

130 FERC ¶ 61,250
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
and John R. Norris.

Florida Gas Transmission Company, LLC

Docket Nos. RP10-21-001
RP10-21-002
RP10-21-003

ORDER ON REHEARING, COMPLIANCE,
AND MOTION TO PLACE TARIFF SHEETS INTO EFFECT

(Issued March 26, 2010)

1. On October 1, 2009, Florida Gas Transmission Company, LLC (Florida Gas) filed revised tariff sheets pursuant to section 4 of the Natural Gas Act (NGA) proposing a rate increase for existing services and certain changes to its General Terms and Conditions (GT&C) (initial filing). On October 30, 2009, the Commission issued an order on Florida Gas' filing, which, among other things, required Florida Gas to make a compliance filing addressing certain issues.¹ On November 30, 2009, Florida Power & Light Company (FPL) filed a request for clarification and/or rehearing of the October 30, 2009 Order. On December 7, 2009, Florida Gas submitted its compliance filing. On March 1, 2010, Florida Gas filed a motion to place certain tariff sheets into effect as of April 1, 2010. As discussed below, the Commission (1) grants in part and denies in part, the request for clarification and/or rehearing; (2) accepts tariff sheets filed in response to the October 30, 2009 Order; (3) grants permission to withdraw certain tariff sheets in order to comply with the October 30, 2009 Order; (4) rejects Florida Gas' proposal to establish ownership of waste heat generated from pipeline or compressor operations; (5) accepts Florida Gas' proposal to change its gas quality standard in the Market Area;² (6) refers to a settlement judge the remaining gas quality proposal to allow Florida Gas to

¹*Florida Gas Transmission Co., LLC*, 129 FERC ¶ 61,092 (2009) (October 30, 2009 Order).

² Florida Gas' system is divided into two service regions: the Western Division and the Market Area. The Western Division consists of all portions of Florida Gas' system located west of the Alabama/Florida state line. The Market Area consists of all portions of its system located within Florida.

post gas quality standards for gas flowing from the Western Division into the Market Area; and (7) accepts Florida Gas' motion to place certain tariff sheets into effect as of April 1, 2010 subject to Florida Gas removing any costs associated with facilities not placed into service by the end of the test period from its rates.

I. Background

2. On October 1, 2009, in its initial filing, Florida Gas filed revised tariff sheets pursuant to section 4 of the NGA proposing a rate increase for existing services to be effective November 1, 2009. Florida Gas also proposed changes to various rate schedules as well as to its GT&C. Florida Gas stated that its currently effective rates are the result of a settlement in its last NGA general section 4 rate case (2004 Settlement)³ and that its filing of the current rate case fulfills its obligation under the 2004 Settlement to file a general rate case no later than October 1, 2009.

3. Florida Gas proposed, *inter alia*, to (1) remove the capital surcharge tracker from its GT&C, (2) include expenses for monitoring greenhouse gases in its cost of service, (3) require electronic execution of service agreements and amendments to service agreements, (4) establish Florida Gas' ownership of any waste heat generated from pipeline or compressor operations, (5) change the gas quality standard in the Market Area from an existing 0.12 mole percent C5+ limit to a cricondentherm hydrocarbon dew point (CHDP) of 25 degrees Fahrenheit, and (6) allow Florida Gas to post gas quality standards for gas flowing from the Western Division into the Market Area as necessary.

4. On October 30, 2009, the Commission issued an order accepting some of Florida Gas' proposed tariff sheets to be effective November 1, 2009 and accepting and suspending the remaining proposed tariff sheets to be effective April 1, 2010, subject to conditions and the outcome of a hearing. In addition, the October 30, 2009 Order directed Florida Gas to submit a compliance filing within 30 days (1) removing the proposed provision that would have required service agreements and amendments to service agreements be executed electronically, and replacing it with a provision that makes electronic execution an option; (2) answering questions posed by the Commission regarding its waste heat proposal; and (3) answering questions posed by the Commission regarding its gas quality proposal.

5. On November 30, 2009, FPL filed a request for clarification and/or rehearing of the Commission's decisions to refer Florida Gas' proposal to remove the capital surcharge tracker from its tariff to a hearing and to allow Florida Gas to include expenses for greenhouse gas costs in its rates.

³ *Florida Gas Transmission Co., LLC*, 109 FERC ¶ 61,320 (2004).

6. On December 7, 2009, Florida Gas made its compliance filing. Public Notice of the filing was issued on December 9, 2009. Protests were due as provided in Rule 211 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.211 (2009). FPL, Indicated Shippers,⁴ and Peoples Gas System, a division of Tampa Electric Company, and Tampa Electric Company (collectively, Tampa Electric) filed protests to the compliance filing.

7. On January 15, 2010, the Commission issued a data request in order to gather further data to ensure a complete record, with comments due on February 24, 2010. The data request directed Florida Gas to provide additional temperature and CHDP data for specified chromatographs on an hourly basis, if available, for the months of January 2009, June 2009, and December 2009. Florida Gas filed an answer to the data request on February 4, 2010.

