

107 FERC ¶ 61,189  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

May 26, 2004

In Reply Refer To:  
Gulfstream Natural Gas System, L.L.C.  
Docket No. RP02-361-025

Gulfstream Natural Gas System, L.L.C.  
2701 North Rocky Point Drive  
Suite 1050  
Tampa, FL 33607

Attention: P. Martin Teague  
Assistant General Counsel

Reference: Letter Order Accepting Tariff Sheet,  
Subject to Refund and Conditions and Further Review

Dear Mr. Teague:

1. On April 28, 2004, Gulfstream Natural Gas System, L.L.C. (Gulfstream) filed a tariff sheet to implement a Rate Schedule ITS negotiated rate transaction with Florida Power & Light Company (FPL).<sup>1</sup> The Commission accepts and suspends the tariff sheet to become effective on March 1, 2004, subject to refund, conditions and further review. This order benefits the public interest by ensuring a complete review of whether the proposed rates and terms of service are just and reasonable and not unduly discriminatory.

**Notice, Interventions, and Protests**

2. The filing was noticed on May 7, 2004, with comments, protests, or interventions due on or before May 10, 2004, as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214), all timely motions to intervene are granted and any motions to intervene out of time are granted as of the date of this order. No interventions or protests were filed.

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<sup>1</sup> Original Sheet No. 8W to FERC Gas Tariff, Original Volume No. 1.

### **Details of Filing**

3. Gulfstream states that the negotiated rate agreement reflects a revenue commitment provision associated with Service Agreement No. 9013446 (as described in Footnote 3 of Original Sheet No. 8W) involving agreements filed in Docket No. RP02-361-016 (Applicable Agreements) that Gulfstream requests to be incorporated by reference in this docket. Gulfstream further asserts that the instant service agreement does not deviate in any material respect from the Form of Service Agreement contained in its tariff. For that reason, Gulfstream has not submitted its executed service agreement (Service Agreement No. 9013446), negotiated rate letter agreement, or any other related contracts or agreements or documentation with FPL in this filing.

### **Discussion**

4. The revenue commitment provision in Footnote 3 submitted in this proceeding is similar to another provision pending Commission action in Gulfstream's November 17, 2003 filing in Docket No. RP02-361-016.<sup>2</sup> Without the executed Service Agreement No. 9013446, and associated negotiated rate letter agreement, and other related agreements, contracts and documentation supporting this transaction with FPL, we are unable to fully understand the revenue guarantee or determine if the transaction is in compliance with the Commission's negotiated rate policies. Therefore, the Commission will accept and suspend the effectiveness of the tariff sheet filed in the instant proceeding, subject to refund and further review to determine if it is consistent with the Commission's regulations and policies. The Commission's acceptance will also be subject to the outcome of the proceeding in Docket No. RP02-361-016.

5. We will require Gulfstream to file its Service Agreement No. 9013446 and associated negotiated rate letter agreement, and any Applicable Agreements not previously filed on November 17, 2003 in Docket No. RP02-361-016, within 7 days of the date of this order. In accordance with the Policy Statement Modifying Negotiated Rate Policy,<sup>3</sup> Gulfstream must clearly delineate differences between its negotiated contractual terms and its form of service agreement in redline and strikeout and provide a narrative explanation of any such differences from the tariff's form of service agreement

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<sup>2</sup> See *Gulfstream Natural Gas System, L.L.C.*, 105 FERC ¶ 61,164 (2003).

<sup>3</sup> *Natural Gas Pipeline Negotiated Rate Policies and Practices*, 104 FERC ¶ 61,134 (2003) (Policy Statement Modifying Negotiated Rate Policy).

and why they do not present a risk of undue discrimination.

### **Suspension**

6. Based upon a review of the filing, the Commission finds that Original Sheet No. 8W has not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. While the Commission does not ordinarily suspend filings involving negotiated rate agreements, in the instant case the Commission lacks sufficient information to determine if any conditions should be imposed on the instant filing. Accordingly, the Commission will grant Gulfstream's request for waiver of the notice requirements, and accept Original Sheet No. 8W for filing, suspend its effectiveness for the period set forth below, and permit it to become effective subject to refund and conditions and further review.

7. The Commission's policy regarding rate suspensions is that rate 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 that it may be inconsistent with other statutory standards.<sup>4</sup> 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.<sup>5</sup> Such circumstances exist here, where the Commission is reviewing a negotiated rate agreement that was filed pursuant to the procedures in the Commission's Policy Statement Modifying Negotiated Rate Policy. Therefore, the Commission will exercise its discretion to suspend the rates for a shorter period and permit the rates to take effect as proposed, subject to refund and conditions and further review.

### **Waiver**

8. Gulfstream states that due to administrative oversight, it failed to file the negotiated rate tariff sheet on or before the proposed effective date of March 1, 2004. In this regard, Gulfstream requests waiver of the notice requirements in section 154.207 of the Commission's regulations to accept the tariff sheet on the proposed effective date. Since Gulfstream states that it will ensure the timely filing of all future negotiated rate transactions, the Commission grants Gulfstream's request for waiver of the 30-day notice filing requirement, and accepts and suspends, subject to refund and conditions and further

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<sup>4</sup> See Great Lakes Gas Transmission Co., 12 FERC ¶ 61,293 (1980).

<sup>5</sup> See Valley Gas Transmission, Inc., 12 FERC ¶ 61,197 (1980).

review, the revised tariff sheets to become effective March 1, 2004. However, the Commission reminds Gulfstream that consistent with the Commission's Statement of Policy on Alternatives to Traditional Cost-Of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, we have stated that we would readily waive the 30 day notice requirement, but pipelines should file negotiated rate tariff sheets on or before the effective dates.<sup>6</sup> Negotiated rates generally are not made effective earlier than the filing date of the proposal, unless the filing is dependent on information available on the first business day of the month, and that date falls after the first day of the month.

By direction of the Commission. Commissioner Kelly not participating.

Magalie R. Salas,  
Secretary.

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<sup>6</sup> 74 FERC ¶ 61,076 at 61,241-42 (1996).