

169 FERC ¶ 61,007  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

October 3, 2019

In Reply Refer To:  
Gulf South Pipeline Company, LP  
Docket No. RP19-1539-000

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

Attention: Benjamin K. Johnson, Vice President, Rates & Tariffs

Dear Mr. Johnson:

1. On September 3, 2019, Gulf South Pipeline Company, LP (Gulf South) filed tariff records<sup>1</sup> to establish new rate schedules for firm lateral service (Rate Schedule FLS) and interruptible lateral service (Rate Schedule ILS) as well as conforming changes to other portions of its tariff as necessary to implement the new services. As discussed more fully below, for good cause shown, we grant Gulf South's requested waiver of 18 C.F.R. § 154.202 (a)(1)(viii) (2019) and accept the tariff records, effective October 4, 2019, subject to Gulf South filing revised tariff records as described below.

**Proposal**

2. Gulf South states that the purpose of its filing is to add flexibility to its system by providing service on laterals built at the request of specific customers from a point on its existing transmission system. Gulf South states that the service is limited to new, proposed laterals, which would be authorized through the Commission's certificate authority.

3. Under proposed Rate Schedule FLS, a customer would be allowed to contract for primary firm service on an individual customer lateral. Further, according to Gulf South, customers would be able to select from four options for customer lateral service under Rate Schedule FLS: FTS-FLS (firm transportation), EFT-FLS (enhanced firm

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<sup>1</sup> See Appendix.

transportation), NNS-FLS (no-notice service), and NNS-A-FLS (alternative no-notice service). Gulf South states that these firm service options “provide service on the Customer Laterals similar to those provided to all of Gulf South’s customers on Gulf South’s existing system.”<sup>2</sup> Gulf South states that all of the FLS rate schedule options incorporate by reference the terms and conditions of the complementary existing firm service, both in the proposed rate schedule itself and in the proposed new section of the General Terms and Conditions of its tariff.

4. Gulf South states that for the no-notice options (NNS-FLS, NNS-A-FLS) and for enhanced firm transportation (EFT-FLS) a customer must execute an addendum to an existing NNS, NNS-A, or EFT contract that contains the same term and contract demand as the base contract. Gulf South states that storage is not available on a customer lateral and no-notice service is only possible on a customer lateral to the extent a customer also holds a Rate Schedule NNS or NNS-A contract.

5. Gulf South states that an FLS customer’s primary rights can only be established on the customer lateral. Gulf South states that, consistent with its tariff for other firm transportation services, FLS shippers will have secondary rights on the remainder of the Gulf South system, and non-FLS firm shippers will have secondary rights on any customer lateral. Gulf South states that under either scenario, use of points outside of primary point rights will be charged the maximum applicable rate, unless a discounted or negotiated rate agreement is executed. Gulf South states that the secondary rights aspect of the proposal should be approved as just and reasonable because the customer laterals will not be fully integrated with the rest of the Gulf South system and are designed to serve only one or a limited number of customers.

6. Gulf South’s proposed Rate Schedule ILS allows a customer to contract for interruptible service only on a specific customer lateral. Gulf South states that a customer must execute a new ILS service agreement to use ILS service and that the terms and conditions are similar to the terms and conditions governing the existing Rate Schedule ITS.

7. Gulf South states that the proposed Rate Schedules FLS and ILS will not affect the rights of Gulf South’s existing firm and interruptible customers because Gulf South will provide service under these rate schedules only on new customer laterals.

### **Notice, Interventions and Comments**

8. Public notice of Gulf South’s filing was issued on September 4, 2019. Interventions and protests were due as provided in section 154.210 of the Commission’s

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<sup>2</sup> Gulf South Transmittal at 3.

regulations.<sup>3</sup> Pursuant to Rule 214,<sup>4</sup> all timely-filed motions to intervene and any unopposed motions to intervene filed out-of-time 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. Indicated Shippers filed comments and a request for additional information.<sup>5</sup>

9. Indicated Shippers state that it is unclear from the filing what rate existing, non-lateral shippers will pay to access a point on a new lateral. For instance, Indicated Shippers seek clarification whether the existing shipper will need to sign up for additional FLS/ILS service, or whether the existing shipper will face a surcharge from the usual, postage-stamp rate. Indicated Shippers assert, “shippers with Rate Schedule FTS or ITS services are currently able to use much of the Gulf South system on a secondary basis, without being subject to an incremental charge for that secondary point access.”<sup>6</sup> Indicated Shippers state that, although Gulf South maintains that a shipper will be subject to the maximum applicable rates for the use of the system outside of its primary point rights, it does not state what the maximum applicable rate would be, and how that would apply to a mainline shipper seeking to access the lateral points. Indicated Shippers add that it is unclear whether this proposal implicates the Commission’s “incremental-plus” policy, which prohibits such pricing where the lateral is integrated and operated as part of the existing system.

