137 FERC ¶ 61,170
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Gulf South Pipeline Company, LP Docket No. RP12-74-000

ORDER ACCEPTING AND SUSPENDING TARIFF RECORDS, SUBJECT TO REFUND, AND ESTABLISHING TECHNICAL CONFERENCE

(Issued November 30, 2011)

1. On October 28, 2011, pursuant to section 4 of the Natural Gas Act (NGA), Gulf South Pipeline Company, LP (Gulf South) filed revised tariff records[1] to implement daily allocations on its pipeline system. As discussed below, we accept and suspend the proposed tariff records, for the maximum five-month statutory period to be effective May 1, 2012, subject to refund, and to the outcome of a technical conference to address the issues raised in this proceeding.

I. Background and Description of Gulf South's Filing

2. Gulf South states that it currently allocates and balances its system on a monthly basis. It proposes in this filing to implement allocations on a daily basis. Gulf South states it will continue to balance its system on a monthly basis, consistent with its current practice. Its proposal will affect only allocations of transportation quantities among customers, which would occur on a daily rather than monthly basis. Gulf South states implementing daily allocations will allow Gulf South to 1) enhance the management of its system operations; 2) eliminate free arbitrage opportunities available solely because of the monthly allocation methodology; and 3) increase transparency for customers by providing daily operational information to customers, allowing them to better manage their business. Gulf South argues its allocation proposal is consistent with the allocation methodology used by the vast majority of interstate pipelines, including Gulf South's sister interstate pipelines, Gulf Crossing Pipeline Company LLC and Texas Gas Transmission, LLC. Gulf South argues that its proposal also is consistent with Commission policy, which holds that "daily allocations will more accurately

[1] *See* Appendix.

accommodate the current marketplace, in which gas transmission is normally conducted on a daily or intra-day basis."[2]

3. Gulf South states that when it restructured under Order No. 636, it implemented monthly allocations and monthly balancing. Gulf South claims monthly allocations were appropriate at that time because many meters on the system were not yet capable of providing daily measurement information. Because of widespread upgrades in metering over the past two decades, Gulf South is now proposing to switch from monthly allocations to daily allocations. Gulf South states through the use of electronic flow measurement technology it can now easily provide customers with daily information necessary to mange daily allocations, which will marry up with the current marketplace in which gas transmission is normally conducted on a daily or intra-day basis. Gulf South states that it will continue with monthly balancing, so customers will still have flexibility.

4. Under Gulf South's proposal, a customer's transportation quantities under each of its service agreements will be allocated on a daily basis. If a customer exceeds its Maximum Daily Quantity, the customer will be charged the existing Overrun Rate for the use of capacity in excess of its firm capacity rights on any day. Gulf South states this ensures that customers pay for the capacity they use. Gulf South states its tariff does not contain any daily overrun penalties and it is not proposing any here. For monthly balancing, the sum of the daily allocations under each service agreement will establish the net imbalance position for each customer for the month. In addition, Gulf South states it is proposing to exempt customers utilizing the Small Customer Option of Rate Schedules NNS and FTS from daily allocations since the rate charged these shippers is a one-part, usage-based rate and these customers already pay for the daily capacity they use, both up to and in excess of their firm capacity rights.

5. According to Gulf South, implementing daily allocations is a critical step in enhancing the management of its system and reinforcing operational reliability. By allocating on a daily basis, Gulf South states it can ensure that customers are utilizing their firm capacity as it was sold, which is particularly important because Gulf South states it is currently operating under high load factors and is experiencing an increase in power plant load, which is characterized by swift, dramatic shifts in capacity usage. This change to system conditions makes it necessary for Gulf South to more precisely manage its system and to incentivize customers to utilize capacity within the bounds of their contracted limits.

6. Gulf South states its proposal will also eliminate the free arbitrage opportunity that is being exploited by certain customers. Currently, because Gulf South allocates on a

[2] *Southern Star Central Gas Pipeline, Inc.*, 111 FERC ¶ 61,212, at P 14 (2005).

monthly basis, a customer can overrun its Maximum Daily Quantity on individual days of the month without incurring overrun charges or otherwise paying for the excess daily capacity used. Gulf South states certain customers take advantage of the monthly allocation methodology to engage in arbitrage by taking or under-delivering gas during the month based on market prices, which is equivalent to obtaining free Parking and Lending service.

7. Finally, Gulf South states the proposal will increase transparency for all customers. Gulf South will make available in a timely manner information on daily gas flows, storage balance, and imbalances under each transportation and storage agreement. This daily information will allow customers to better manage their businesses, which are generally operated on a day-to-day or intraday basis. In addition, Gulf South states because most other interstate pipelines allocate daily, Gulf South's customers now will be able to use a similar business process to monitor and nominate capacity for all of their various transportation contracts.

