

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 22, 2004

In Reply Refer To:
Docket No. RP04-249-002

Florida Gas Transmission Company
Attn: Drew J. Fossum, Esq.
Senior Vice President and General Counsel for
Florida Gas Transmission Company
1331 Lamar Street, Suite 650
Houston, TX 77210-4657

Dear Mr. Fossum:

1. On October 12, 2004, you filed, on behalf of Florida Gas Transmission Company (FGT), a Stipulation and Agreement of Settlement (Settlement) resolving the six (6) percent hourly flow issue as it applies to deliveries by AES Ocean Express LLC (Ocean Express), which is one of the two issues set for settlement judge procedures and, if necessary, hearing procedures in Docket No. RP04-249-000 by the Commission's June 18, 2004 Order (June 18 Order). *AES Ocean Express LLC v. Florida Gas Transmission Company*, 107 FERC ¶ 61,276 (2004). On July 23, 2004, FGT filed *pro forma* tariff sheets to comply with the June 18 Order. On September 7, 2004, the Commission established a hearing to address the issues raised by FGT's filing in Docket No. RP04-249-001. *AES Ocean Express LLC v. Florida Gas Transmission Company*, 108 FERC ¶ 61,221 (2004). In an October 8, 2004 Order, Chief Judge Wagner consolidated the issues in Docket No. RP04-249-000 with the proceeding in Docket No. RP04-249-001.

2. On October 22, 2004, initial comments on the Settlement were filed by FGT; Tractebel Calypso Pipeline, LLC; BP Energy Company; Seminole Electric Cooperative, Inc.; Commission Trial Staff; and Peoples Gas System, a division of Tampa Electric Company. On October 26, 2004, Shell NA LNG filed a motion to submit comments out of time and initial comments. On November 1, 2004, FGT filed reply comments. On November 23, 2004, the presiding administrative law judge granted the motion to file comments out of time and certified the settlement to the Commission as an uncontested partial settlement. All parties support or do not oppose the settlement.

The Partial Settlement

3. Article I states that the Settlement resolves the 6 percent hourly flow issue as it applies to deliveries by Ocean Express and includes agreement on certain tariff modifications. The tariff revisions describe the rights and obligations of the pipeline with respect to “New Market Area Transportation Requests.” These are requests for transportation occurring after the effective date of the settlement tariff sheets. The requests are required to specify receipt and delivery points, quantity, and flow rate. The flow rate may be from 4.17 percent per hour up to 6 percent. The pipeline is required to agree to New Market Area Transportation requests unless certain conditions affecting operations or reliability are met.
4. Article II states that in light of the uncertainties involving the Ocean Express-FGT interconnection point, issues involving transportation of volumes FGT shippers may seek to nominate for receipt at the Ocean Express-FGT interconnection point, including the questions of what facilities, if any, are necessary to facilitate such transportation and who should pay for those facilities, shall be decided at a later date.
5. Article III provides that the Settlement shall become effective 30 days following the date on which a Commission order approving the Settlement, without modifications or conditions that are materially adverse and unacceptable to FGT or to any Party, becomes final.
6. Article IV states that a final Commission order approving the Settlement shall constitute final approval of all necessary authorizations and waiver, to the extent necessary, to effectuate all of the provisions of the Settlement.
7. Article V provides that the Settlement is privileged and of no effect until it is approved and becomes effective.
8. Article VI states that the Settlement is not severable, it represents a negotiated settlement only with respect to the issues resolved therein, and, except to the extent explicitly set forth in the Settlement, neither FGT, the Commission, its Staff, nor any Party shall be deemed to have approved, accepted, agreed to, or consented to any policy, methodology, or other principle underlying or supposed to underlie any of the matters provided for in the Settlement.
9. Article VII provides, among other things, that the standard for review of proposed changes to the provisions of the Settlement is the just and reasonable standard.
10. The Settlement filed herein on October 12, 2004, is fair and reasonable and in the public interest and is hereby approved. FGT shall file revised tariff sheets within 15 days following the effective date of the settlement.

11. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or theory underlying the Settlement, or any issues resolved in this proceeding.

12. This order terminates Docket No. RP04-249-002.

By direction of the Commission. Commissioner Kelly not participating.

Linda Mitry,
Deputy Secretary.

cc: All parties