

154 FERC ¶ 61,115
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Gulf South Pipeline Company, LP

Docket No. RP16-131-000

ORDER APPROVING FUEL TRACKER MECHANISM, SUBJECT TO
CONDITIONS

(Issued February 18, 2016)

1. On October 30, 2015, Gulf South Pipeline Company, LP (Gulf South) filed *pro forma* tariff records to propose a new fuel tracking mechanism consistent with the requirements of the Stipulation and Agreement of Settlement filed in Docket No. RP15-65-000 (Settlement). The Commission approved the Settlement on December 18, 2015.¹ As discussed below, the Commission accepts Gulf South's proposed fuel tracking mechanism subject to conditions, and directs Gulf South to file actual tariff records to implement the fuel tracking mechanism.

Background

2. Gulf South states that the Settlement requires it to replace its fixed rate fuel recovery mechanism with a tracking mechanism for Fuel and Company-Used Gas, including lost and unaccounted for gas (LAUF). Gulf South also states that the Settlement requires it to update the rates annually and establish separate fuel rates for Gulf South's general system and the Southeast Market Expansion facilities approved in Docket No. CP13-96-000, *et al.* (SEME). Accordingly, in this filing, Gulf South proposes to establish a fuel tracking mechanism in section 6.9.4 of the General Terms and Conditions (GT&C) of its tariff. In addition, instead of listing effective fuel retention percentages separately in each rate schedule, Gulf South now proposes to include them in a new section 4.22 of its tariff. As was the case previously, Gulf South proposes to

¹ *Gulf South Pipeline Co., LP*, 153 FERC ¶ 61,326 (2015).

charge slightly different fuel retention percentages depending on whether, and in what manner, gas transits the Perryville Exchange and Transportation Point.²

3. Gulf South states that proposed GT&C section 6.9.4 requires it to make annual fuel tracker and true-up filings by November 1 of each year, to be effective the following April. Each filing will be based on data for an annual period ending the preceding August 31. The fuel retention rates in each filing will be based upon the projected fuel consumption and LAUF as adjusted by a true-up mechanism to account for any over- or under-collections incurred during the prior annual period. Gulf South states that the sum of the Projected Fuel Retention Percentages (PFRP or projection) and Fuel Adjustment Percentage (FAP or true-up) equals the Effective Fuel Retention Percentages (EFRP) that it will charge on all volumes transported.³

4. Gulf South proposes to calculate the PFRPs by projecting its Fuel and Company-Used Gas volumes and LAUF volumes for the next year based on actual volumes during the preceding September 1 through August 31 annual period, as adjusted for known and measurable changes. Gulf South will then divide those total volumes by its total quantities of gas received during the same preceding annual period. Gulf South proposes that it will calculate the gas equivalent quantity for electric compression that is included in the projections by dividing the cash payments made to electric providers incurred in the operation of electric compression during the applicable 12-month period by the applicable price utilized for cash for fuel quantities under Section 5.1 [5(b)] of its Rate Schedule FTS (Firm Transportation Service).

5. As proposed, Gulf South will calculate the true-ups designed to amortize the net balance in the Fuel Retention Deferred Account at the end of the previous accumulation period. Gulf South states that the over- or under-realization of in-kind compensation for Fuel and Company-Used Gas and LAUF will be recorded as a credit or debit and that the calculation will be performed for quantities associated with the Electric Adjustment Percentage, SEME true-up, and LAUF true-up. As with the calculation of the projection, to ensure that Gulf South bears the risk of under- or over- recovery of fuel and LAUF-associated negotiated fuel agreements, Gulf South will calculate any under- or over-recoveries associated with negotiated fuel agreements as if the customer subject to these contracts were remitting the tariff fuel percentages such that there is no impact on the

² Gulf South Proposed Section 4.22, *Pro Forma* Version 0.0.0.

³ Gulf South states the System Fuel and Company Used-Gas EFRP will not be charged on volumes that qualify as a Zero Fuel Point Pair Transaction, Lake Charles Transaction, or Brewton-Flomaton Transaction. Those volumes will only be subject to the LAUF allowance.

true-up. Gulf South asserts that this will ensure that tariff fuel rate shippers do not subsidize negotiated fuel rate shippers.

