

124 FERC ¶ 61,145
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 5, 2008

In Reply Refer To:
Southern Natural Gas Company
Docket No. RP01-205-017

Southern Natural Gas Company
Post Office Box 2563
Birmingham, AL 35202

Attention: Patricia S. Francis
Senior Counsel

Reference: *Pro Forma* Master Firm Transportation Service Agreement Revisions

Dear Ms. Francis:

1. On July 11, 2008, Southern Natural Gas Company (Southern), filed proposed tariff sheets ¹ pursuant to section 4 of the Natural Gas Act (NGA) to allow for Southern to utilize a single Firm Transportation Service Agreement for multiple shippers affiliated with a single agent or asset manager and other revisions to comply with the Commission's June 13, 2008 order in the captioned docket.² As discussed below, we accept the tariff sheets to be effective August 1, 2008.

2. On May 14, 2008, Southern filed Master Service Agreement No. FSNG284 (Contract) under Southern's Rate Schedule FT. This contract is a single service agreement between Southern and Southern Company Services, Inc. (SCS), acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Savannah Electric and Power Company and Southern Power Company (SCS Affiliates) that combines several existing firm transportation agreements with no change in the underlying terms of service.

¹ The proposed tariff sheets are listed on the Appendix.

² *Southern Natural Gas Co.*, 123 FERC ¶ 61,263 (2008) (June 13 Order).

3. On June 13, 2008, the Commission found Southern's use of a single Master FT Agreement for several shippers constituted a material deviation from its *pro forma* service agreement. Therefore, the Commission directed Southern to either file to remove the single Master FT Agreement from the service contract, or file a revised *pro forma* service agreement, pursuant to section 4 of the NGA, to reflect these features so that the service may be offered to all eligible shippers in a manner that is not unduly discriminatory as part of Southern's generally applicable tariff.

4. Also, the Commission noted that Southern did not include in the Contract section 8.7 of its Rate Schedule FT *pro forma* agreement providing a contract demand reduction right because Southern asserted that section 8.7 was part of a settlement that was only applicable to certain local distribution companies, and that the provision would only be applicable to them if elected by the shipper. The Commission determined that Southern must file revised tariff sheets to clarify the availability of this contract demand reduction right, and the types of shippers that would be permitted to qualify for this right.

5. In the instant filing Southern proposes changes to its Rate Schedule FT *pro forma* service agreement to offer a single contract option for multiple shippers as a generally available tariff provision. Southern specifies a party can act as an agent for multiple shippers under one service agreement when the following conditions are met:

1. The shippers show that they have collectively met the "shipper must have title" test;
2. The shippers and agent demonstrate their agency relationship in writing and demonstrate they are jointly and severally liable to the obligations under the contract;
3. The shippers are willing to be treated collectively as one shipper for nomination, billing and allocation purposes under the contract.

6. In addition, Southern requests that the Commission clarify that the additional provisions added to the Rate Schedule FT *pro forma* service agreement to allow for the consolidation of contracts by multiple shippers do not have to be included on Service Agreements where the shipper is a single entity.

7. Further, pursuant to the directives of the June 13, 2008 Order, Southern proposes language to its tariff to clarify section 8.7 of the Rate Schedule FT *pro forma* service

agreement such that it applies only to local distribution companies eligible under Article XV, Paragraph 1(b) to the Stipulation and Agreement filed in Docket No. RP89-224-012.³

8. Public notice of the filing was issued on July 15, 2008. Interventions and protests were due on or before July 23, 2008, as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2008)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. The Alabama Municipal Distributors Group, the Austell Gas System, and The Southeast Alabama Gas District (Municipals) filed a protest.

9. Municipals argue that the benefits of the Master FT Agreement should be generally available to all firm shippers on the Southern system, instead of only the shippers that take service under Southern's firm transportation Rate Schedule FT. Specifically, Municipals assert that the Master Agreement benefits should also be available to shippers receiving storage and no-notice service under Southern's Rate Schedules CSS and FT-NN. Municipals state that many small shippers purchase firm transportation through Rate Schedule FT-NN and that the benefits from the Master FT Agreement should be made available to such shippers as well.

10. The Commission denies the Municipals' request. Under Southern's proposal, all customers are treated equally under the FT rate schedule and no distinction is made between small or large Rate Schedule FT customers regarding eligibility for a Master FT Agreement. Moreover, the Commission's review of Southern's Rate Schedule FT reveals that this rate schedule provides for a small customer charge under Rate Schedule FT.⁴ Therefore, small customers may avail themselves of the Master FT Agreement option while maintaining their small customer Rate Schedule FT charge. The Commission does not require that pipelines offer its shippers a master agreement option. Southern proposes to offer Master FT Agreements to all shippers under its Rate Schedule FT. The Municipals have not presented any compelling reason why the Commission

³ Southern's Transmittal letter at p. 2, cites the March 15, 1995 Stipulation and Agreement approved by the Commission in *Southern Natural Gas Co.*, 72 FERC ¶ 61,322 (1995).

