable. With respect to the OFO provisions, we find that Carolina has justified its proposal to modify those provisions and adequately responded to the concerns raised by Patriots.

18. As Carolina clarifies in its answer, it filed the proposed provisions to address an unusually high level of OFO infractions that it experienced during the periods of extreme

[11] Carolina answer at 6.

cold weather in January and February of 2014. As Carolina notes, the penalties in this case are designed to provide an economic disincentive to shippers that might take actions that could threaten the operational integrity of the pipeline in the absence of such penalties. For a penalty to be effective, it must be at a level sufficient to make its incurrence economically undesirable when compared with other choices. Accordingly, the Commission has consistently accepted OFO penalties based on multiples of price indices.[12] Given the current increased gas prices experienced last winter and the operational restraints on Carolina's system, Carolina's current penalties may no longer act as a deterrent for actions that might threaten the pipeline's operations.

19. Further, we find Carolina's proposal to switch from an average of price indices to relevant market indices to be reasonable. As Carolina states, contrary to Patriots' assertions, Carolina is not abandoning the pipeline indices for the pipelines connected to its system but proposes to use indices that represent the prices in the markets on those two pipelines.[13]

20. Carolina filed its proposed revisions on August 13, 2014, and requests an effective date of September 12, 29 days later. Accordingly, we waive the Commission's 30-day notice requirement and accept the proposed tariff records to be effective September 12, 2014, as proposed.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[12] *See, e.g., Algonquin Gas Transmission, LLC,* 113 FERC ¶ 61,146 at P 6 (2005), *reh'g denied*, 115 FERC ¶ 61,067 at PP 8-16 (2006), and cases cited.

[13] We also find that the use of a three day range for choosing the index price is reasonable as such a range exists in Carolina's tariff and Carolina did not propose to change it here.

Appendix
Carolina Gas Transmission Corporation
FERC NGA Gas Tariff
CGT Tariff and Rate

Tariff Records Accepted Effective September 12, 2014

Part I, Table of Contents, 2.0.0
Part IX, General Terms and Conditions Index, 2.0.0
GT&C - Section 1, Definitions, 2.0.0
GT&C - Section 2, Requesting and Contracting for Service, 2.0.0
GT&C - Section 8, Measurement and Measurement Equipment, 1.0.0
GT&C - Section 12, Scheduling, 1.0.0
GT&C - Section 13, Determination of Receipts and Deliveries, 1.0.0
GT&C - Section 15, System Management and Operational Flow Orders, 2.0.0
GT&C - Section 17, Capacity Release, 3.0.0
GT&C - Section 21, Billing and Payments, 1.0.0
GT&C - Section 22, Transition Cost Recovery Surcharge, 1.0.0
GT&C - Section 23, Force Majeure and Limitation on Service Obligation, 1.0.0
GT&C - Section 34, Discretionary Waiver, 1.0.0
GT&C - Section 41, Complaints, 1.0.0
Forms - Section 100, Form of Svc Agreement for Rate Sched FT, 2.0.0
Forms - Section 103, Form of Service Request, 2.0.0
Forms - Section 104, Form of Pooling Agreement, 1.0.0
Forms - Section 107, Form of Svc Agreement for Rate Sched BH, 1.0.0