

138 FERC ¶ 61,077
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. TS11-3-000

ORDER DISMISSING, AS MOOT, REQUEST FOR
WAIVER OF STANDARDS OF CONDUCT REQUIREMENTS

(Issued February 1, 2012)

1. In this order, the Commission dismisses, as moot, a request by Gulf South Pipeline Company, LP (Gulf South) for a waiver of the Commission's Standards of Conduct requirements established by the Commission in Order No. 717 and 717-A.¹ We reach this decision because, given the Commission's approval of Gulf South's abandonment application in Docket No. CP11-478-000, Gulf South's activities are no longer subject to the regulations at issue, and thus, a waiver is no longer necessary.

I. Background

2. This matter began on January 3, 2011, when Gulf South executed a firm transportation service agreement (Transportation Agreement) with its affiliate, Boardwalk Field Services (Boardwalk Services). The Transportation Agreement provides that, beginning June 1, 2011, Gulf South will transport up to 200,000 Dth per day for Boardwalk Services at a discounted rate between a point near Agua Dulce and a point near El Campo, Texas, the specified primary receipt and delivery points on Gulf South's Index 129.

3. Gulf South states that Boardwalk Services intends to use the service agreement initially to transport condensate rich gas from the Eagle Ford Shale area for sale at one or more processing plants owned by third parties, which Boardwalk Services can access from Gulf South's Index 129. Gulf South further states that, any Boardwalk Services sales from third-party processing plants would constitute "marketing functions" pursuant

¹ *Standards of Conduct for Transmission Providers*, FERC Stats. & Regs. ¶ 31,280 (2008) (Order No. 717), *order on reh'g*, FERC Stats. & Regs. ¶ 31,297 (2009) (Order No. 717-A), *order on reh'g*, 129 FERC ¶ 61,123 (2009) (Order No. 717-B), *order on reh'g*, 131 FERC ¶ 61,045 (2010) (Order No. 717-C).

to the Commission's Standards of Conduct.² If this occurs, Gulf South concedes that it would be conducting "transmission transactions with an affiliate that engages in marketing functions" once transportation under the service agreement commences and the Standards of Conduct will therefore apply to Gulf South.³

Gulf South's Waiver Request

4. On April 29, 2011, as supplemented on May 3, 2011, Gulf South filed a request for waiver of the Commission's Standards of Conduct requirements under Part 358 of the Commission's regulations. Gulf South concedes that the Standards of Conduct would apply to it under section 358.1(a) of the Commission's regulations only on a temporary basis after it commences transportation transactions with Boardwalk Services, which would temporarily be engaging in marketing functions. However, Gulf South claims that Boardwalk Services is in the process of acquiring ownership interest in certain facilities such that Boardwalk Services activities would no longer meet the definition of marketing function under section 358.3(c)(2)(iv) of the Commission's regulations.

5. Gulf South argues that, once Gulf South ceases to conduct transmission transactions with Boardwalk Services or Boardwalk Services ceases to engage in marketing functions, the Standards of Conduct will no longer apply to it. Gulf South argues that, as soon as Boardwalk Services will no longer be engaged in "marketing functions" under the Standards of Conduct, Gulf South will no longer be subject to the Standards of Conduct. Therefore, it seeks a temporary waiver of the Standards of Conduct.

Notice of Extension

6. On May 24, 2011, Gulf South requested that the Commission grant it an extension of time before requiring it to comply with the Commission's Standards of Conduct requirements until 60 days after the Commission acts on its pending request for waiver in this proceeding. This would give the Commission time to determine the outcome of Gulf South's pending abandonment proceeding in Docket No. CP11-478-000, and determine the merits of Gulf South's pending waiver request before compliance would be required. On May 25, 2011, the Commission's Secretary issued a notice granting the requested extension.

² See 18 C.F.R. § 358.3(c)(2)(iv) (2011).

³ 18 C.F.R. § 358.1(1) (2011).

Abandonment

7. On August 26, 2011, the Commission granted Gulf South's application in Docket No. CP11-478-000 to abandon by sale or inter-corporate transfer to Boardwalk Services, approximately 280 miles of gathering and transmission pipelines, including appurtenant and auxiliary facilities, and two compressor stations, located in south Texas (South Texas Facilities).⁴ As a result, Boardwalk Services owns the gathering and processing facilities that were formerly owned by Gulf South.

Notice of Filing

8. Notice of Gulf South's waiver request was published in the *Federal Register*, 76 Fed. Reg. 30,342 (2011), with interventions and protests due on or before June 2, 2011. Southcross Energy GP LLC filed a timely motion to intervene.

II. Discussion

A. Motion to Intervene

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motion to intervene serves to make the entity that filed it a party to this proceeding.

B. Waiver Request

10. In light of the Commission's approval of Gulf States' application for approval to abandon the South Texas Facilities, Gulf South argues that Boardwalk Services is no longer engaged in "marketing functions" under the Standards of Conduct pursuant to the exemption for "sales of natural gas solely from a seller's own gathering or processing facilities"⁵ and that the Commission's Standards of Conduct do not apply to Gulf South. We agree. Boardwalk Services will be making sales from its own gathering or processing facilities and, consistent with section 358.3(c)(2)(iv) of the Commission's regulations, does not engage in marketing functions. Since Boardwalk Services do not engage in marketing functions, the Standards of Conduct do not apply to the relationship between Gulf States and Boardwalk Services under section 358.1(a) of the Commission's regulations. This being the case, a waiver is no longer necessary. Accordingly, we will dismiss Gulf South's waiver request as moot.

⁴ *Gulf South Pipeline Company, LP*, 136 FERC ¶ 62,170 (2011).

⁵ 18 C.F.R. § 358.3(c)(2) (2011).

The Commission orders:

Gulf South's waiver request is hereby dismissed as moot, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.