

125 FERC 61,011
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Trunkline LNG Company, LLC

Docket Nos. RP08-429-000
RP08-612-000
(Not Consolidated)

ORDER FOLLOWING TECHNICAL CONFERENCE APPROVING UNCONTESTED
SETTLEMENT AND REVISED TARIFF PROVISIONS

(Issued October 3, 2008)

1. On September 5, 2008, Trunkline LNG Company, LLC (TLNG) filed revised tariff sheets¹ in Docket No. RP08-612-000 to implement a new methodology for collecting reimbursement for fuel and electric power costs. TLNG proposes to replace its current fuel and electric power cost tracking methodology with a monthly flow through of the actual fuel and electric power costs. By agreement of the parties, the proposed filing will resolve all issues in the ongoing fuel and electric cost tracker proceeding set for technical conference by the Commission in Docket No. RP08-429-000.² For the reasons discussed below, we grant waiver of the Commission's 30-day notice requirements, treat the subject proceedings as resolved by uncontested settlement, and accept the tariff sheets listed in the Appendix to be effective October 1, 2008. Further, pursuant to the agreement, the Fuel Reimbursement Percentages (FRP) and Electric Power Cost Adjustment (EPC) conditionally accepted in RP08-429-000 are accepted without condition for the period of August and September 2008.

¹ See Appendix.

² *Trunkline LNG Company LLC*, 124 FERC ¶ 61,108 (2008).

Background

2. On June 30, 2008, in Docket No. RP08-429-000, TLNG filed a revised tariff sheet³ and supporting workpapers to reflect increases to the FRP and EPC pursuant to Sections 19 and 20, respectively, of its tariff's General Terms and Conditions (GT&C). Under its currently effective tariff, TLNG must make a filing each year to adjust its FRP and EPC, to be effective August 1. The FRP and EPC are both comprised of two components: a current adjustment based on projected costs, and a surcharge to true-up over or under-recovered costs in the prior recovery period.
3. The Section 19 FRP calculation is based on projections of Regasified LNG delivered by TLNG during the recovery period. The revised tariff sheet reflected a 0.59 percent increase (from 1.68 to 2.27 percent) in the FRP under Rate Schedules FTS, FTS-2, ITS and ITS-2.
4. The Section 20 EPC calculation is based on quantities of LNG to be received during the recovery period. The revised tariff sheet reflected a \$0.2245 per Dt increase (from \$0.0390 to \$0.2635 per Dt) in the EPC under Rate Schedules FTS, FTS-2, ITS and ITS-2.
5. On July 14, 2008, BG LNG Services, LLC (BGLS) filed a protest arguing that TLNG did not provide justification for the throughput quantities that TLNG used to derive the current and surcharge components of the FRP and EPC adjustments. BGLS requested that the Commission suspend the effectiveness of the tariff sheets for the maximum five-month period, or to the extent the Commission accepted the revised filing, attach a refund condition, and direct TLNG to provide justification for the throughput quantity that TLNG used to derive the projected annual fuel and electric power surcharges or modify the calculations. On July 23, 2008, TLNG filed an answer to BGLS's comments requesting that the Commission deny BGLS's protest and request for suspension.
6. On July 29, 2008, the Commission issued an order⁴ accepting and suspending the tariff sheet, to become effective August 1, 2008, subject to refund and a technical conference established to address the issues raised by the filing.

³ Fourteenth Revised Sheet No. 5 to its FERC Gas Tariff, Second Revised Volume No. 1-A.

⁴ *Trunkline LNG Company LLC*, 124 FERC ¶ 61,108 (2008).

