

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 30, 2006

In Reply Refer To:
Gulf South Pipeline Company, LP
Docket No. RP07-15-000

Gulf South Pipeline Company, LP
20 East Greenway Plaza, Suite 900
Houston, TX 77046

Attention: Michael E. McMahon, Sr. Vice President and General Counsel

Reference: Revised Tariff Provisions Governing System Use during Critical Periods
and Capacity Constraints

Ladies and Gentlemen:

1. On October 10, 2006, Gulf South Pipeline Company, LP (Gulf South) filed tariff sheets¹ revising sections 10, 12, and 19 of the General Terms and Conditions (GT&C) of its tariff to facilitate system management during Critical Periods and when capacity becomes constrained. Gulf South proposes the subject tariff sheets become effective December 1, 2006. For the reasons discussed below, we accept Gulf South's revised tariff sheets, to become effective December 1, 2006, as requested.
2. Gulf South states that certain areas of its system have experienced an increase in production over the last few years due to higher natural gas prices. As a consequence, use of Gulf South's system has increased, as shippers seek to move new gas supplies to market. These activities have changed the operational dynamics of Gulf South's system. Constrained² areas are more frequent, because certain producers or point operators deliver gas volumes in excess of scheduled quantities. This delivery of Unauthorized Gas creates gas imbalances and causes scheduling issues on the pipeline.

¹ These sheets are listed in the Appendix.

² Gulf South uses the term "constrained" to define operational circumstances where submitted nominations exceed available capacity on a particular portion of the pipeline system and the scheduling procedures of section 11.4 of the GT&C are used to allocate available capacity.

3. Currently, Gulf South's tariff defines "Unauthorized Gas" as gas delivered into the pipeline either without a scheduled nomination, or in amounts that exceed 120 percent of scheduled nominations. Unauthorized Gas volumes exceeding the 10,000 Dth monthly threshold are subject to the Unauthorized Gas penalty in section 20.2 of the GT&C. However, under Gulf South's imbalance resolution provision, shippers can reduce or eliminate any Unauthorized Gas volumes (under the 10,000 Dth monthly threshold) by trading or "cashing out" such imbalance volumes.

4. Gulf South claims it cannot schedule certain nominations because it must account for excessive deliveries and Unauthorized Gas when allocating capacity. Gulf South states that under its current tariff, it: (1) cannot discourage Unauthorized Gas production totaling less than 10,000 Dth per month through issuance of a Critical Period Notice, because it is not authorized to impose penalties for such production at receipt points; (2) can only impose penalties for excessive takes at delivery points equipped with electronic measurement (EFM); and, (3) cannot assess penalties for Unauthorized Gas deliveries unless they exceed 10,000 Dth for the month. As a result, Gulf South maintains that, in the absence of an Operational Flow Order, producers can deliver excess Unauthorized Gas quantities up to the 10,000 Dth month limit without financial repercussion.

5. Gulf South states that recent events on Index 59 illustrate the problem.³ During August 2006, nominations exceeded capacity causing constraint of gas receipts into Gulf South's Index 59. It asserts that the delivery of Unauthorized Gas volumes into its system exacerbated this situation, effectively forcing Gulf South to schedule less receipt gas in the constrained area than Gulf South's capacity should have allowed. During August 2006, it asserts, 88 percent of the 58 receipt locations on Index 59 delivered gas in excess of their scheduled quantities. Gulf South submits that while scheduled quantities for these receipt points during the month were 1,199,183 Dth, actual volumes received on Index 59 totaled 1,334,139 Dth, resulting in a 134,956 Dth long imbalance on that line. It states that, importantly, only 14,831 Dth of these volumes exceeded the 10,000 Dth monthly Unauthorized Gas safe harbor. Gulf South asserts that, by staying within the safe harbor, producers and receipt point operators only created imbalances and avoided the Unauthorized Gas penalties set forth in section 20.2 of the GT&C.

6. Gulf South asserts that the actions of the producers/point operators effectively precluded Gulf South from scheduling properly nominated quantities of more than 120,000 Dth of receipts during the month. Gulf South argues that the August 2006 example clarifies that producers/operators understand its penalties and tolerances and make decisions based upon its tariff provisions. Gulf South states that it designed the proposed tariff provisions to deter such conduct by holding producers and receipt point

³ Index 59 is a segment of Gulf South's pipeline system.

operators accountable for their gas receipts. Gulf South believes this will reduce instances when it cannot schedule nominations properly submitted by shippers.

