

136 FERC ¶ 61,029
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Gulf South Pipeline Company, LP	Docket Nos. RP11-1997-000 RP11-1997-001
Gulf Crossing Pipeline Company LLC	RP11-1998-000 RP11-1998-001
Texas Gas Transmission, LLC	RP11-1999-000 RP11-1999-001 (not consolidated)

ORDER ON TARIFF RECORDS

(Issued July 13, 2011)

1. On May 13, 2011, the Commission accepted and suspended the tariff records filed by Applicants in the captioned dockets to be effective October 14, 2011, or until an earlier date upon further order of the Commission.¹ As discussed below, this order removes the suspension of the tariff records² filed by Applicants in the captioned dockets so that the tariff records may be effective July 13, 2011.

2. On April 13, 2011, Applicants filed in the captioned dockets revised tariff language to set forth the circumstances in which they may seek a discount-type adjustment to their recourse rates based on negotiated rate agreements. In Docket

¹ *Gulf South Pipeline Co., LP*, 135 FERC ¶ 61,129 (2011) (May 13, 2011 Order). On June 13, 2011, Gulf South Pipeline Company, LP (Gulf South), Gulf Crossing Pipeline Company LLC (Gulf Crossing), and Texas Gas Transmission, LLC (Texas Gas) (jointly, Applicants) each filed a motion to truncate the suspension period or, in the alternative a request for rehearing. As a result of this order, both the motion and the alternative rehearing request are moot.

² See Appendix.

No. RP11-1997-000, United Municipal Distributors Group (UMDG)³ filed a protest. In Docket No. RP11-1999-000, National Grid⁴ and Cities⁵ filed protests. The American Gas Association (AGA) and Atmos Energy Corporation (Atmos) filed protests in both Docket Nos. RP11-1997-000 and RP11-1999-000.

3. In the May 13, 2011 Order, the Commission accepted and suspended the tariff records to be effective October 14, 2011, or until an earlier date upon further order of the Commission. In the May 13, 2011 Order, the Commission stated:

The protests to the Gulf South and Texas Gas filings in their dockets have raised a number of issues concerning the circumstances in which pipelines should be permitted to adjust their rate design volumes based on negotiated rate transactions. The Commission will address those issues in a subsequent order. Accordingly, the Commission accepts and suspends the

³ UMDG consists of the following municipal-distributor customers of Gulf South: Utilities Board of the City of Atmore, Alabama; City of Brewton, Alabama; Town of Century, Florida; Utilities Board of the Town of Citronelle, Alabama; City of Fairhope, Alabama; Utilities Board of the City of Foley, Alabama; North Baldwin Utilities, Alabama; Okaloosa Gas District, Florida; City of Pascagoula, Mississippi; City of Pensacola, Florida; and South Alabama Gas District, Alabama.

⁴ National Grid consists of The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid; KeySpan Gas East Corporation d/b/a National Grid; EnergyNorth Natural Gas, Inc. d/b/a National Grid NH; Niagara Mohawk Power Corporation d/b/a National Grid; and The Narragansett Electric Company d/b/a National Grid.

⁵ The Western Tennessee Municipal Group, Jackson Energy Authority, City of Jackson, Tennessee, and the Kentucky Cities. The Western Tennessee Municipal Group consists of the following municipal distributor-customers of Texas Gas: City of Bells, Gas & Water, Bells, Tennessee; Brownsville Utility Department, City of Brownsville, Brownsville, Tennessee; City of Covington Natural Gas Department, Covington, Tennessee; Crockett Public Utility District, Alamo, Tennessee; City of Dyersburg, Dyersburg, Tennessee; First Utility District of Tipton County, Covington, Tennessee; City of Friendship, Friendship, Tennessee; Gibson County Utility District, Trenton, Tennessee; Town of Halls Gas System, Halls, Tennessee; Humboldt Gas Utility, Humboldt, Tennessee; Martin Gas Department, Martin, Tennessee; Town of Maury City, Maury City, Tennessee; City of Munford, Munford, Tennessee; City of Ripley Natural Gas Department, Ripley, Tennessee. The Kentucky Cities are the Cities of Carrollton and Henderson, Kentucky.

proposed tariff records for five months from the date of this order or until an earlier date upon further order of the Commission.⁶

4. In this order, the Commission removes the suspension of the tariff records to make the tariff records effective July 13, 2011. Following the Commission's May 13, 2011 Order in this proceeding, the Commission issued its order in *Tennessee*.⁷ In *Tennessee*, the Commission fully addressed its policies regarding discount adjustments for negotiated rate transactions and explained its reasons and caveats for accepting tariff language consistent with *WIC*,⁸ *Columbia Gulf*,⁹ and the instant tariff language. Accordingly, given the disposition in *Tennessee*, the Commission finds that the Applicants' proposed tariff provisions are consistent with Commission policy. Therefore, the Commission denies the protestors' request to reject the instant tariff filings. Consistent with the decision in *Tennessee* and subsequent Commission orders,¹⁰ the Commission will lift the suspension of the language proposed by the Applicants in this proceeding.

5. The Commission stresses, however, as stated in *Tennessee* and *Columbia Gulf*, the Commission's acceptance of the instant tariff language does not guarantee the pipeline the right to make a discount-type adjustment, but only establishes the burden of proof the pipeline must satisfy in order to obtain a discount-type adjustment consistent with the policy in *WIC* and *Columbia Gulf*.¹¹ Consistent with *Tennessee*, the Commission finds that the burden set forth in Applicants' proposed tariff language provides a balanced and reasonable framework for considering the issue of discount-type adjustments for negotiated rates in the Applicants' future general Natural Gas Act section 4 rate cases. Accordingly, as the Commission also has explained elsewhere, it will address requests for discount-like adjustment involving negotiated rates as they arise in particular rate filings.¹²

⁶ May 13, 2011 Order, 135 FERC ¶ 61,129 at P 12.

⁷ *Tennessee Gas Pipeline Co.*, 135 FERC ¶ 61,208 (2011) (*Tennessee*).

⁸ *Wyoming Interstate Co., Ltd.*, 117 FERC ¶ 61,150 (2006) (*WIC*).

⁹ *Columbia Gulf Transmission Co.*, 133 FERC ¶ 61,078 (2010) (*Columbia Gulf*).

¹⁰ *Transwestern Pipeline Co.*, 135 FERC ¶ 61,220 (2011); *Rockies Express Pipeline LLC*, 135 FERC ¶ 61,206 (2011).

¹¹ *Tennessee*, 135 FERC ¶ 61,208 at P 208; *Columbia Gulf*, 133 FERC ¶ 61,078 at P 15.

¹² *Id.*

The Commission orders:

The suspension is removed from the tariff records set forth in the Appendix to make the tariff records effective July 13, 2011.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Appendix
Tariff Records to be Effective July 13, 2011

Gulf South Pipeline Company, LP
FERC NGA Gas Tariff
Tariffs

Section 6.9.3, GT&C - Negotiated Rates, 3.0.0

Gulf Crossing Pipeline Company LLC
FERC NGA Gas Tariff
First Revised Volume No. 1

Section 6.9, GT&C - ACA, Discounting, And Negotiated Rates, 3.0.0

Texas Gas Transmission, LLC
FERC NGA Gas Tariff
Tariffs

Section 6.9, G T & C - Fuel, and Other Rates and Charges, 5.0.0