8. On March 1, 2010, Florida Gas filed a motion to place certain tariff sheets into effect as of April 1, 2010, as part of its FERC Gas Tariff, Fourth Revised Volume No. 1. Public Notice of the filing was issued on March 2, 2010 with comments due on March 15, 2010. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2009), all timely 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. Associated Gas Distributors of Florida, Inc.; Indicated Shippers; Florida Cities;⁵ Florida Municipal Natural Gas Association;⁶ United States Gypsum Company; Tropicana Manufacturing Company, Inc.; Seminole Electric Cooperative, Inc.; Florida Power Corporation d/b/a Progress Energy Florida, Inc.; Virginia Power Energy Marketing, Inc.; and Peoples Gas System, a division of Tampa Electric Company, Tampa Electric Company, and Florida Power & Light Company (Protestors) filed protests. On March 23, 2010, Florida Gas filed an answer to the various protests. On March 25, 2010, Peoples Gas System, a division of Tampa Electric Company; Tampa Electric Company; Florida cities; and

⁴ The Indicated Shippers include: BP America Production Company and BP Energy Company; Chevron U.S.A. Inc.; ExxonMobil Gas & Power Marketing Company, a division of Exxon Mobil Corporation; and Shell Offshore, Inc.

⁵ Florida Cities include: Orlando Utilities Commission, Lakeland Electric, the City of Tallahassee, City of Gainesville d/b/a Gainesville Regional Utilities, and Florida Gas Utility.

⁶ FMNGA includes: City of Chattahoochee, City of Clearwater Gas System, Crescent City Natural Gas, City of DeFuniak Springs, City of Floral, Geneva County Gas District, Lake Apopka Natural Gas District, City of Leesburg, City of Live Oak, City of Madison, Okaloosa Gas District, Palatka Gas Authority, City of Perry, Southeast Alabama Gas District, and City of Sunrise.

Florida Power & Light Company (collectively, Joint Parties) filed an answer to Florida Gas' March 23, 2010 answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept the answers because they have provided information that assisted us in our decision-making process.

II. Rehearing Request

A. Background

9. Florida Gas' proposals in its initial filing included removal of the capital surcharge tracker provision from its GT&C and inclusion of the costs of monitoring greenhouse gases in its proposed cost of service in anticipation of the issuance of an Environmental Protection Agency rule (EPA Rule)⁷ that Florida Gas represented would require annual monitoring of greenhouse gas emissions at compressor stations along Florida Gas' system.

10. The Commission's October 30, 2009 Order directed, *inter alia*, that Florida Gas' proposal to remove the capital surcharge tracker from its GT&C be explored at a hearing,⁸ and accepted and suspended the relevant proposed revised tariff sheets to be effective April 1, 2010 subject to the outcome of the hearing.⁹ The October 30, 2009 Order also found that Florida Gas may include expenses for monitoring greenhouse gases in its rates, provided that Florida Gas remove the greenhouse gas costs from its rates if the EPA Rule does not go into effect prior to the effective date of April 1, 2010.¹⁰

B. FPL's Request for Rehearing

11. In its request for clarification and/or rehearing, FPL argues that the Commission should have accepted Florida Gas' proposal to remove the capital surcharge tracker without setting that proposal for hearing. FPL argues that the 2004 Settlement requires that the capital cost tracker and surcharge cease on the effective date of revised rates filed

⁷ In its initial filing, Florida Gas stated that the proposed EPA Rule, "Mandatory Reporting of Greenhouse Gases," was published in the *Federal Register* on April 10, 2009 and would require the annual monitoring of greenhouse gas emissions at compressor stations along Florida Gas' system.

⁸ October 30, 2009 Order, 129 FERC ¶ 61,092 at P 34.

⁹ *Id.* P 36.

¹⁰ *Id.* P 27.

by Florida Gas in this NGA section 4 general rate case.¹¹ FPL further argues that the Commission's decision not to accept the proposed removal of the capital surcharge tracker and to set the issue for hearing might allow the surcharge to remain in effect past the April 1, 2010 effective date of the revised rates in contravention of the terms of the 2004 Settlement.

12. FPL also argues that the Commission should have clarified in its October 30, 2009 Order that Florida Gas' recovery of expenses for monitoring greenhouse gases is contingent on the EPA adopting a greenhouse gas monitoring requirement for interstate pipelines. FPL states that the October 30, 2009 Order could be interpreted as allowing Florida Gas to recover expenses for monitoring greenhouse gases as long as the EPA Rule goes into effect prior to April 1, 2010, regardless of whether the final EPA Rule actually includes a monitoring requirement for interstate pipelines. FPL represents that the final EPA Rule was issued on October 30, 2009 and that contrary to the proposed rulemaking, the final EPA Rule does not include a provision requiring interstate pipelines to monitor or report greenhouse gas emissions. FPL contends that now that the EPA Rule has been issued and does not require such monitoring by Florida Gas, the Commission should grant rehearing and reject Florida Gas' proposed recovery of expenses for monitoring greenhouse gases.

C. Discussion

13. For the reasons set forth below, we grant in part and deny in part the request for clarification and/or rehearing of the October 30, 2009 Order.

