

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

September 22, 2004

In Reply Refer To:  
Black Marlin Pipeline Company  
Docket Nos. RP04-269-000  
RP04-269-001

Black Marlin Pipeline Company  
2800 Post Oak Boulevard (77056)  
P.O. Box 1396  
Houston, TX 77251-1396

Attention: Ellen W. Hovsepian, Assistant Secretary

Reference: Annual Cash-Out Report for Calendar Year 2003

Dear Ms. Hovsepian:

1. On July 1, 2004, Black Marlin Pipeline Company (Black Marlin) tendered for filing in Docket No. RP04-269-001 an amended annual cash-out report for the calendar year that ended December 31, 2003. This filing supersedes the report filed on April 28, 2004, in Docket No. RP04-269-000, which contained certain errors. Black Marlin requests waiver of section 21.6 of the General Terms and Conditions (GT&C) of its tariff requiring it to carry forward the balance to calendar year 2004 in accordance with that section. The Commission accepts Black Marlin's amended cash-out report for filing, rejects its April 28, 2004 report as moot, and grants Black Marlin's waiver request. Granting waiver will allow Black Marlin to avoid unnecessary refund and invoice procedures.

2. Black Marlin states that the 2002 cash-out balance carried over into 2003 was incorrectly recorded. Black Marlin states that at the end of 2002, it had a balance of 69,835 MMBtus in net cash-out costs. As accepted by the Commission, this balance was carried forward to 2003. It states that the 2002 balance was mistakenly described in Black Marlin's 2002 Cash-out Report as net cash-out sales. It states that this had no effect on Black Marlin or its customers as the negative cash balance was below the \$400,000 balance threshold as provided for in section 21.6 of the General Terms and Conditions ("GT&C") of Black Marlin's FERC Gas Tariff and carried forward to 2003. Accordingly, it states that no invoices had to be issued. The instant amended report shows that during 2003 Black Marlin made 621,610 MMbtu's in cash-out sales to its customers and acquired 551,771 MMBtu's in make-up quantities. As a result, it asserts,

Black Marlin's cash-out account was in balance at the end of 2003 with a cash balance of \$267,083.75, reflecting the difference between the revenues received and the costs incurred by Black Marlin as a result of cashing out imbalances. Black Marlin notes that this cash balance reflects a good faith estimate of the amount that Black Marlin will pay its interconnect parties for the cash-out make-up quantities which Black Marlin purchased and the interconnect parties delivered in 2003. However, Black Marlin states it has not yet reached final agreement on the exact amount due these parties.

3. Section 21.6 of Black Marlin's tariff provides that the cash balance in the cash-out account is carried forward to the next calendar year if it is less than \$400,000. Black Marlin states that, as noted above, the current cash-out balance is below this threshold. Consequently, Black Marlin requests waiver of the requirement to carry forward this balance to calendar year 2004. Black Marlin states any difference between Black Marlin's actual cost for the make-up purchases and its estimate will be reflected on Black Marlin's cash-out report for 2004. Black Marlin argues that good cause exists to grant the requested waiver. Black Marlin asserts that the requested waiver will allow it to use the excess revenue in the cash-out account to pay for the make-up purchases in 2004. Otherwise, Black Marlin asserts, it would have to make refunds to its shippers and then issue them invoices after paying for the make-up purchases, which it states is expected to occur within approximately 90 days after the date of the filing of the amended report.

5. Notice of the annual cash-out report filed on April 28, 2004 was issued on May 4, 2004, with comments, protests or interventions due on or before May 10, 2004. Notice of the amended cash-out report filed on July 1, 2004 in Docket No. RP04-269-001 was issued on July 12, 2004, with comments, protests or interventions due on or before July 19, 2004. No protests or adverse comments were filed. Notices of intervention and unopposed timely filed motions to intervene are granted pursuant to the operation of Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214). Any opposed or untimely filed motion to intervene is governed by the provisions of Rule 214.

6. The Commission finds that good cause exists to grant the requested waiver of section 21.6 of the GT&C to permit Black Marlin to settle the actual dollar amounts associated with the cash balances for 2003 and later offset such finalized amounts from expected costs, thereby avoiding the need to separately refund such amounts prematurely based on estimates.

By direction of the Commission.

Magalie R. Salas,  
Secretary.