152 FERC ¶ 61,245
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Venice Gathering System, L.L.C. Docket No. RP15-1237-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORD SUBJECT TO REFUND AND CONDITIONS, AND ESTABLISHING A HEARING

(Issued September 29, 2015)

1. On August 31, 2015, Venice Gathering System, L.L.C., (VGS) filed a revised tariff record[1] pursuant to section 4 of the Natural Gas Act proposing a general increase in its transportation rates. VGS proposes an effective date of October 1, 2015, for its tariff record. The Commission accepts and suspends VGS' revised tariff record to be effective March 1, 2016, subject to refund, conditions, and the outcome of the hearing established herein.

Background

2. VGS collects gas supplies from various sources in the Gulf of Mexico, offshore Louisiana. The pipeline extends to fields located in the West Delta, Grand Isle, and South Timbalier areas. Gas transported through VGS is delivered onshore to the Venice Processing Complex, a non-jurisdictional processing facility located in Venice, Louisiana. Three interstate pipelines are connected at the tailgate of the Venice Processing Complex and transport the gas processed to downstream points. VGS's currently-effective rates were established through a settlement agreement filed in Docket No. RP10-1280 (Settlement). The Commission approved the Settlement on October 15, 2010,[2] and it became effective on November 1, 2010. The Settlement is effective through

---

[1] *See* Appendix.

[2] *Venice Gathering System, L.L.C.*, 133 FERC ¶ 61,045 (2010) (Letter Order Approving Uncontested Settlement).

November 1, 2015. VGS states that it will not seek to move the proposed rates into effect prior to November 1, 2015, consistent with the rate change moratorium that VGS agreed to in the Settlement.

Details of the Filing

3. VGS states that the primary reason for the proposed change in its rates is that throughput on its system has been rapidly declining and continues to decline at a substantial rate. VGS further states that given the decline in throughput, the rates established in the Settlement are dramatically below the level required to allow it to recover its overall cost of service. VGS proposes to increase the Reservation Rate for FTS-1 service from $2.4699/Dth to $38.1600/Dth[3] and the Maximum Usage Rates for FTS-2 and ITS service from $0.3500/Dth to $1.2545/Dth.

4. VGS states that, in recent years, its throughput has been approximately ten percent of the system's current design capacity. VGS further states that when it filed its last general rate case, in 2001, average throughput on the VGS system was approximately 291.4 MDth/d and from January through July 2015, the actual average throughput on the VGS system has been 34.2 MDth/d, a nearly 90% reduction in throughput. VGS projects that by the end of the test period in this case, February 29, 2016, its throughput will have declined further to approximately 25.9 MDth/d. VGS contends that this low throughput is not an anomaly; it is the result of a trajectory of decline that has been going on for years because reserves connected to the system are declining and not being replaced, and, therefore, the decline is ongoing and not foreseeably reversible.

5. VGS contends that its situation reflects the broader trend of declining offshore Gulf of Mexico production in water depths of less than 1,000 feet. VGS further contends that production of natural gas has shifted to onshore shale development, and to the extent there is offshore drilling it tends to be in deeper water that VGS does not reach and it is even more exposed to production declines because it serves only a few production fields.

6. VGS asserts that its recovery of its cost of service is entirely dependent on throughput on its system. VGS states that there are no firm shippers on VGS's system who pay a fixed reservation rate and the current shippers, whether firm under Rate Schedule FTS-2, which is a volumetric firm service, or interruptible, pay for service on a volumetric basis only. VGS contends that this is unlikely to change given the ready

[3] The Daily Reservation Rate (100% Load Factor Rate) is proposed to be increased to $0.351/Dth from the current rate of $0.2545/Dth.

availability of capacity on the system, and, therefore, when throughput declines revenue declines commensurately, and VGS is assured of no revenues through reservation charges.

7. VGS contends that since VGS's currently-effective rates were established, VGS's throughput has declined to the extent that VGS is no longer able to recover its cost of service through its rates, let alone a reasonable return on its investment. VGS further contends that, during the twelve-month base period ending May 31, 2015, its transportation revenues totaled $4,910,010, compared with its $11,859,809 cost of service, as adjusted for the test period. VGS asserts that the rate change submitted with this filing is necessary if VGS is to have a reasonable opportunity to recover its cost of service going forward. VGS further asserts that, under current rates, VGS is barely able to cover its operation and maintenance expenses and part of depreciation, with no recovery of a return or negative salvage expense. VGS anticipates immediate revenue shortfalls due to expected further declines in throughput on its system even with a rate increase.