6. Proposed GT&C section 6.9.4(5)(b) provides that if any EFRP reflects a gain, the identified EFRP rate shall equal zero and the gain balance shall be carried forward into the next annual period. Gulf South proposes to list the EFRPs calculated pursuant to GT&C section 6.9.4 in new section 4.22 of its tariff. Gulf South proposes to include in that section separate spaces for Gulf South to set forth the EFRPs for “System fuel and Company-Used Gas Allowance (Inclusive of LAUF),” “Southeast Market Expansion Fuel and Company-Used Gas Allowance,” and “LAUF Allowance.”

7. Gulf South states that the initial rates proposed in this proceeding are based upon actual fuel usage for the period of September 1, 2014 through August 31, 2015, adjusted for known and measurable changes and that the first true-up associated with the fuel tracker will apply to fuel rates established to be effective on April 1, 2017. Gulf South’s proposed initial rates generally reflect a significant decrease from its prior fuel retention percentages.

Notice of Filings and Responsive Pleadings

8. Public notice of the filing was issued on November 2, 2015. Interventions and protests were due as provided in section 154.210 of the Commission’s regulations.⁴ Pursuant to Rule 214,⁵ all timely filed motions to intervene and any unopposed motion 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. On November 12, 2015, Indicated Shippers⁶ filed a protest and Southern Company Services (SCS)⁷ and Atmos Energy Corporation each filed comments. On November 17, 2015, Gulf South filed reply comments. Additional answers were filed by SCS on November 20, 2015, Gulf South on November 23, 2015,

⁴ 18 C.F.R. § 154.210 (2015).

⁵ 18 C.F.R. § 385.214 (2015).

⁶ For the purposes of this filing Indicated Shippers consists of Anadarko Energy Services Company, BP Energy Company, ConocoPhillips Company, ExxonMobil Gas & Power Marketing Company, a division of Exxon Mobil Corporation, Petrohawk Energy Corporation, Shell Energy North America (US), L.P., and Shell Offshore Inc.

⁷ SCS is an agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Power Company.

and SCS on November 24, 2015. The Commission's Rules of Practice and Procedure do not permit answers to protests or answers to answers unless otherwise ordered by the decisional authority.⁸ We find good cause to accept Gulf South's and SCS's answers because it will not delay the proceeding, and the answers have assisted the Commission in understanding the issues discussed.

Discussion

9. We approve Gulf South's fuel tracker mechanism subject to Gulf South amending its proposed methodology for converting electric compression costs into a natural gas equivalent, and amending the SEME fuel calculation, as discussed below.

10. Indicated Shippers request clarification regarding the pricing methodology for determining the electric cost conversion price in Gulf South's fuel tracker mechanism. As noted above, Gulf South proposes in its filing that the gas equivalent quantity for electric compression that is included in the annual projected fuel rate percentages (Electric Adjustment Percentage) will be calculated by dividing the cash payments made to electric providers incurred in the operation of electric compression during the applicable 12-month period by the applicable price utilized for cash for fuel quantities under section 5.1 [5(b)] of its Rate Schedule FTS (Firm Transportation Service). As Indicated Shippers point out, however, that tariff section, which allows Gulf South and its shippers to mutually agree to cash instead of in-kind payments of gas, is vague as to the price and indices that will be used for the calculation and does not specify or require Gulf South to use any particular pricing methodology for determining the electric cost conversion price, or to include such price in its tariff. Accordingly, Indicated Shippers request that the Commission require Gulf South to include in its tariff the price methodology it will use to convert electric compression costs into a natural gas equivalent. Indicated Shippers also note in their protest that workpapers submitted with Gulf South's filing indicate that Gulf South intends to use a monthly NYMEX Settlement price for the calculation, and agree that use of the such index would be administratively simpler and easier to audit. In its reply comments, Gulf South agrees to modify its tariff to specifically identify the monthly NYMEX Settlement as the pricing methodology for converting electric compression costs into natural gas equivalent quantities.

11. The Commission finds that Gulf South's reply agreeing to identify the monthly NYMEX Settlement price does not make transparent the pricing mechanism and methodology that it will use for the electric compression price conversion. Accordingly, we direct Gulf South, when it files actual tariff records, to include tariff language specifying the methodology it will use to convert electric compression costs into a natural

⁸ 18 C.F.R. § 385.213(a)(2) (2015).

gas equivalent, including the price to be used and a step-by-step description of the manner in which the Electric Adjustment Percentage will be calculated, in compliance with the Commission's regulations.⁹ Additionally, Gulf South must file supporting information to confirm that the specific NYMEX data being used is consistent with Commission policy on price indices.¹⁰