Technical Conference Proceedings in Docket No. RP08-429-000

7. The technical conference was held on September 9, 2008. Prior to the technical conference, the parties engaged in informal settlement talks which resulted in TLNG filing revised tariff sheets on September 5, 2008, in Docket No. RP08-612-000, that included a new proposal for collecting reimbursement for fuel and electric power costs to be effective October 1, 2008, including a special provision for the reimbursement of deferred fuel and electric power balances, to settle the Docket No. RP08-429-000 proceeding. In Joint Comments on Technical Conference and Joint Statement of Position filed September 12, 2008, the parties state that all issues raised by BGLS's protest in Docket No. RP08-429-000 have been resolved. Citing 18 C.F.R. § 385.602 (2008), the parties state that both TLNG and BGLS understand that Commission acceptance and approval of the September 5, 2008 tariff filing, and termination of Docket No. RP08-429-000, will have no precedential effect. Further, they state that the standard of review for any proposed modifications will be the most stringent standard permissible under applicable law.

8. The parties state that TLNG, in cooperation with BGLS, developed a revised method for allocating reimbursement for fuel and electric power costs and that TLNG filed revised tariff sheets with the Commission on September 5, 2005, in Docket No. RP08-612-000 that reflect the agreed collection methodology. The parties state that BGLS has agreed to reimburse TLNG for the actual balances in the deferred fuel account and deferred electric power cost account when the proposed tariff revisions become effective. The parties state that they agree and fully support that (1) the tariff sheets submitted in the September 5, 2008 filing in Docket No. RP08-612-000 should be made effective October 1, 2008 and (2) the effective fuel reimbursement percentage and effective electric power cost surcharge as filed in Docket No. RP08-429-000 should remain in effect for the short two month transition period and any refund conditions should be eliminated. Further, they state that this filing evidences an agreement between the parties on the issues. Finally, they state that both parties agree that the issues raised in Docket No. RP08-429-000 have been resolved and the tariff provisions in Docket No. RP08-612-000 should be implemented.

Filing in RP08-612-000

9. TLNG states that the purpose of this filing, made in accordance with section 154.204 of the Commission's regulations,⁵ is to revise the method of reimbursement for fuel and electric power costs.

⁵ 18 C.F.R. § 154.204 (2008).

10. TLNG states that the economics of world wide LNG marketing have substantially reduced LNG cargoes destined for the TLNG terminal in Lake Charles, Louisiana. TLNG states that it received its last LNG shipment in October, 2007, and that deliveries of regasified LNG have been reduced to the minimum daily delivery quantity required to protect terminal integrity. Although TLNG anticipates receiving an LNG cargo in September 2008, it does not expect any additional cargoes at the terminal until the spring of 2009.

11. TLNG states that under its currently effective FERC Gas Tariff, Section 19, the recovery of projected fuel use and lost or unaccounted for gas as well as the deferred fuel reimbursement account are based on projected deliveries of regasified LNG leaving the LNG terminal for Shippers' accounts. TLNG states that without regular activity at its terminal, it lacks the ability to recover its fuel usage, and this becomes a dilemma when it continues to hold a receivable in its deferred fuel reimbursement account. TLNG reports that the balance of the deferred fuel reimbursement account as of March 31, 2008 was 191,279 Dt, and it has grown to 224,137 Dt as of July 31, 2008. According to TLNG, a lack of deliveries of regasified LNG results in no recovery of its deferred fuel account.

12. Additionally, TLNG states that under its currently effective FERC Gas Tariff, Section 20, the recovery of projected electric power costs and the deferred power cost account are based on received quantities of LNG from tankers unloading at the LNG terminal, and if no shipment of LNG is unloaded at the terminal, electric power costs are not recovered. However, according to TLNG, unlike Section 19 where natural gas is used primarily to fuel the regasification of LNG, TLNG experiences incremental electric power costs on a monthly basis whether ships unload or not. TLNG states that without receiving quantities of LNG, upon which the recovery of electric power costs are based, the actual electric power costs accumulate in the deferred electric power account, which had a balance of \$1,783,141 as of March 31, 2008, and has grown to \$3,523,975 as of July 31, 2008. TLNG states that under the current Section 20 electric power cost tracking mechanism, the lack of shipments to the TLNG terminal results in an escalating deferred electric power cost account, which would result in an untenably high surcharge that it may only hope to start recovering in August 2009.

