

142 FERC ¶ 61,176  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

March 7, 2013

In Reply Refer To:  
Sea Robin Pipeline Company, LLC  
Docket No. RP11-2148-000

Sea Robin Pipeline Company, LLC  
5444 Westheimer Road  
Houston, TX 77056-5306

Attention: Lawrence J. Biediger, Senior Director, Rates and Regulatory Affairs

Dear Mr. Biediger:

1. By order issued June 30, 2011, the Commission accepted and suspended a tariff record of Sea Robin Pipeline Company, LLC (Sea Robin) revising its fuel reimbursement percentage (FRP), effective July 1, 2011, subject to refund and condition.<sup>1</sup> The Commission, among other things, directed Sea Robin to explain how section 22 of its General Terms and Conditions (GT&C) of its FERC Gas Tariff provides for a true-up of the over and under-recoveries of fuel used in its operations and permitted the parties to file comments. On July 20, 2011, Sea Robin filed its explanation. As more fully discussed below, the Commission finds that Sea Robin has adequately explained how section 22 of its GT&C provides for an annual true-up as part of its fuel reimbursement mechanism and is part of a comprehensive Stipulation and Agreement (Settlement) in Docket No. RP07-513-000.<sup>2</sup> Therefore, the Commission will accept Sea Robin's tariff record without condition.

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<sup>1</sup> *Sea Robin Pipeline Co., LLC*, 135 FERC ¶ 61,278 (2011) (June 30 Order).

<sup>2</sup> *Sea Robin Pipeline Co., LLC*, 125 FERC ¶ 61,185 (2008).

## **Background**

2. On May 31, 2011, Sea Robin filed to revise its fuel reimbursement percentage listed in section 4.1(b) of its GT&C from 0.38 percent to 0.72 percent. ExxonMobil Gas & Power Marketing Company, a Division of Exxon Mobil Corporation (ExxonMobil) and Hess Corporation (Hess) separately protested the filing but raised similar arguments. Among other things, ExxonMobil and Hess argued that: (1) the filing did not establish an adequate basis for the proposed FRP; (2) the tariff did not specify the timing of the FRP filings; and (3) the filing did not provide either the Commission or the shippers with a meaningful opportunity to determine the basis for the sudden increase in fuel and unaccounted for gas (UFG).

3. Sea Robin filed an answer on June 23, 2011, and submitted additional workpapers in response to the parties' arguments (June 23 Answer). According to Sea Robin, the FRP is a component of its "annual flowthrough crediting mechanism" in section 22 of its GT&C. Sea Robin asserted that any over-recoveries are refunded back to shippers' invoices, while any under-recoveries are carried forward into the next year. Sea Robin argued that its filing contained all required information and was fully supported in order to evaluate the filing. However, Sea Robin included an additional workpaper in the June 23 Answer, which separately delineated fuel and UFG volumes for the six-month period in the same format as in Sea Robin's last fuel filing. Sea Robin also included a reconciliation of the data reported in Sea Robin's Form 3Q and the data in the instant fuel filing, showing how the calculations for the Form 3Q and the instant filing differ.

4. In the June 30 Order, the Commission accepted and suspended the tariff record to be effective July 1, 2011, subject to refund. The Commission also directed Sea Robin to explain how section 22 provides for a true-up of its over and under-recoveries of fuel used in its operations. The parties were permitted to file further comments on Sea Robin's compliance filing.

## **Instant Filing**

5. On July 20, 2011, Sea Robin made a compliance filing to explain the monthly true-up process set forth in section 22 of the GT&C of its tariff. Sea Robin also provided an illustration of the monthly operation of its true-up mechanism. ExxonMobil and Hess filed comments on Sea Robin's compliance filing. Sea Robin filed a motion to answer the comments.<sup>3</sup> The arguments of the parties are set forth and discussed below.

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<sup>3</sup> Rule 213(a)(2) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.213 (a)(2) (2012)), prohibits answers to protests or answers unless

## Discussion

### True-up Mechanism

6. In its compliance filing, Sea Robin explains that section 22 provides for the annual distribution of funds collected, or the carryover of a deficit, created through the accumulation of amounts related to the cashout of monthly transportation imbalances. Sea Robin states that this mechanism is referred to as an annual true-up and is intended to ensure that both it and its shippers are not harmed economically as a result of the cashout of transportation imbalances. According to Sea Robin, section 22 prescribes the method of monthly accumulation of funds and the annual distribution of those funds or carry forward should an amount be due Sea Robin.

7. ExxonMobil and Hess argue that section 22 does not provide for a true-up of over and under-recoveries of fuel and UFG. They argue that Sea Robin's explanation in its compliance filing shows there is not a separate mechanism for recovering or returning in future fuel filings the difference between fuel and UFG retained and actual fuel and UFG over the same period, as required under section 154.403(c)(11) of the Commission's regulations. The parties argue that fuel and UFG over and under-recoveries differ from imbalances and cannot be lumped together with net imbalance cashout revenues. They state that fuel and UFG over and under-recoveries represent the difference between the amounts Sea Robin collected and the amounts Sea Robin actually used and are not imbalances between scheduled and actual transportation quantities. In addition, the parties argue that fuel and UFG are unrelated to the Operation Flow Order penalties imposed under section 7 of Sea Robin's GT&C. Further, they argue that treating over and under-recovered fuel and UFG as shipper imbalances and to cash those quantities out in accordance with the imbalance provisions in section 6 of Sea Robin's GT&C does not recognize the fundamental difference between the two and may trigger the percentage tiers under sections 6.2 and 6.3 of Sea Robin's GT&C.