12. SCS protests Gulf South's proposal to set an EFRP at zero in the event that its calculation of that EFRP reflects a gain. SCS states that if Gulf South is allowed to fix at zero both the EFRP for Fuel and Company Used Gas and the EFRP for LAUF, the proposal would appear to conflict with existing Commission precedent.¹¹ SCS states that in *WIC* the Commission refused to allow the pipeline to set at zero both the LAUF component of its fuel rate and the overall fuel rate, finding such a construct could lead to a higher overall fuel rate by failing to take into account that a negative component, such as LAUF, can be offset with a positive component, such as fuel use, of the overall fuel retention percentage for both fuel use and LAUF. Under SCS's understanding, this may result in shippers paying a higher overall retention percentage than would be justified by the pipeline's actual costs. SCS also notes that in its experience, tracking mechanisms that lack clear, stated provisions for ensuring that over-recovered amounts are returned to shippers will lead to indefinite deferrals and uncertainty that over-recovered amounts will eventually be returned. In its reply comments, Gulf South states that its proposal includes a true-up mechanism that ensures that any EFRP gains are returned to shippers in subsequent periods and is fully consistent with Commission policy. Gulf South states that the Commission has previously approved non-negative fuel reimbursement rates so long as any over-recovered amount is eventually returned to shippers.¹² In addition, Gulf

⁹ 18 C.F.R. § 154.403(c)(5) (2015).

¹⁰ “[W]hen a pipeline makes a tariff filing proposing to use a new price index in its tariff, the pipeline bears the burden of showing that the index satisfies the criteria set forth in the Commission’s 2004 Price Index Order.” *Sabine Pipe Line LLC*, 153 FERC ¶ 61,123, at P 8 (2015) (citing *Price Discovery in Natural Gas and Electric Markets, Order Regarding Future Monitoring of Voluntary Price Formation, Use of Price Indices in Jurisdictional Tariffs, and Closing Certain Tariff Dockets*, 109 FERC ¶ 61,184, at P 68 (2004)).

¹¹ SCS protest at 5 (citing *Wyoming Interstate Co.*, 121 FERC ¶ 61,213 (2007) (*WIC*)).

¹² Gulf South November 17, 2015 reply at 2 (citing *Kinder Morgan Louisiana Pipeline LLC*, 151 FERC ¶ 61,268, at P 8 (2015); *Columbia Gulf Transmission Co.*, 132 FERC ¶ 61,134 (2010); *Bay Gas Storage Company, Ltd.*, 126 FERC ¶ 61,018 (2009)).

South argues that there are a number of LAUF-only transactions (including an entire zone) on its system and that its proposal prevents a negative fuel rate for these transactions.

13. We find Gulf South's proposal to set its EFRPs at zero when there is a net gain and to carry the balance forward to the next tracker to be consistent with Commission policy. In particular, although SCS's interpretation of Gulf South's tariff would be inconsistent with Commission policy, we do not share that interpretation. Rather, GT&C section 6.9.4(3) requires Gulf South to calculate a single overall projected fuel retention percentage for each EFRP category that includes both Fuel and Company Used Gas and LAUF. GT&C section 6.9.4 requires Gulf South to calculate a single overall fuel adjustment percentage for purpose of truing up under- and over-recoveries of both Fuel and Company Use and LAUF. Thus, both the projected fuel retention percentage and the fuel adjustment percentage will reflect an offsetting of any negative component, such as fuel, by any positive component such as fuel use, consistent with *WIC*. Similarly, the EFRPs which result from combining the projected fuel retention percentage and the fuel adjustment percentage will reflect an offsetting of any negative by any positive components. Proposed section 4.22 of Gulf South's tariff makes this clear by stating that the EFRP for System Fuel and Company Used Gas Allowance is "Inclusive of LAUF." Thus, Gulf South is authorized to set the EFRP for transactions that are subject to both fuel use and LAUF charges at zero only when the overall EFRP reflecting both types of costs would be less than zero. The Commission has previously found that holding overall reimbursement rates at zero, rather than allowing the overall reimbursement rates to become negative, is reasonable so long as all of the over-recovered amount is eventually returned to the shippers.¹³ Gulf South's proposal includes a true-up mechanism that ensures that any EFRP gains are eventually returned to shippers. If Gulf South's interpretation of its proposed GT&C section 6.9.4 differs from our interpretation described herein, then our acceptance of Gulf South's proposal is conditional, and subject to Gulf South filing a revised proposal to match our above explanation of Commission policy.