8. VGS's proposed rates are based on a net overall cost of service of $11,859,809 and billing determinants of 9,453,500 Dth. VGS proposes an annual depreciation expense of $5,747,407, including an allowance for negative salvage of $2,953,008. VGS projects that throughput as of February 29, 2016, the end of the test period, will be 25.9 MDth/d and has used this throughput level in designing the proposed rates.

9. VGS proposes a 9.67 percent overall rate of return and a debt-to-equity ratio of 44.03%:55.97%. VGS is proposing a return on equity (ROE) of 13.31 percent, based on a discounted cash flow (DCF) analysis and risk comparison between VGS and pipelines owned by the proxy companies included in the DCF analysis. VGS contends that a risk comparison study demonstrates that VGS faces exceptionally high business risks that merit setting its ROE at the midpoint between the median and the top end of the range of reasonable returns.

Notice

10. Notice of VGS's filing was issued on September 3, 2015. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.[4] Pursuant to rule 214,[5] all timely filed motions to intervene and any unopposed motions

[4] 18 C.F.R. §154.210 (2015).

[5] 18 C.F.R. § 385.214 (2015).

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 this proceeding or place additional burdens on existing parties. Helis Oil & Gas Company, L.L.C. and Superior Natural Gas Corporation; Arena Energy, LP; and EPL Oil & Gas, Inc., Fieldwood Energy LLC, SPN Resources, LLC, and W&T Offshore, Inc. (collectively the protestors) filed untimely motions to intervene and protests. VGS filed an answer to the protests and the protestors filed an answer to that answer (Answers).[6] The protestors request that the Commission accept and suspend the filing for the full five-month suspension period to become effective on March 1, 2016, subject to refund and the outcome of a hearing.

11. The protesters raise numerous concerns with VGS's proposal, including those related to the: (1) rate increase; (2) cost of service; (3) depreciation expense; (4) projected throughput; and (5) rate of return and return on equity.

Discussion

12. We believe that VGS's proposed rate changes raise issues which are best addressed in a hearing. Accordingly, we accept VGS's proposed tariff record for filing and suspend its effectiveness for the period set forth below, to become effective March 1, 2016, subject to refund and the conditions set forth in this order. The Commission finds that the proposed tariff record raises issues that require further investigation at a hearing before an Administrative Law Judge. Therefore, we set all issues in the subject filing for hearing.

Suspension

13. Based upon a review of the filing, the Commission finds that the proposed tariff record listed in the Appendix to this order has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept such tariff record for filing and

---

[6] The Commission's Rules of Practice and Procedure do not permit answers to protests or answers unless otherwise ordered by the decisional authority. 18 C.F.R. § 385.213(a)(2) (2015). However, the Commission finds good cause to accept the Answers since they will not delay the proceeding, may assist the Commission in understanding the issues raised, and will ensure a complete record. Further, VGS, in its Answer, does not oppose the late motions to intervene or acceptance of the protests. Therefore, we will accept the protests together with granting the late motions to intervene.

suspend its effectiveness for the period set forth below, subject to the conditions set forth in this order.

14. The Commission's policy regarding rate suspensions is that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards.[7] It is recognized, however, that shorter suspensions may be warranted in circumstances where suspensions for the maximum period may lead to harsh and inequitable results.[8] Such circumstances do not exist here. Accordingly, the Commission will suspend the revised tariff record listed in the Appendix to this order for five months and will permit it to take effect March 1, 2016, subject to refund and subject to the conditions set forth in the body of this order and the ordering paragraphs below.

The Commission orders:

(A) The tariff record listed in the Appendix to this order is accepted and suspended, to be effective March 1, 2016, subject to refund and conditions and subject to the outcome of the hearing established in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, 9, and 15 thereof, a public hearing will be held in Docket No. RP15-1237-000 concerning the lawfulness of VGS's filing.

(C) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. § 375.304 (2015), shall convene a prehearing conference in this proceeding to be held within twenty (20) days after issuance of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. The prehearing

---

[7] *See Great Lakes Gas Transmission Co.*, 12 FERC ¶ 61,293 (1980) (five-month suspension).

[8] *See Valley Gas Transmission, Inc.*, 12 FERC ¶ 61,197 (1980) (one-day suspension).

conference is for the purpose of clarification of the positions of the participants and consideration by the presiding judge of any procedural issues and discovery dates necessary for the hearing.

(D) The late motions to intervene are granted and the late protests are accepted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

Venice Gathering System, L.L.C.
FERC NGA Gas Tariff
FERC Gas Tariffs

Tariff record accepted and suspended to be effective March 1, 2016, subject to refund and conditions:

Sheet No. 4, Statement of Transportation Rates, 3.0.0