II. Public Notice, Interventions, and Protests

8. Public notice of Gulf South's filing was issued on October 31, 2011. Interventions and protests were due November 9, 2011, as provided in section 154.210 of the Commission's regulations.[3] Pursuant to Rule 214,[4] all timely filed motions to intervene and any unopposed 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. The Commission received protests from: Mobile Gas Service Corporation, jointly with Willmut Gas Company and the City of Vicksburg (Mobile Gas); Texla Energy Management Company, Inc. (Texla); Devon Gas Services, L.P. (Devon); BP America Production Company and BP Energy Company (BP); and Trans Louisiana Gas Pipeline, Inc. jointly with Atmos Energy Marketing LLC (TLGP/AEM). The United Municipal Distributors Group (UMDG) filed comments.

9. Texla argues that unlike other cases where the Commission has found a pipeline's tariff already allowed the pipeline to impose daily overrun charges, and therefore, in changing from monthly to daily allocations the pipeline was simply enforcing a right it already had, Gulf South's tariff expressly provides that overruns be calculated on an aggregate monthly basis and Gulf South has no existing right under its tariff to assess overruns on a daily basis. Texla states Gulf South's proposal to now calculate overruns on a daily basis is a change in service that will impose significant additional charges on shippers.

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[3] 18 C.F.R. § 154.210 (2011).

[4] 18 C.F.R. § 385.214 (2011).

10. BP states that Gulf South's arguments in support of its changes have become routine arguments that Gulf South makes in seeking Commission authorization to restrict the rights of existing shippers to use their capacity. In this case BP states Gulf South is seeking to impose a new rate on FTS and NNS shippers by redefining a key component of how both services were defined in Docket No. RS92-26-000 which was a significant part of the restructuring of Gulf South's system under Order No. 636. BP notes that Gulf South's FTS and NNS Rate Schedules were also revised in Gulf South's Order No. 637 compliance proceeding to add a specific "Overrun Provision" that confirmed that FTS and NNS were not intended to be subjected to a daily allocation, but rather a monthly allocation in accordance with Gulf South's established practice and Gulf South's proposed tariff changes are a direct collateral attack on the Commission's approval of the tariff language in that proceeding. BP states that Gulf South also fails to mention that its system design – and specifically Rate Schedule FTS – has been allocated sufficient assets to cover the types of daily and monthly variations and imbalances Gulf South states it is seeking to address. BP states that in its Order No. 636 restructuring Gulf South retained about 10 Bcf of working gas storage for operational purposes, such as balancing, maintaining operating pressures, providing for instantaneous deliveries, and operationally "assuring the delivery capacity associated with all services."[5] BP states that FTS and NNS shippers are paying rates based on the 10 Bcf of working storage capacity available to provide system support for their services and Gulf South cannot be allowed to degrade existing services where the rates for such services already include the costs for the flexibility inherent in the FTS and NNS services approved in restructuring.

11. Devon states that end markets such as refineries and chemical plants typically have varying daily gas requirements and shippers serving such markets need flexibility in allowing their markets to continue operating their facilities in a prudent manner. Under Gulf South's proposal, a shipper's ability to manage its business will be greatly limited and it is virtually guaranteed that gas requirements of these end markets will subject them to overrun charges proposed herein. In addition, Devon states that along with a loss of flexibility, producer shippers gain administrative burdens by having to track which of their customers may accept more gas than was nominated to the delivery point on a daily basis, in order to pass the charges back to the customer, when allowed by contract. In addition, Devon requests that the Commission reject Gulf South's proposal to calculate an overrun charge based on a weighted average and instead require Gulf South to use a calculation methodology based on the zone in which the overrun occurred but in no event should such overrun charge exceed the maximum recourse rate for such zone.

12. Mobile Gas expresses concerns with how the proposal will affect Rate Schedule NNS distributor customers, which it states commonly function as suppliers of last resort within their service areas. Mobile Gas states in situations where their own distribution

[5] *United Gas Pipe Line Company,* 64 FERC ¶ 61,015, at 61,108 (1993).

system takes are high (but below MDQs) and, simultaneously, a large industrial load unexpectedly uses very substantial amounts of gas (above MDQs) daily allocations will turn NNS customers into Gulf South's bill collectors for its overrun charges.