14. In addition, Gulf South's system contains both transactions and services where shippers are only subject to a LAUF charge. Gulf South proposes to set forth a separate LAUF-only EFRP for those transactions. GT&C section 6.9.4(5)(b) reasonably provides for Gulf South to set that EFRP at zero, if it would otherwise be negative. Having a

¹³ *ETC Tiger Pipeline, LLC*, 147 FERC ¶ 61,166, at P 7 (2014) (citing *ETC Tiger Pipeline, LLC*, 141 FERC ¶ 61,159 (2012); *Columbia Gulf Transmission Co.*, 132 FERC ¶ 61,134 at P 43).

negative fuel rate for these transactions would be inappropriate or require Gulf South to continually seek waiver to the Commission for these transactions.

15. SCS also seeks additional information on some of the schedules Gulf South will file along with its annual fuel tracker. Specifically, SCS asks Gulf South to explain how it calculated Capacity LAUF in Schedule C, why the known and measurable adjustment in Schedule C-1 for the Clark County/Destin meter is placed in the LAUF calculation, and why the Destin fuel paid in Schedule D is greater than the Destin fuel recovered from Destin Lease shippers. Gulf South's reply comments provide clarification that appear to have resolved SCS's concerns.

16. SCS also asks Gulf South to provide a support schedule for Capacity Lease Fuel and Fuel Paid to Others (TBO Fuel) in Schedule C and support for the SEME Fuel calculation in Schedules C and D. In its reply, Gulf South agrees to provide support schedule C-2 identifying data supporting Capacity Lease Fuel and Fuel Paid to Others but states that no additional data is available to support the SEME fuel calculation. We find that Gulf South's comments have sufficiently addressed these issues with the exception of the SEME fuel calculation.

17. Regarding the SEME fuel calculation, SCS seeks further clarification that the SEME fuel components include only fuel from the Jasper Compressor Station, not the Forrest Compressor Station, as required by the Commission's certificate order. In its second reply, Gulf South states that the Jasper and Forrest Compressor Stations were both included as components of the SEME incremental fuel rate under Gulf South's rate case in Docket No. RP15-65-000 and were agreed upon in the Settlement.¹⁴ Gulf South thus argues that SEME fuel in the fuel tracker should include fuel consumed by both compressor stations. In its second reply, SCS states that while parties agreed to a SEME incremental fuel rate as part of the Settlement, the parties did not agree to any underlying rate methodology for SEME fuel.¹⁵

18. We find that Gulf South's SEME fuel calculation should include only the Jasper Compressor Station fuel and not the Forrest Compressor Station fuel. The Commission ruled in Docket No. CP13-96-000 that costs associated with the Jasper Compressor Station would accrue solely to the benefit of the SEME shippers utilizing the capacity from the Transmission Lease and thus directed Gulf South to develop an incremental fuel rate for the Jasper Compressor Station.¹⁶ In its rate case proceeding, Gulf South

¹⁴ Gulf South November 23, 2015 Reply at 3.

¹⁵ SCS November 24, 2015 Reply at 1-2.

¹⁶ *Gulf South Pipeline Co., LP*, 145 FERC ¶ 61,139 (2013).

proposed a new SEME fuel rate including both the Jasper and Forrest Compressor Stations that was ultimately resolved with the Settlement. Although the Settlement included an incremental rate for SEME fuel, the Settlement did not state the components of the rate nor did it specify any changes to the SEME fuel components as stated in the certificate order.¹⁷ The SEME fuel rate was originally developed to recover fuel solely from the Jasper Compressor Station and should continue to serve this purpose in the newly proposed fuel tracker. Therefore, as a condition of acceptance, we direct Gulf South to calculate the SEME fuel in its tracker to include fuel for only the Jasper Compressor Station.

19. Except as discussed above, we find that the language in the *pro forma* tariff records is acceptable and direct Gulf South to file actual tariff records reflecting such language within 15 days of the issuance of this order. Gulf South is directed to comply with the Commission's electronic filing requirements set forth in Order No. 714¹⁸ and Part 154 of the Commission's regulations.¹⁹

The Commission orders:

The language proposed in the *pro forma* tariff records is accepted, subject to the conditions discussed above, and subject to Gulf South filing actual tariff records reflecting the approved language within 15 days of the issuance of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁷ *Gulf South Pipeline Co., LP*, 153 FERC ¶ 63,016, at P 4 (2015).

¹⁸ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

¹⁹ 18 C.F.R. § 154.4 (2015).