8. Sea Robin responds that section 22 accounts for the intertwined nature of fuel and imbalances and that viewing fuel and UFG as being different from imbalances ignores their intertwined nature. Sea Robin explains that section 22 does not reference fuel because of the intertwined relationship between fuel reimbursement and imbalances. According to Sea Robin, the imbalances specifically referenced in section 22 are highly dependent upon whether the fuel retained from the shipper is different from the shipper's pro rata share of the total system usage. According to Sea Robin, over and under-recovery of fuel and UFG are *not* different from imbalances. Sea Robin explains that it

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otherwise permitted by the decisional authority. We will accept Sea Robin's August 19, 2011 answer as it aids in the disposition of the issues raised in this proceeding.

collects fuel based upon nominated amounts and ultimately assesses for fuel based upon the shipper's pro rata share of the actual amount and that any difference between the fuel collected and the total fuel usage generates a volumetric imbalance that is either credited to or debited from the shippers. Sea Robin states that section 22 allows for an annual distribution or carry-forward to resolve the value of these monthly imbalances. This mechanism, Sea Robin asserts, avoids the need to constantly buy/sell and/or lease storage for gas since there is no storage on Sea Robin's system.<sup>4</sup>

9. The Commission finds that Sea Robin has complied with the June 30 Order by adequately explaining how section 22 provides for an annual true-up of its over and under-recoveries of fuel and UFG. Further, as discussed below, the language in section 22 is part of a comprehensive Settlement and cannot be changed until Sea Robin's next general section 4 rate case. Therefore, we will accept Sea Robin's May 31, 2011 fuel filing without condition.

### **Additional Information and Data Differences**

10. Exxon Mobil and Hess state that the May 31, 2011 filing only included inflows and did not differentiate fuel from UFG, including them together in a single quantity. Because Sea Robin's June 23 Answer included more information concerning the computation of the FRP, the parties ask the Commission to direct Sea Robin to provide this information in the same format in future fuel filings. Sea Robin disputes that future fuel filings require the additional information provided in its June 23 Answer. We agree with the parties that any future fuel filings should include the information concerning the computation of the FRP in the same format as provided in the June 23 Answer.

11. ExxonMobil and Hess argue that Sea Robin's explanation of the differences between total volumes reported in Form 3Q and its fuel filing does not resolve the concerns raised by the discrepancies. Sea Robin responds that disclosure of prior period adjustments is unnecessary for shippers to evaluate fuel filings. According to Sea Robin, the calculations for Form 3Q filings and fuel percentage filings are inherently different because they are subject to different accounting methods. We find that Sea Robin has adequately explained the differences between the data in Form 3Q and the fuel filing in both its June 30 and August 19 Answers.

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<sup>4</sup> Sea Robin states that the current fuel mechanism, especially the annual cashout mechanism in section 22, minimizes the costs that Sea Robin will incur for buying and selling gas and leasing gas storage. Sea Robin argues that continuously buying/selling and/or leasing storage costs, in order to absorb differences between fuel retained and actual fuel used, would generate additional costs that Sea Robin could not recover through a fuel tracker.

### **Fuel Reimbursement Tariff and Filings**

12. ExxonMobil and Hess argue that, although Sea Robin has made a conscientious effort to manage its fuel reimbursement levels to avoid wide swings and its overall levels do not appear disproportionate to other similarly situated pipelines, Sea Robin's tariff and filing practices do not comply with Commission regulations and policies under the periodic rate adjustment requirements of section 154.403. Instead, they point out that Sea Robin's May 31, 2011 filing was made pursuant to the Commission's regulations in section 154.204 which pertain to changes in rate schedules, form of service agreements or the GT&C, not the Commission's fuel filing requirements.

13. Sea Robin responds that ExxonMobil and Hess are making a belated collateral attack on the fuel reimbursement mechanism in section 22. Sea Robin explains that its fuel reimbursement methodology is part of a comprehensive Settlement that resolved all issues arising out of its last general section 4 rate case. Therefore, Sea Robin states it is required to file under section 154.204 of the Commission's regulations and that, pursuant to the terms of the Settlement, parties are precluded from challenging the tariff principles or methodologies underlying any of the rates, charges, and terms or conditions of service for the period that the Settlement rates are in effect. Sea Robin explains that the Settlement requires it to file a new general section 4 rate case by January 1, 2014. Consequently, Sea Robin argues that a rate case is the proper forum for addressing changes to its fuel mechanism.

14. Sea Robin's fuel reimbursement mechanism is part of a comprehensive general section 4 rate case Settlement and therefore, pursuant to the terms of the Settlement, no changes can be made to any tariff principles or methodologies underlying any of the rates, charges, or terms and conditions of service during the time the Settlement rates are in effect. The Settlement requires Sea Robin to file a new general section 4 rate case by January 1, 2014. The issue of whether Sea Robin should make changes to its fuel reimbursement mechanism that are consistent with the Commission's period rate adjustment policies and regulations in section 154.403 can be addressed when Sea Robin makes its next general section 4 rate case filing.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.