14. Upon review, we determine that Florida Gas acted in accordance with the 2004 Settlement in proposing that the capital surcharge tracker provision be removed from its GT&C. We therefore grant rehearing of the October 30, 2009 Order on this issue and accept First Revised Sheet No. 330, First Revised Sheet No. 331, and First Revised Sheet No. 332 effective April 1, 2010.

15. The October 30, 2009 Order found that Florida Gas could include expenses for monitoring greenhouse gases in its rates provided that the pending EPA Rule, which might impose such costs, goes into effect prior to April 1, 2010. As discussed below, on

¹¹ Article IX, Section 1 of the 2004 Settlement provides: "Collection of the Capital Surcharge shall cease effective on the date of termination of the Settlement Term, as defined in Article XV, Section 5." Article XV, Section 5 provides: "the term of the Settlement ('Settlement Term') shall commence on the Effective Date and shall terminate upon the effective date of revised rates: (a) filed by FGT in a subsequent NGA section 4 general rate case that complies with the limitations established in Article XII, or (b) established in an NGA section 5 proceeding that results in changes to FGT's base rates for service."

March 1, 2010, Florida Gas filed revised tariff sheets to remove the greenhouse gas monitoring costs from its rates in compliance with the October 30, 2009 Order because the provisions of the EPA Rule related to oil and gas were deferred and will not be addressed prior to April 1, 2010. The Commission therefore dismisses the request for clarification and/or rehearing on this issue as moot.

III. Compliance Filing

A. Electronic Execution of Service Agreements and Amendments to Service Agreements

1. Background

16. Florida Gas proposed in its initial filing to require electronic execution of service agreements and amendments to service agreements. In the October 30, 2009 Order, the Commission directed Florida Gas to revise its tariff sheets by submitting a compliance filing within 30 days eliminating the mandatory electronic execution provisions and replacing them with provisions giving shippers an option to execute service agreements and amendments to service agreements electronically.

17. Florida Gas' compliance filing includes revised tariff sheets¹² that make the electronic execution of service agreements and amendments to service agreements optional. In addition, Florida Gas requests special permission to withdraw tariff sheets¹³ submitted in its initial filing in order to remove the mandatory electronic execution provisions as required by the October 30, 2009 Order.

2. Protests and Comments

18. No protests or comments were filed.

3. Discussion

19. Florida Gas' compliance filing regarding the electronic execution of service agreements and amendments to service agreements complies with the October 30, 2009

¹² FERC Gas Tariff, Fourth Revised Volume No. 1, Substitute First Revised Sheet No. 96 and Substitute Second Revised Sheet No. 206.

¹³ FERC Gas Tariff, Fourth Revised Volume No. 1, First Revised Sheet No. 32, First Revised Sheet No. 48, First Revised Sheet No. 59, First Revised Sheet No. 74, First Revised Sheet No. 81, First Revised Sheet No. 89, First Revised Sheet No. 105, First Revised Sheet No. 223, and First Revised Sheet No. 326.

Order. Accordingly, the Commission accepts Florida Gas' revised tariff sheets effective April 1, 2010 and grants Florida Gas' request to withdraw the specified tariff sheets.

B. Waste Heat Recovery

1. Background

20. Florida Gas proposed in its initial filing to add section 24.A to its GT&C to provide that Florida Gas shall own any waste heat generated from its pipeline or compressor operations. The Commission concluded in its October 30, 2009 Order that Florida Gas had not adequately supported its waste heat proposal and required Florida Gas to make a compliance filing answering several questions. Specifically, the Commission required Florida Gas to explain: (1) whether Florida Gas plans on owning and/or operating any waste heat generating facilities; (2) how the costs will be recovered; and (3) whether Florida Gas will credit customers for the value it expects to realize from waste heat generation.¹⁴

21. Florida Gas filed responses to these questions in Appendix C to its compliance filing. In response to the question of whether Florida Gas plans to own and/or operate any waste heat generating facilities, Florida Gas states that it has identified two compressor stations on its system that meet the criteria outlined in the Interstate Natural Gas Association of America White Paper, *Waste Energy Recovery Opportunities for Interstate Natural Gas Pipelines*, dated February 2008 (INGAA White Paper).¹⁵ Florida Gas further states that there may be additional compressor station locations on its system that would also meet the criteria.

22. In addition, Florida Gas states that it has not proposed to include any costs, investment, or revenue from any waste heat facility in this rate case. Rather, Florida Gas argues that the tariff filing serves simply to clarify ownership of the waste heat and to indicate that the treatment of revenues, expenses, and appropriate cost recovery will be dealt with in a certificate or rate filing in the future. Finally, Florida Gas states that any such determination would only be made at the time of an associated certificate filing or rate proceeding where such costs are at issue.

¹⁴ October 30, 2009 Order, 129 FERC ¶ 61,092 at P 29.

¹⁵ Florida Gas states that the primary criteria outlined in the White Paper is a gas turbine compressor station with a minimum of 15,000 horsepower and station operation at more than 5,250 hours per year over the previous twelve months, a minimum load factor of approximately 60 percent.

