143 FERC ¶ 61,283
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 27, 2013

In Reply Refer To:
Elba Express Company, L.L.C.
Docket No. RP13-940-000

Elba Express Company, L.L.C.
PO Box 2563
Birmingham, Alabama 35202-2563

Attention: Mr. Glenn A. Sheffield
Director - Rates

Ladies and Gentlemen:

1. On May 31, 2013, Elba Express Company, L.L.C. (Elba) filed a revised tariff record[1] to modify section 14.7 of the General Terms and Conditions (GT&C) of its Tariff to provide that in the event there are no monthly shipper imbalances during the previous year, the pipeline may allocate the Net Cashout Balance *pro rata* based on volumes transported by each shipper (throughput). We accept the proposed revised tariff record to be effective July 1, 2013, as proposed, subject to the condition discussed below.

2. In its proposal Elba states: (1) that its GT&C section 14.7 currently addresses *pro rata* allocation of the Net Cashout Balance for each shipper that has a net monthly imbalance for any month during the preceding year; (2) it discovered that its Tariff does not define a calculation for the *pro rata* allocation of the Net Cashout Balance in the event there are no shipper monthly imbalances during the preceding year but the pipeline nevertheless incurs a Net Cashout Balance under Operational Balancing Agreements (OBA) with interconnecting pipelines; (3) in both the instant year and last year it requested a waiver of its tariff to allow it to carry forward the Net Cashout Balance; and, (4) because this situation may recur, it proposes to change its tariff rather than continue to seek waivers of its tariff from the Commission.

[1] Elba Express Company, L.L.C., FERC NGA Gas Tariff, Elba Express Baseline Tariff Filing, Section 14, Resolution of Imbalances & Adjustment, 3.0.0.

3. Specifically, Elba proposes to add the following language to section 4.14(g) of its tariff:

> In the event that no SHIPPER has a Net Monthly Imbalance, then the *pro rata* portion of the Net Cashout Balance for each shipper will be based on throughput and will be calculated by dividing the SHIPPER's total actual transportation volumes for the preceding year by the sum of the actual transportation volumes for all shippers for the preceding year and multiplying the resulting fraction by COMPANY's Net Cashout Balance for the preceding year.

4. Public notice of the filing was issued on June 3, 2013. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.[2] Pursuant to Rule 214,[3] 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 the proceeding or place additional burdens on existing parties. Southern Company Services, Inc. (Southern) filed a timely motion to intervene and comments.

5. In its comments, Southern states that Elba's proposal would provide for the *pro rata* allocation of a Net Cashout Balance during the preceding year that results from cashouts under OBAs with interconnecting pipelines *in the event there are no shipper imbalances during the preceding year* [emphasis added by Southern]. Southern asserts that the proposal reaches a fair result so long as no non-OBA Shipper incurs an imbalance. Southern argues that if there are cashout balances incurred under OBAs with interconnecting pipelines and non-OBA shippers incur imbalances during the preceding year, the non-OBA shippers would be allocated the entirety of the Net Cashout Balance for the year. Southern adds that if, for example there is only one non-OBA shipper, that shipper would incur all the charges, which would unfairly shift costs from OBA shippers to a single non-OBA shipper.

6. Southern submits that in order to prevent this inequitable result, the Net Cashout Balance should be allocated on a *pro rata* basis using annual throughput of all shippers without the proviso that this method is to be used only if there are no other shipper imbalances during the preceding year. Southern states that Elba does not oppose this recommendation that annual imbalances be allocated to all customers on the basis of throughput (volumes transported by shipper) rather than on a shipper's imbalance volumes accrued during the year.

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[2] 18 C.F.R. § 154.210 (2012).

[3] 18 C.F.R. § 385.214 (2012).

7. The Commission finds that Southern's proposed modification to Elba's proposed tariff language is just and reasonable. Accordingly, based upon Southern's representation that Elba has agreed to Southern's proposed modification, the Commission accepts the subject tariff record listed in footnote 1, subject to Elba filing a revised tariff record, within 15 days of the date of this order, to accommodate Southern's proposed modification.

8. Accordingly, we accept the revised tariff record listed in footnote 1, effective July 1, 2013 as requested, subject to the condition discussed above.

By direction of the Commission.

Kimberly D. Bose,
Secretary.