

127 FERC ¶ 61,093
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 28, 2009

In Reply Refer To:
Gulf South Pipeline Company, LP
Docket No. RP09-513-000

Gulf South Pipeline Company, LP
9 Greenway Plaza, Suite 2800
Houston, TX 77046

Attention: Michael E. McMahon

Reference: Petition for Temporary Waiver of Tariff Provision and Request for expedited Action

Dear Ladies and Gentlemen:

1. On April 14, 2009, Gulf South Pipeline Company, LP (Gulf South) filed a petition requesting a temporary waiver of section 11.4(c)(8) of the General Terms and Conditions (GT&C) of its FERC Gas Tariff. The waiver would permit Gulf South to schedule firm in-the-path service as though it were firm primary service during a period when repairs will lead to diminished service on its Expansion Facilities. Gulf South requests that the Commission grant the requested waiver effective April 27, 2009. As discussed below, the Commission grants the waiver requested by Gulf South.

2. The Expansion Facilities consist of 340 miles of high-pressure pipelines, extending from eastern Texas to Alabama, that the Commission authorized and Gulf South constructed in three stages from 2006 to 2008. Gulf South states that during safety testing required by the Pipelines and Hazardous Materials Safety Administration, it discovered anomalies in some of the newly-laid pipe. On February 20, 2009, Gulf South declared *force majeure* and has reduced capacity, from 1,400,000 Dth per day to 1,050,000 Dth per day. Section 14.2 of Gulf South's GT&C defines *force majeure* to include, among other things, "the necessity for testing or for making repairs." Gulf South states that it has been issuing demand charge credits to affected shippers based upon their usage of the capacity.

3. Gulf South states that fully repairing the Expansion Facilities will require temporarily taking everything downstream of the Tallulah Compressor Station out of

service. During repairs, then, Gulf South will not be able to provide any transportation services east of Tallulah, Louisiana on its Expansion Facilities. Section 11.4(c)(8) of Gulf South's GT&C obligates Gulf South to schedule firm in-the-path service after firm primary service on Gulf South's Expansion Facilities. Gulf South requests waiver of section 11.4(c)(8) of its GT&C, allowing it to treat Expansion shippers with firm in-the-path service as if they had primary priority of service, in order to ensure that all of its Expansion shippers are able to make at least some deliveries of gas during the maintenance outage. To the extent that capacity becomes insufficient to schedule all deliveries, Expansion shippers would be scheduled based on their maximum contract quantities, as provided in section 11.4(c)(1). Shippers whose volumes are reduced would receive demand charge credits.

4. Gulf South argues that its proposal is equitable because it ensures that all Expansion shippers are treated the same, rather than diminishing or eliminating service to certain shippers simply because of the location of their primary delivery points. Gulf South believes its proposal promotes market stability and end-user access.

5. Gulf South requests expedited treatment, including a shortened notice and comment period. Gulf South argues that expedited action is justified so that it may begin the repair activities that the Pipelines and Hazardous Materials Safety Administration has recommended starting May 1, 2009. While Gulf South anticipates that repairs will be complete within 31 days, it requests that the waiver extend for whatever period of time turns out to be necessary to complete repairs. If repairs extend past 31 days, Gulf South proposes to post notice on its website and inform affected shippers.

6. The Commission re-noticed Gulf South's filing on April 21, 2009 allowing for interventions and protests by April 23, 2009.¹ Pursuant to Rule 214,² all timely filed motions to intervene and any 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.

7. Enbridge Marketing U.S. L.P. (Enbridge) filed a motion for leave to intervene and answer opposing petition for waiver on April 27, 2009. Enbridge argues that the waiver prejudices primary shippers whose primary receipt and delivery points are entirely upstream of Tallulah. Enbridge states that, without a waiver, such shippers would be largely unaffected by Gulf South's outage. With the waiver, however, Gulf South will degrade the primary-to-primary nominations upstream of Tallulah to the same priority as

¹ The Commission initially noticed the Petition with a comment due date on the same date as the requested action date.

² 18 C.F.R. § 385.214 (2008).

shippers with primary points downstream of Tallulah, bumping a portion of the former nominations. Enbridge argues that Gulf South should instead respond to the constraints caused by the maintenance outage by making scheduling cuts of the sort that the current tariff would allow. Enbridge further argues that the precedent Gulf South provided for its waiver request is inapposite because Gulf South's proposal does not accommodate shippers' needs. In addition to its opposition to the waiver request, Enbridge also asks the Commission to clarify how Gulf South should act in the event that delivery point capacity is constrained but mainline capacity is unconstrained. Enbridge urges that in this scenario, Gulf South must allocate all meter capacity first to shippers nominating the point as a primary point, and then allocate any remainder *pro rata* to shippers nominating the point as their secondary point.

8. For good cause shown, the Commission grants Gulf South's instant waiver request in order to permit it to treat Expansion shippers with firm in-the-path service as if they had primary priority of service. Waiving section 11.4(c)(8) is a reasonable and equitable alternative to imposing drastic cuts or total elimination of service in a potentially disruptive and harmful manner to certain customers simply because of the location of their primary delivery points. Further, granting this waiver is consistent with Commission action on several occasions that granted similar temporary waivers during system capacity constraint situations on other pipelines.³ This temporary waiver is granted effective April 27, 2009 as requested, and shall be in effect for the duration of the repairs. As soon as Gulf South becomes aware that repairs may extend beyond May 31, 2009, it must post notice on its website and inform affected shippers as soon as possible. Finally, the Commission expects Gulf South to notify the Commission when the repairs end and the waiver is no longer necessary.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

³ See *Natural Gas Pipeline Co. of America*, 121 FERC ¶ 61,098 (2007). See also, e.g., *Northern Natural Gas Company*, 109 FERC ¶ 61,013 (2004), waiver extended, 109 FERC ¶ 61,115 (2004); *TransColorado Gas Transmission Company*, 111 FERC ¶ 61,389 (2005); *Great Lakes Gas Transmission Limited Partnership*, 102 FERC ¶ 61,331 (2003).