2. Protests and Comments

23. Tampa Electric argues in its protest that Florida Gas' compliance filing is vague and spartan, and that Florida Gas has not met its burden to prove that the waste heat proposal is just and reasonable. Specifically, Tampa Electric argues that Florida Gas has provided no support for its claim of ownership over waste heat generated from its operations and has failed to adequately explain the consequences of its waste heat proposal, such as how Florida Gas would treat operation and maintenance costs, administrative and general costs, fuel/electric power costs, and other potential costs. Tampa Electric further argues that Florida Gas' waste heat proposal is premature because it has no current plans regarding facilities associated with waste heat recovery and is not currently seeking to recover any costs associated with waste heat facilities or operations.¹⁶ Tampa Electric urges the Commission to reject Florida Gas' waste heat proposal without prejudice to resubmission when more specific and complete facts and circumstances are known. If the Commission declines to reject Florida Gas' waste heat proposal, Tampa Electric requests that the Commission revise the proposal to provide that Florida Gas' customers will be entitled to the crediting of any and all revenues received by Florida Gas from jurisdictional investments and operations associated with waste heat recovery facilities where costs of such facilities are recovered from ratepayers.

24. FPL argues in its protest that Florida Gas has not made a specific proposal for use of waste heat and therefore the issue of ownership of waste heat is not ripe for review. FPL argues that consequently, Florida Gas' waste heat proposal should be rejected. In support of this position, FPL notes that in its compliance filing, Florida Gas indicates that it has no specific plans for recovery of waste heat and is unwilling to answer questions such as how any revenue derived from waste heat recovery operations through jurisdictional facilities should be credited to the firm customers who have paid for those facilities. FPL asserts that the issue of ownership of waste heat should be addressed in the context of a clear proposal where issues such as treatment of revenues, expenses, and appropriate cost recovery can also be addressed.

3. Discussion

25. As noted above, Florida Gas has identified two compressor stations on its system that meet the criteria outlined in the INGAA White Paper and has stated that additional compressor station locations on its system might also meet those criteria. Nevertheless,

¹⁶ Tampa Electric attached to its protest a copy of a data response filed by Florida Gas on February 12, 2009 in a Phase VIII certificate proceeding in Docket No. CP09-17-000 in response to a request by Commission Staff for information about Florida Gas' waste heat recovery plans. Tampa Electric asserts that Florida Gas' data response reflects its uncertainty about its plans for waste heat recovery facilities.

Florida Gas has not shown that it will work with creditworthy, third-party waste heat developers or it will own and/or operate such facilities. Nor has Florida Gas shown how the costs of these waste heat recovery facilities would be recovered. Thus, we agree with protestors that Florida Gas' proposed tariff revision, which provides that it will own any waste heat generation from its pipeline compressor operations, is premature. If Florida Gas brings a specific proposal to the Commission regarding the development of waste heat recovery at one or more of its compressor stations, the Commission will address any issues raised by the application at that time. Accordingly, the Commission rejects Florida Gas' proposed tariff language on waste heat ownership without prejudice to Florida Gas filing a proposal to engage in waste heat recovery when more specific facts and circumstances are known. We direct Florida Gas, within 30 days of the issuance of this order, to file revised tariff sheets in accordance with this determination.

C. Gas Quality

1. Background

26. In Opinion No. 495,¹⁷ the Commission limited certain proposed changes to Florida Gas' gas quality standards to the Market Area only, creating different standards for Florida Gas' Market Area and Western Division. For example, under the existing tariff, there is no high HHV limit, Wobbe Index, or constituent constraints for Western Division sourced gas as there is for Market Area sourced gas. In its initial filing, Florida Gas proposed tariff provisions allowing it to apply the gas quality standards for its Market Area to gas flowing from the Western Division into the Market Area as necessary to ensure that the gas meets applicable specifications for the Market Area. Florida Gas also proposed a change to its Market Area gas quality provision to substitute its existing 0.12 mole percent C5+ limit with a CHDP of 25 degrees Fahrenheit. The Commission concluded in its October 30, 2009 Order that Florida Gas did not adequately support its gas quality proposals and required Florida Gas to make a compliance filing answering certain specific questions, as well as any other issues raised by the parties.¹⁸

27. Florida Gas filed responses to the Commission's and parties' questions in Appendix D to its compliance filing. Specifically, Florida Gas states that its proposed CHDP of 25 degrees Fahrenheit is less stringent than its currently effective 0.12 mole percent C5+ specification, which Florida Gas states equates to an approximate CHDP of 19 degrees Fahrenheit. Florida Gas asserts that gas can consistently be delivered with a CHDP level of 25 degrees Fahrenheit with no liquid fallout. In addition, Florida Gas

¹⁷ *AES Ocean Express LLC v. Florida Gas Transmission Co., et al.*, Opinion No. 495, 119 FERC ¶ 61,075 (2007), *order on reh'g*, Opinion No. 495-A, 121 FERC ¶ 61,267 (2007), *order on reh'g*, Opinion No. 495-B, 125 FERC 61,137 (2008).