⁴ Proposed section 1 (Availability) provides that the Master Agreement is available to "any party ... that requests transportation..." Proposed 5th Revised Sheet No. 35. Rate Schedule FT has a small customer classification consisting of those eligible for the small customer charge as of March 1, 2000. Section 3(b) of Rate Schedule FT, 9th Revised Sheet No. 37. Rate Schedule FT does not have a small customer classification for customers desiring new contracts for small quantities, or a contract minimum volume amount.

must require Southern to offer such a service to shippers under its other firm rate schedules, each of which entails the provision of storage service in addition to transportation service.

11. Further, Municipals argue that Southern stated that Master FT Agreement treatment will be made available based upon the condition that “[t]he shippers and agent . . . demonstrate they are jointly and severally liable to the obligations under the contract.” Municipals argue that there is no reason to require each shipper under a Master FT Agreement to be liable for the total payment obligations under the contract. Municipals contend that this requirement hinders the ability of small shippers to take advantage of a Master FT Agreement. Municipals assert that requiring a small shipper to be liable not only for its transportation entitlements, but also the transportation entitlements of larger shippers under the same master FT Agreement would prevent the small shipper from entering into a Master FT Agreement with larger shippers. Municipals argue that, given its tariff creditworthiness provisions, Southern should be able to require one creditworthy shipper or a creditworthy agent of the shippers to be liable for the transportation entitlements of a Master Agreement.

12. The Commission finds that Southern’s requirement that all participants in the Master FT Agreement be jointly and severally liable for all payment obligations under the agreement is reasonable. Under Southern’s proposal, the shippers entering into a Master FT Agreement do not each have their own separate, individual entitlements to service. Rather, the Master FT Agreement sets forth one overall contractual entitlement to service, which the shippers share. This gives each shipper under the agreement the potential ability to obtain service on any day up to the overall contractual entitlement under the agreement, so long as the overall service Southern provides under the agreement on that day does not exceed the overall contractual entitlement. In order for this arrangement to comply with the Commission’s shipper-must-have-title rule, each shipper under the Master FT Agreement must be considered to be a shipper under the entire agreement.⁵ That is only possible if all shippers under the Master FT Agreement are jointly and severally liable for all payment obligations for the total Master contract transportation quantity. If this joint and several obligation were not required, as

⁵ This policy prohibits entities without title to gas from utilizing pipeline capacity. *Texas Gas Transmission Corp.*, 97 FERC ¶ 61,250, at p. 62,111 (2001). The “shipper must have title” policy requires that the shipper transporting gas on the pipeline must have title to the gas supply being transported. *See e.g., Northern Illinois Gas Company and Southern California Gas Company*, 90 FERC ¶ 61,308 (2000). Conversely, shippers that have title to their gas commodity must also “own” and ship such gas under capacity for which they are obligated to the pipeline for payment.

suggested by the Municipals, then shippers under the Master Contract that are not liable for the total charges under the agreement would be in violation of the Commission's shipper-must-have-title policy to the extent they used capacity in excess of that for which they were liable to pay

13. Accordingly, the Commission finds that Southern's proposed tariff revisions to the Rate Schedule FT are just and reasonable and not unduly discriminatory. In addition, we find that Southern proposed tariff language adequately clarifies that section 8.7 of its pro forma service agreement applies to local distribution companies. Lastly, the Commission clarifies that the additional provisions added to the *pro forma* service agreement do not have to be included on Service Agreements where the shipper is a single entity. Therefore, Southern's proposed tariff revisions are accepted to be effective August 1, 2008, as requested. Upon the effective date of the proposed tariff sheets, the service contract addressed in the June 13, 2008 Order will qualify as a conforming agreement as defined by section 154.1(c) of the Commission's regulations [18 CFR § 154.1(c) (2008)] and, therefore, is not required to be on file with the Commission. Therefore, the Commission rejects the filed Contract as unnecessary.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Southern Natural Gas Company
Tariff sheets accepted effective August 1, 2008

Seventh Revised Volume No. 1

Fifth Revised Sheet No. 35
Second Revised Sheet No. 36
Tenth Revised Sheet No. 37
Third Revised Sheet No. 288
Third Revised Sheet No. 293
Third Revised Sheet No. 297