7. Gulf South proposes to modify sections 10, 12, and 19 of its tariff, and the definition of Unauthorized Gas, to provide it the tools necessary to manage its system and reduce excessive deliveries. Specifically, Gulf South proposes to revise section 10.3 to provide that: (1) all customers submitting nominations (including No-Notice Customers) and using receipt or delivery points with EFM be subject to Critical Period penalties; and, (2) any customers using receipt or delivery points without EFM are expected to take steps to comply with a Critical Period Notice. In addition, Gulf South proposes to revise section 19.3 to impose a Critical Period penalty on all shippers that submit nominations that exceed daily scheduled nominations by more than 5 percent at either a receipt or delivery point with EFM.

8. Gulf South maintains that requiring shippers to manage gas flows at receipt points and delivery points, provides customers with incentives to comply with its notices and requests, and enables Gulf South to better manage its system. Gulf South contends that adoption of its proposal obligates the producers and receipt point operators to manage their businesses more efficiently. If customers persist in delivering excess volumes, however, Gulf South states that it will hold them accountable and penalize such actions, thereby protecting the rights of those customers following the rules established in the tariff.

9. In addition, Gulf South proposes an administrative modification to section 10 of its GT&C, designating e-mail as the default notification method when it issues a Critical Period Notice, unless the customer specifies another notification format. It asserts that this change acknowledges that e-mail is commonplace in the industry and an essential communication method for critical business notifications.

10. Gulf South also proposes to revise the definition of "Unauthorized Gas" to apply a tighter tolerance during periods when the pipeline operations are constrained. The current tariff provides that Unauthorized Gas includes gas received on any day: (1) without a scheduled nomination; and, (2) in excess of 120 percent of scheduled nominations. For constrained portions of the system, Gulf South proposes to redefine Unauthorized Gas as gas received on *any day in excess of 110 percent* of scheduled quantities. Gulf South also proposes to move the 10,000 Dth monthly safe harbor language from section 12 of the GT&C, which addresses allocation procedures, into the definition of Unauthorized Gas. In addition, Gulf South proposes to limit the application of the 10,000 Dth monthly safe harbor to unconstrained portions of the pipeline where the 120 percent tolerance would continue to apply for Unauthorized Gas. However, as mentioned above, the 10,000 Dth monthly safe harbor limit would not apply on constrained portions of the pipeline.

11. Gulf South states that it will determine when a portion of the pipeline system is a constrained area by evaluating nominations each cycle to determine if nominations exceed available pipeline capacity and if it needs shippers to schedule nominations to allocate available capacity. If nominations exceed available pipeline capacity on a particular portion of the pipeline, Gulf South states that it will identify the area as constrained and post a notification on its website. The proposed tariff provision states that Gulf South will not consider gas receipts exceeding 110 percent of scheduled nominations as Unauthorized Gas in any such constrained area until the calendar day after Gulf South posts a notice on its Internet web site. Gulf South states that this provision ensures that shippers have adequate notice that the lower Unauthorized Gas tolerances are in effect. Gulf South asserts that the proposed changes hold producers and receipt point operators accountable for activities at receipt points and provide them with the financial incentive to ensure that the gas they deliver into the pipeline does not exceed applicable scheduled quantities at the receipt point.

12. Finally, Gulf South proposes simplifying the allocation procedure for Unauthorized Gas and its default Allocation Procedure under sections 12.5 and 12.8 of its GT&C, respectively. In particular, proposed revised section 12.5 provides that Gulf South will allocate Unauthorized Gas to the point operator. Gulf South states that based upon its revision incorporating the 10,000 Dth monthly safe harbor provision in the definition of Unauthorized Gas, the allocation tolerance previously contained in section 12.8 is no longer needed. In addition, Gulf South states that the revised default allocation methodology includes the No-Notice Service Delivery Point language from Gulf South's existing 12.8 (a) language, and, absent a Predetermined Allocation Agreement, all remaining measured quantities are allocated on a pro rata basis.

13. Notice of Gulf South's filing was issued on October 19, 2006. Interventions and protests were due October 23, 2006, as provided in section 154.210 of the Commission's regulations.⁴ Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁵ all timely filed motions to intervene and any 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 this proceeding or place additional burdens on existing parties. On October 23, 2006, Lafayette Utilities System (Lafayette) filed a motion to intervene that included adverse comments. On November 9, 2006, Marabou Midstream Services, L.P. (Marabou) filed an out-of-time motion to intervene and protest.

14. Lafayette disputes Gulf South's assertion that unscheduled gas has created imbalances and scheduling problems. Lafayette argues that Gulf South's filing provides little support for the assertion that there is a problem, providing only a single example month, August 2006. Lafayette finds it unclear from the filing whether the problems of

⁴ 18 C.F.R. § 154.210 (2006).

⁵ 18 C.F.R. § 385.214 (2006).

August 2006 are the norm, an aberration, seasonal, or capable of an explanation other than Gulf South's assertion that "producers/operators understand the penalties and tolerances and make decisions based upon such tariff provisions."⁵ Lafayette maintains that Gulf South's filing essentially admits that Gulf South's tariff contains "perverse incentives" causing whatever problem exists. Lafayette objects that rather than eliminating the perverse incentives, Gulf South seeks to punish a broader class of customers.