¹⁸ October 30, 2009 Order, 129 FERC ¶ 61,092 at P 30.

states that a CHDP level of 25 degrees Fahrenheit is consistent with standards on Gulfstream Natural Gas System, LLC's system, which delivers a significant quantity of gas directly into Florida Gas' Market Area system. Florida Gas states that experience has shown that if the 0.12 mole percent C5+ standard is applied on the entire Florida Gas system, there will be some sources of gas which will not be available to shippers. Therefore, Florida Gas believes that the less stringent 25 degrees Fahrenheit CHDP standard represents a fair technical balance for all Florida Gas stakeholders and is comparable to other pipeline specifications existing within Florida Gas' Market Area.

28. In addition, Florida Gas explains in its compliance filing how its proposal to post gas quality standards on gas entering the Western Division will be implemented on its system. If Florida Gas determines that the commingled gas stream entering the Market Area from the Western Division does not meet the Market Area gas quality specifications, Florida Gas states that it will establish and post on its internet website a limit on CHDP for receipts in the Western Division as needed to prevent hydrocarbon liquid fallout at interconnects with interstate pipelines, intrastate pipelines, end users, directly connected electric generation, industrial, and local distribution companies. Florida Gas also states that it will notify its customers as soon as possible, but in any event will post a new standard at least 24 hours prior to implementation. Florida Gas states that the posted standard will apply for the period of time necessary to bring the blended gas stream in the Western Division entering the Market Area at Compressor Station 12 (first downstream of the Western Division/Market Area demarcation point) into compliance.

29. Furthermore, Florida Gas proposes to administer the posted limits on active individual well connections by monitoring such points through periodic gas sample analysis. Florida Gas states that when the Market Area CHDP measured at Compressor Station 12 approaches 25 degrees Fahrenheit, Florida Gas plans to evaluate the Western Division receipts to determine the need for any limits and the period such limits should apply.

2. Protests and Comments

30. FPL argues in its protest to the compliance filing that the Commission should (1) reject Florida Gas' proposal to impose gas quality specifications on an ad hoc basis for specific receipt points or pipeline segments in the Western Division; (2) reject or set for technical conference Florida Gas' proposal to move from an existing tariff standard of 0.12 mole percent C5+ to a CHDP standard of 25 degrees Fahrenheit; and (3) require Florida Gas to provide better and more timely operational information on natural gas quality and pipeline operations.

31. Specifically, FPL argues that Florida Gas' compliance filing does not provide enough detail for end-users to confirm that the move to a 25 degrees Fahrenheit CHDP

will not result in liquid drop out on Florida Gas' or downstream customers' systems. FPL states that in order to make an appropriate assessment of the impact of a broader CHDP standard and to confirm that the move to a 25 degrees Fahrenheit CHDP is just and reasonable, FPL needs temperature data and CHDP data at specific chromatographs receipts on Florida Gas' system on an hourly basis for the months of January 2009, June 2009, July 2009, and December 2009.

32. FPL also argues that Florida Gas' compliance filing does not adequately address customers' concerns that its proposal to post gas quality limits in the Western Division will give Florida Gas too much discretion to vary its quality standards for individual receipt points. Finally, FPL states that Florida Gas should be required to develop and implement real-time chromatography to check CHDP levels on the system in order to ensure that CHDP levels are closely monitored and enforced when necessary to prevent liquid fallout on Florida Gas' system or on the systems of downstream end-users.

33. The Indicated Shippers argue in their protest that the Commission should (1) accept Florida Gas' proposed 25 degrees Fahrenheit CHDP standard in the Market Area, and (2) reject any changes to Western Division gas quality provisions. The Indicated Shippers also argue that the Commission should hold this proceeding in abeyance pending issuance of a decision by the United States Court of Appeals for the District of Columbia Circuit in *Florida Gas Transmission Co. v. FERC*, Docket No. 07-1533, in which Florida Gas is appealing the Commission's determination in Opinion No. 495 that gas quality requirements may be imposed on gas entering Florida Gas' Market Area from the Western Division. Finally, if the Commission approves Florida Gas' posting proposal for the Western Division, the Indicated Shippers argue that it should be limited only to CHDP specification, with 25 degrees Fahrenheit as the "safe harbor" (and not any other gas quality specifications), and that Florida Gas should be asked to further clarify its methodology in the tariff.

3. The February 4, 2010 Supplemental Filing

34. On February 4, 2010, as requested by the Commission in its January 15, 2010 data request, Florida Gas provided its archived daily average CHDP data for the following chromatographs for the months of January 2009, June 2009, and December 2009: 98060 (FP&L Sanford), 97801 (FP&L Putnam), 90689 (FP&L Turkey Point North), and Compressor Stations 16, 17, and 21. The information shows that during the months of January 2009, June 2009, and December 2009, Florida Gas' CHDP limit never rose above 19 degrees Fahrenheit.

4. Discussion

35. For the reasons discussed below, the Commission accepts Florida Gas' proposed changes to the Market Area gas quality provision of its GT&C, to substitute a CHDP of 25 degrees Fahrenheit for its existing 0.12 mole percent C5+ limit.