13. TLGP/AEM protest the proposed December 1, 2011 effective date and request that the filing be suspended until April 1, 2012, in order to minimize the impacts of implementing daily allocations during the winter heating season. TLGP/AEM contend the proposed December 1, 2011 effective date is unreasonable because TLGP/AEM (and many other Gulf South customers) have already finalized their winter heating season plans and winter planning for utilities and marketers alike is a complex process and involves the careful use of storage capacity, transportation capacity, third-party asset management, and supply contracts. TLGP/AEM believe the purported benefits of moving to a daily allocation methodology on December 1, 2011 are outweighed by the potentially disruptive effects this change could have on Gulf South's customers. UMDG also expresses concerns with the timing of the change and submits that a more orderly implementation of the revised allocation procedures would result if the proposed tariff provisions are suspended for the maximum period to enable shippers to understand and work through any back office changes that must be undertaken to shift from monthly to daily allocation practices and that Gulf South implement the changes in stages, with a period where billing under the new allocation system would be provided on a "trial" basis so that shippers can see the impacts of the new allocation scheme without suffering adverse impacts before the changed allocation is imposed with "live" billing.

14. Mobile Gas, Texla, Devon, TLGP/AEM, and UMDG all express concerns with how Gulf South's new proposal will operate and request that the Commission suspend the proposal for the full five month period. Several parties request that the Commission schedule a technical conference to provide additional information on Gulf South's proposal and examine whether their proposed changes are just and reasonable. BP requests the Commission deny Gulf South's request to revise its tariff records.

15. On November 15, 2011, Gulf South filed an answer to the protests and comments filed. Rule 213(a)(2) of the Commission's rules of practice and procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority.[6] We will accept Gulf South's answer because it has provided information that will assist us in our decision-making process. In order to address the concerns of its shippers about the transition date, Gulf South requests that the Commission approve its proposal effective December 1, 2011, but grant Gulf South delayed implementation of the overrun charges until April 1, 2012. In order to avoid abuse during the transition period, Gulf South states that it reserves the right, on a not unduly discriminatory basis, to charge the daily overrun rate to any customer who exceeds its Maximum Daily Quantity by three percent or more

[6] 18 C.F.R. § 385.213(a)(2) (2011).

for a period of ten or more days during the month and to charge all customers the daily overrun rate to the extent Gulf South issues a Critical Period, OFO, or implements the System Management Plan as provided in Section 6.18 of its tariff.

III. Discussion

16. The Commission has reviewed Gulf South's filing and the protests thereto. It is not possible to determine, at this juncture, whether Gulf South's proposed changes are just and reasonable. Gulf South's proposed change to a daily allocation methodology raises significant issues with regard to the impact on shippers which are best addressed at a technical conference. A technical conference will afford the Commission staff and the parties to the proceeding an opportunity to discuss all of the issues raised by Gulf South's filing. Gulf South must be prepared to respond to the issues raised by the protests at the technical conference. Accordingly, the Commission will accept and suspend Gulf South's revised tariff records to be effective May 1, 2012, subject to refund and examination at the technical conference.

IV. Suspension

17. Based upon review of the filing, the Commission finds that the proposed tariff records set forth in the Appendix have not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept and suspend the effectiveness of such tariff records for the period set forth below, subject to the conditions set forth in this order.

18. The Commission's policy regarding suspensions is that tariff filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.[7] It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.[8] At this time, it does not appear that such circumstances exist here. Therefore, the Commission will exercise its discretion to suspend Gulf South's proposed tariff records set forth in the Appendix, to be effective May 1, 2012 or an earlier date set forth in a subsequent order, subject to refund and the outcome of the technical conference ordered herein.

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[7] *See Great Lakes Gas Transmission Co*., 12 FERC ¶ 61,293 (1980) (five-month suspension).

[8] *See Valley Gas Transmission, Inc*., 12 FERC ¶ 61,197 (1980) (one-day suspension).

The Commission orders:

(A) The tariff records as listed in the attached Appendix are accepted and suspended, to be effective May 1, 2012 or an earlier date set forth in a subsequent order, subject to refund and the outcome of the technical conference ordered herein.

(B) Commission Staff is directed to convene a technical conference to explore all issues raised by the filing and to report the results of the conference to the Commission within 120 days of the issuance of this order.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

APPENDIX

Gulf South Pipeline Company, LP
Tariffs
FERC NGA Gas Tariff

List of Proposed Tariff Records Accepted and Suspended to Be Effective May 1, 2012

Section 5.1, Rate Schedules - FTS, 3.0.0
Section 5.2, Rate Schedules - NNS, 4.0.0
Section 5.11, Rate Schedules - EFT, 1.0.0
Section 6.13, GT&C - Allocation Procedure, 3.0.0