13. TLNG states that the purpose of its proposed fuel and electric power tracking mechanism is to replace the volumetric fuel reimbursement percentage and electric power cost surcharge with a monthly flow through of the actual fuel and electric power costs. TLNG contends this will result in the matching the incurrence and reimbursement of the costs as closely as possible. Each shipper would be allocated its pro rata share of fuel and electric power costs.

14. TLNG states that since shippers will be reimbursing TLNG's actual monthly fuel and electric power costs, the deferred account mechanism will no longer be required and has been removed from proposed Section 19 and Section 20 of the GT&C. Further, TLNG states BGLS has agreed to reimburse it for the actual balances in the deferred fuel

account and deferred electric power cost account when the proposed tariff revisions become effective October 1, 2008. Proposed Section 19.2 and Section 20.2 state that shippers are responsible for their proportionate share of TLNG's unrecovered deferred account balances. TLNG states that the proposed mechanisms insure that shippers utilizing the terminal will reimburse TLNG for the actual fuel or electric power costs on a timely basis.

15. TLNG requests that the proposed tariff sheets be accepted October 1, 2008, without further action from TLNG and requests waiver of the notice requirements of section 154.207 of the Commission's regulations to permit the proposed effective date of October 1, 2008.

Public Notice and Comments

16. Notice of TLNG's filing was issued on September 8, 2008. Interventions and protests were due as provided in section 154.210 of the Commission's regulations, 18 C.F.R. § 154.210 (2008). 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. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. No protests were filed. As noted above, on September 12, 2008, TLNG and BGLS filed joint comments in both Docket No. RP08-429-000 and Docket No. RP08-612-000 in support of the proposed revised fuel and electric power tracking mechanism submitted in Docket No. RP08-612-000.

Discussion

17. We find that the revised tracker mechanism filed in Docket No. RP08-612-000 resolves all issues in the underlying proceeding in Docket No. RP08-429-000 in a fair and reasonable manner. Although filed as a new tariff change under section 4 of the Natural Gas Act, thereby requiring action on that basis, the filing and associated technical conference comments are intended to be, and therefore will be treated as, an uncontested settlement pursuant to Rule 602 of the Commission's Rules of Practice and Procedure⁶ of all issues in the Docket No. RP08-429-000 proceeding. We find that the settlement of these proceedings is fair and reasonable and in the public interest and approve the settlement.

18. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

⁶ 18 C.F.R. § 385.602 (2008).

The Commission orders:

(A) Waiver of the Commission's 30-day notice requirement is granted and the tariff sheets listed in the Appendix are accepted effective October 1, 2008, in settlement of the proceeding in Docket No. RP08-429-000.

(B) The proceedings in Docket No. RP08-429-000 are terminated. The tariff sheet conditionally accepted by the July 29, 2008 Order in Docket No. RP08-429-000 is accepted without condition for the period of August 1, 2008 through September 30, 2008. By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix

Trunkline LNG Company, LLC
FERC Gas Tariff, Second Revised Volume No. 1-A

Tariff Sheets Accepted Effective October 1, 2008:

Fifth Revised Sheet No. 2
Sixteenth Revised Sheet No. 5
Fourth Revised Sheet No. 6
First Revised Sheet No. 21
First Revised Sheet No. 22
Second Revised Sheet No. 23
Second Revised Sheet No. 25
First Revised Sheet No. 26
First Revised Sheet No. 31
First Revised Sheet No. 32
First Revised Sheet No. 33
First Revised Sheet No. 35
First Revised Sheet No. 36
Second Revised Sheet No. 52
Second Revised Sheet No. 123
First Revised Sheet No. 124
Second Revised Sheet No. 125
First Revised Sheet No. 126
First Revised Sheet No. 157
Second Revised Sheet No. 189