36. The Commission finds Florida Gas' proposed 25 degrees Fahrenheit CHDP standard to be just and reasonable and consistent with the Commission's Policy Statement on gas quality.¹⁹ As shown in Florida Gas' December 7, 2009 filing, Florida Gas followed the recommendations in the NGC+ White Paper,²⁰ which describes the preferred methodology for determining appropriate CHDP levels. In Exhibit FGT-5 to its initial filing, Florida Gas provided chromatograph calculations in support of its 25 degrees Fahrenheit limit in the form of pressure temperature graphs with CHDP curves as well as the applicable customer delivery temperature and pressure. Florida Gas states that these graphs depict the typical gas quality normally flowing in Florida Gas' system and show that customer deliveries are well within the range to ensure no liquid hydrocarbon fallout in the gas stream. Florida Gas also provides a comparison of the proposed CHDP standard of 25 degrees Fahrenheit to other interconnecting pipelines into the Florida Gas system. Since many pipelines have set standards based on CHDP, Florida Gas believes that this change allows easier comparison of Florida Gas' gas quality standards to interconnected pipeline systems. Thus, Florida Gas has determined based on historical data that it can deliver gas at a CHDP of 25 degrees Fahrenheit with no liquid hydrocarbon fall out. The Commission therefore finds that the proposed CHDP limit of 25 degrees Fahrenheit is just and reasonable.

37. FPL expressed concern in its protest to Florida Gas' compliance filing that Florida Gas had not provided enough detail for end-users to confirm that the move to a 25 degrees Fahrenheit CHDP will not result in liquid drop out on Florida Gas' or downstream customers' systems. In response to FPL's protest and to resolve parties' concerns, the Commission directed Florida Gas to provide additional temperature and CHDP data for specified chromatographs on an hourly basis, if available, for the months of January 2009, June 2009, and December 2009. The information provided by Florida Gas shows that during the months in question the CHDP of the gas never rose above 19 degrees Fahrenheit. Therefore, Florida Gas' analysis predicts that liquid dropout on its system is unlikely. Furthermore, the purpose of having a CHDP limit provision is to ensure that no liquid dropout occurs, and Florida Gas reviewed historical data to

¹⁹ *Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs*, 115 FERC ¶ 61,325 (2006) (Policy Statement).

²⁰ *White Paper on Liquid Hydrocarbon Drop Out in Natural Gas Infrastructure*, NGC+ Liquid Hydrocarbon Drop Out Task Group (Feb. 28, 2005) (NGC+ White Paper).

determine its 25 degrees Fahrenheit CHDP limit. The Commission therefore finds that FPL's concerns are not sufficient to justify rejection of Florida Gas' proposed CHDP limit of 25 degrees Fahrenheit.

38. Finally, the Commission finds that the dispute between Florida Gas and the parties regarding Florida Gas' proposal to post gas quality standards as necessary for gas flowing from the Western Division into the Market Area may be amenable to settlement. We also find that the involvement of a settlement judge may assist the parties in reaching a mutually agreeable resolution of this matter. Accordingly, we encourage the parties to make every effort to settle their dispute. To aid the parties in their settlement efforts, we direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.²¹ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose. The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or terminate the settlement judge procedures, if appropriate. The Chief Judge shall report any termination of settlement judge procedures to the Commission. If settlement discussions continue, the settlement judge shall file a report at least every 60 days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

IV. Motion to Place Tariff Sheets Into Effect

A. Background and Details of the Filing

39. In the October 30, 2009 Order, the Commission accepted and suspended certain tariff sheets to become effective April 1, 2010, subject to refund and the outcome of a hearing. In this filing, Florida Gas motions to place these tariff sheets into effect as of April 1, 2010.²² Florida Gas also files tariff sheets that reflect removal of greenhouse gas monitoring costs from Florida Gas' rates in compliance with the October 30, 2009 Order and motions to place these tariff sheets into effect.²³ Florida Gas includes documentation

²¹ 18 C.F.R. § 385.603 (2009).

²² Florida Gas also submits Substitute Third Revised Sheet No. 94, which reflects tariff language approved on the underlying tariff sheet by the Commission during the suspension period by letter order dated November 17, 2009 in Docket No. RP09-922-001.

²³ The October 30, 2009 Order requires Florida Gas to file revised tariff sheets to reflect elimination of greenhouse gas monitoring costs from its rates if a proposed EPA Rule requiring monitoring of greenhouse gases does not go into effect prior to April 1,

to support the recalculation of these rates in its filing. Finally, Florida Gas notes that this motion to place tariff sheets into effect includes tariff sheets filed in the December 7, 2009 compliance filing that reflect removal of the mandatory requirement to electronically execute service agreements and amendments to service agreements.

B. Protests and Comments

40. Protestors argue that Florida Gas' motion to place tariff sheets into effect fails to indicate that Florida Gas has updated its proposed rates to remove the costs of any facilities not certificated and in service as of the proposed effective date, as required by the October 30, 2009 Order and section 154.303(c)(2) of the Commission's regulations. Protestors contend that it is possible that some of the capital investments that drove the proposed rate increases were not made by the end of the adjustment period.