15. Lafayette contends that the revisions to sections 10.3(b), (c), and (d) and 19.3 of its GT&C, which essentially strike the language "Customers responsible for balancing receipts and deliveries" and substitute "Any Customer," are not the right approach to solve the problem. Lafayette argues that the logical response is to eliminate the incentive to over-inject. Lafayette states that it is illogical to punish "any Customer." Lafayette asserts that Gulf South provided no evidence that the broader class of customers can influence the behavior of those that over-inject gas. Lafayette concludes that it is not just and reasonable to punish a customer for the behavior of a third party whose actions the customer does not control.

16. Marabou states that it represents several small oil and gas producers in East Texas and argues that it will be unjustly and unreasonably harmed and punished by Gulf South's proposed tariff revisions. Marabou asserts that Gulf South clearly discriminates against small producers with limited measurement capabilities in the Index 59 area, while not making the same demand of same size producers in different geographic areas of their jurisdiction. Marabou argues that Gulf South proposes select rules that will at least be anti-competitive, highly self serving, unfair and biased in all circumstances.

17. Marabou argues further that the proposed tariff revisions relieve the pipeline of fair and equitable treatment to producers which is clearly the basis of all interstate pipeline service providers and transporters. Marabou asserts that Gulf South seeks the Commission's permission to establish undue preferential treatment and discriminatory rules of conduct that will, in every instance, be detrimental and prejudicial. Therefore, Marabou states that, as representative of several producers adversely affected by this proposed tariff filing, it requests that the Commission deny Gulf South's proposed tariff revisions.

18. We find no merit in Lafayette's and Marabou's objections. Gulf South's revisions to sections 10.3(b), (c), and (d) and 19.3 of its GT&C are not intended to punish "any Customer," but to punish any customer over-injecting gas during Critical Periods pursuant to the Critical Period provisions. Gulf South states that it does not intend to penalize customers adhering to the Critical Period tariff provisions and the proposed tariff language is consistent with that intent and should not be interpreted otherwise. We also

⁵ Gulf South's filing at 3.

find no merit in Lafayette's comments that Gulf South failed to show an actual problem on its system. Gulf South explained the problem with its tariff, and illustrated it by means of an example. Finally, we find no merit in Marabou's argument that Gulf South's proposal unduly discriminates against small producers with limited measurement capabilities in the specific area discussed in the filing, *i.e.*, Index 59. Gulf South provided the August 2006 data for Index 59 only to illustrate the adverse effects of nominations exceeding supply in a constrained area. This is only an example and does not signal its intent to apply its proposed tariff revisions only to that area.

19. Gulf South's proposed revisions permit Gulf South to charge the Unauthorized Gas penalty for such unauthorized actions on *any* portion of its system defined as a "constrained area". In addition, Gulf South's tariff already provides that customers utilizing "...a point without EFM are expected to communicate with their Operators and take commercially reasonable steps to comply with the requirements of the Critical Period Notice."⁶ Thus, customers using points without EFM have procedures to meet the Critical Period Notice requirements. In addition, Gulf South's proposal applies to all customers using its transportation services, not just small customers with limited measuring capability. Therefore, Gulf South's proposed revisions are not discriminatory, but provide Gulf South with reasonable procedures to protect its system and customers.

20. In addition, section 22 of the GT&C allows for waivers of obligations of customers on a not unduly discriminatory basis, therefore providing a way for any customer to obtain relief from a penalty charge, if justified. Moreover, if a customer believes that Gulf South unduly discriminated when applying the penalties provisions, that customer may avail itself of the Commission's complaint procedures. Since Gulf South's proposed revisions serve to alleviate capacity constraint problems and do not harm customers complying with the Critical Period and Unauthorized Gas tariff provisions, we find them to be just and reasonable.

21. Accordingly, the Commission accepts the proposed tariff sheets, listed in the Appendix, to become effective December 1, 2006, as requested.

By direction of the Commission.

Magalie R. Salas,
Secretary.

⁶ Section 10.3(c) of the GT&C.

APPENDIX

**Gulf South Pipeline Company, LP
FERC Gas Tariff, Sixth Revised Volume No. 1**

Tariff Sheets accepted effective December 1, 2006

Fourth Revised Sheet No. 812

Fourth Revised Sheet No. 813

Original Sheet No. 814

Sheet Nos. 815 – 899

First Revised Sheet No. 1700A

Second Revised Sheet No. 1702

Second Revised Sheet No. 1703

Third Revised Sheet No. 1903

Third Revised Sheet No. 1904

Fifth Revised Sheet No. 1905

First Revised Sheet No. 2601