C. Answers

41. Florida Gas argues in its answer that it has complied with the October 30, 2009 Order and section 154.303(c)(2) of the Commission's regulations because Florida Gas has not included any capital costs associated with the individually certificated projects enumerated in the October 30, 2009 Order²⁴ in its proposed cost of service in this proceeding, and therefore there are no costs to be removed. Florida Gas asserts that the Commission's regulations do not require it to remove from its proposed cost of service other capital costs associated with projects authorized by its blanket certificate under § 157.203 that were not completed as of the end of the test period. Florida Gas further argues that it is not obligated to revise its rates in the filing to motion tariff sheets into effect to reflect actual costs of the plant.²⁵ Finally, Florida Gas states that even though it

2010. Florida Gas states that the EPA Rule was issued in October 2009 but the provisions related to oil and gas were deferred and will not be addressed prior to April 1, 2010.

²⁴ The enumerated projects are the Phase VIII Expansion project, the Mobile Bay Lateral Extension project, and the Pascagoula Extension. Florida Gas' Phase VIII Expansion project application was filed on October 31, 2008 in Docket No. CP09-17-000, and the order granting the certificate was issued on November 19, 2009. *Florida Gas Transmission Co.*, 129 FERC ¶ 61,150 (2009). Florida Gas will commence service in two phases, with Phase 1 to go into service by July 1, 2010, and Phase 2 to go into service by April 1, 2011. The Mobile Bay Lateral Extension project and the Pascagoula Expansion project applications were filed on August 14, 2009 in Docket Nos. CP09-455-000 and CP09-456-000, respectively, and are still pending with the Commission.

²⁵ Florida Gas states that Florida Gas does have an affirmative obligation pursuant to Section 154.311 of the Commission's regulations to update certain test period data forty-five days after the end of the test period, and it will make such filing on or about

has complied with the October 30, 2009 Order and the Commission regulations, the customers are fully protected because Florida Gas' rates are subject to refund.²⁶

42. The Joint Parties argue in their answer that Florida Gas is incorrect in its assertion that it may include in its rates the costs of facilities that were not in service as of the end of the test period. Joint Parties argue that the Commission's regulations clearly state that costs associated with facilities that are not in service as of the end of the test period must be excluded from the rates a pipeline moves to place into effect. The Joint Parties state that Attachment A to their answer demonstrates that Florida Gas has included \$124,987,432 of costs that are associated with facilities not placed into service by the end of the test period to support its proposed motion rates. The Joint Parties also state that while Florida Gas estimated a system-wide plant balance of \$3,493,093,745, the actual system-wide plant balance that was placed into service at the end of the test period was \$3,368,106,313. The Joint Parties also argue that Order No. 582-A, cited by Florida Gas in its answer, does not support Florida Gas' position because this order addressed the narrow and limited circumstance where a pipeline files a motion to place rates into effect before the expiration of the test period, and in the instant case Florida Gas filed its motion after the test period. The Joint Parties request that the Commission direct Florida Gas to remove any costs associated with facilities not placed into service by the end of the test period from its rates before they are placed into effect.

D. Discussion

43. Pursuant to section 154.303(c)(2), the Commission directed Florida Gas in the October 30, 2009 Order that to the extent that capital costs associated with certain projects with requests for NGA section 7 certificates of public convenience and necessity pending before the Commission are included in Florida Gas' proposed cost of service, but the facilities associated with those costs have not been placed into service by the time the rates go into effect, such costs must be removed from the rates.²⁷ The October 30, 2009 Order required Florida Gas to file revised tariff sheets to reflect elimination of these costs when it files a motion to place the rates into effect, consistent with Commission policy and precedent.²⁸

April 14, 2010.

²⁶ Florida Gas Transmission Co., March 23, 2010 Answer, at P 17 (citing October 30, 2009 Order at P 36).

²⁷ October 30, 2009 Order at P 26.

²⁸ 18 C.F.R. § 154.303(c)(2) (2009); *El Paso Natural Gas Co.*, 124 FERC ¶ 61,124, at P 33 (2008); *Florida Gas Transmission Co.*, 76 FERC ¶ 61,351 (1996).

44. The Commission finds that section 154.303(c)(2) of the Commission's regulations requires removal of any costs associated with facilities not in service as of the end of the test period, regardless of whether the facilities are being constructed under a specific certificate for the facilities in question or under the pipeline's blanket certificate granted pursuant to § 157.203. Section 154.303(c)(2) provides that "when a pipeline files a motion to place the rates into effect, the filing must be revised to exclude the costs associated with *any* facilities that will not be in service as of the end of the test period,At the end of the test period, the pipeline must remove from its rates costs associated with *any* facility that is not in service."²⁹ Section 154.303(c)(2) does not make distinctions regarding its applicability based upon the type of certificate under which the facility is to be constructed. Therefore, the Commission directs Florida Gas to remove any costs associated with facilities not in service as of the end of the test period from its rates, including costs associated with facilities to be constructed under its blanket certificate.

45. In its answer, Florida Gas cites *Texas Gas Transmission*³⁰ and Order 582-A³¹ to support its position that the Commission does not require pipelines to remove the capital costs associated with projects under its blanket certificate that are not completed as of the end of the test period. As stated by the Joint Parties in their answer, the *Texas Gas* case predates the Commission's current regulations, and the Commission's clarification in Order 582-A addressed the limited circumstance where a pipeline files a motion to place rates into effect before the expiration of the test period, which is not the case here. Even in that circumstance, section 154.303(c)(2) requires the pipeline to remove the costs from its rates if the facilities are not in service as of the end of the test period.

The Commission orders:

(A) The request for clarification and/or rehearing of the Commission's October 30, 2009 Order is granted in part and denied in part, as discussed in the body of this order.

(B) The tariff sheets listed in Appendix A are accepted effective April 1, 2010.

(C) The tariff sheets listed in Appendix B are withdrawn.

²⁹ 18 C.F.R. § 154.303(c)(2) (2009) (emphasis supplied).

³⁰ *Texas Gas Transmission Corp.*, 71 FERC ¶ 61,177 (1995).

³¹ *Filing and Reporting Requirements for Interstate Natural Gas Company Rate Schedules and Tariffs*, Order No. 582, FERC Stats & Regs. ¶ 31,025 (1995), *order on reh'g*, Order No. 582-A, FERC Stats & Regs. ¶ 31,034 (1996).

(D) The tariff sheets listed in Appendix C are motioned into effect to be effective April 1, 2010, subject to Florida Gas filing within 20 days of the date of this order to remove any costs associated with facilities not placed into service by the end of the test period from its rates.

(E) Florida Gas' waste heat proposal is rejected and Florida Gas is directed, within 30 days of the issuance of this order, to file revised tariff sheets in accordance with this determination.

(F) Florida Gas' proposal to change the Market Area gas quality provision of its GT&C to substitute a 25 degrees Fahrenheit CHDP for its existing 0.12 mole percent C5+ limit is approved, as discussed in the body of this order.

(G) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2009), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(H) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or terminate the settlement judge procedures, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix A

List of Proposed Tariff Sheets

Accepted to be effective April 1, 2010

Florida Gas Transmission Company, LLC

FERC Gas Tariff

Fourth Revised Volume No. 1

Substitute Nineteenth Revised Sheet No. 7
Substitute Seventeenth Revised Sheet No. 8
Substitute Sixteenth Revised Sheet No. 9
Substitute Fifth Revised Sheet No. 10
Substitute Sixteenth Revised Sheet No. 12
Substitute Sixteenth Revised Sheet No. 13
Substitute Third Revised Sheet No. 94
Substitute First Revised Sheet No. 96
Substitute Second Revised Sheet No. 206
First Revised Sheet No. 330
First Revised Sheet No. 331
First Revised Sheet No. 332

Appendix B

List of Tariff Sheets Requested to be Withdrawn

Florida Gas Transmission Company, LLC
FERC Gas Tariff
Fourth Revised Volume No. 1

First Revised Sheet No. 32
First Revised Sheet No. 48
First Revised Sheet No. 59
First Revised Sheet No. 74
First Revised Sheet No. 81
First Revised Sheet No. 89
First Revised Sheet No. 105
First Revised Sheet No. 223
First Revised Sheet No. 326

Appendix C

List of Tariff Sheets Motioned into Effect

To be effective April 1, 2010

Florida Gas Transmission Company, LLC

FERC Gas Tariff

Fourth Revised Volume No. 1

Second Revised Sheet No. 2	First Revised Sheet No. 92
Substitute Nineteenth Revised Sheet No. 7	Substitute Third Revised Sheet No. 94
Substitute Seventeenth Revised Sheet No. 8	Substitute First Revised Sheet No. 96
Substitute Sixteenth Revised Sheet No. 9	First Revised Sheet No. 108
Substitute Fifth Revised Sheet No. 10	First Revised Sheet No. 110
Substitute Sixteenth Revised Sheet No. 12	First Revised Sheet No. 114
Substitute Sixteenth Revised Sheet No. 13	Second Revised Sheet No. 202
First Revised Sheet No. 35	Substitute Second Revised Sheet No. 206
First Revised Sheet No. 37	Second Revised Sheet No. 206A
First Revised Sheet No. 41	First Revised Sheet No. 233
First Revised Sheet No. 50	First Revised Sheet No. 234
First Revised Sheet No. 51	Second Revised Sheet No. 261
First Revised Sheet No. 52	First Revised Sheet No. 327
First Revised Sheet No. 61	First Revised Sheet No. 329
First Revised Sheet No. 62	First Revised Sheet No. 330
First Revised Sheet No. 63	First Revised Sheet No. 331
First Revised Sheet No. 75	First Revised Sheet No. 332
Third Revised Sheet No. 79	Second Revised Sheet No. 333
First Revised Sheet No. 80	Second Revised Sheet No. 335
First Revised Sheet No. 83	Second Revised Sheet No. 338
First Revised Sheet No. 85	First Revised Sheet No. 339
First Revised Sheet No. 91	Second Revised Sheet No. 340
	First Revised Sheet No. 504
	Third Revised Sheet No. 510