10. On September 20, 2019, Gulf South filed an answer to Indicated Shippers’ comments. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure<sup>7</sup> prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We accept Gulf South’s answer because it provides information that assists in our decision-making process. On September 26, 2019, Indicated Shippers filed an answer to Gulf South’s answer to Indicated Shippers’ comments. We do not

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<sup>3</sup> 18 C.F.R. § 154.210.

<sup>4</sup> 18 C.F.R. § 385.214 (2019).

<sup>5</sup> In this proceeding the Indicated Shippers are: BP Energy Company and ExxonMobil Upstream Oil & Gas Company, a division of Exxon Mobil Corporation. Subsequently, Chevron Natural Gas, a division of Chevron U.S.A. Inc. filed to be added to the list of Indicated Shippers.

<sup>6</sup> Indicated Shippers Comments at 2.

<sup>7</sup> 18 C.F.R. § 385.213(a)(2).

accept Indicated Shippers' answer because it provides no additional information to aid us in our decision making process at this time.

11. In its answer, Gulf South responds to Indicated Shippers and states that customers that use the laterals will pay the individual rates established in the individual certificate proceedings and clarifies that points on a new customer lateral will only be available on a primary basis to customers who sign up for Rate Schedule FLS service and that existing mainline shippers will have secondary access.<sup>8</sup>

12. Gulf South also disputes Indicated Shippers' above-quoted description of how Gulf South's preexisting rates function for secondary points, because most contracts on its system are discounted or negotiated. Gulf South states, "the discounted and negotiated rates are only applicable at the specific points listed in the agreements, all other points (new or existing) are subject to the maximum applicable rates."<sup>9</sup> For recourse rate, mainline shippers, Gulf South clarifies, "[a]n FTS shipper who has contracted for service only on Gulf South's existing system that utilizes a Customer Lateral on a non-primary basis will be required to pay the rate applicable to the specific Customer Lateral in addition to the applicable existing system rate."<sup>10</sup> Gulf South clarifies that the converse is also true such that lateral customers will face an additional charge to access the mainline system.

13. To clarify its proposal, Gulf South included *pro forma* tariff records proposing additional language to its Rate Schedules FTS, NNS, and NNS-A statement of effective rates in sections 4.1, 4.4, and 4.6 of its tariff, respectively, stating that the rates "shall be increased to include an incremental daily transportation charge for utilization of any Customer Lateral identified in Section 4.17." Gulf South proposes similar clarifying edits to Rate Schedule FLS section 4.17.

### **Discussion**

14. Based upon our review of Gulf South's tariff filing, we find that the new lateral rate schedules will not have an adverse effect on existing shippers and are designed consistently with previous Commission orders approving lateral services.<sup>11</sup> Gulf South

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<sup>8</sup> Gulf South Answer at 3.

<sup>9</sup> Gulf South Answer at 4.

<sup>10</sup> *Id.*

<sup>11</sup> *See, e.g., Texas Gas Transmission, LLC*, 150 FERC ¶ 61,236 (2015).

has designed Rate Schedules FLS and ILS to apply only in instances where the cost of the new facilities to construct a lateral will be incurred solely by Firm Lateral Service customers. Because the lateral service customers will only have primary rights on the lateral, the rights of existing shippers will not be affected. Accordingly, we find the tariff records, as modified in Gulf South's answer, just and reasonable.

15. Indicated Shippers question what rates will be charged for combined lateral/mainline services; specifically, what rate non-lateral shippers will pay to access a point on a new lateral. Gulf South's tariff language states that such a shipper will pay "the maximum applicable rate(s), unless a discounted or negotiated rate agreement for such secondary or supplemental points is executed."<sup>12</sup> Accordingly, Gulf South would charge such customers the maximum rate for a specific point, which would include both the mainline rate and the additional charge for the lateral.

16. Indicated Shippers refer to *Gulf South Pipeline Company, LP*<sup>13</sup> and the "incremental-plus" policy. Whether the Commission's "incremental-plus" policy applies depends on whether an expansion project is integrated with an existing facility, or whether "the pipeline operate[s] the new facilities and the old facilities as a single system."<sup>14</sup> "Incremental plus" pricing is only appropriate for an expansion project's initial rates if the project is distinct from (i.e., not integrated with) the existing system or is a lateral operated for the exclusive benefit of a single or limited number of shippers.<sup>15</sup> The appropriate place to decide whether a proposed lateral satisfies the Commission's test of integration, and therefore is allowable for inclusion in Rate Schedules FLS and ILS, is in the certificate proceeding for a proposed lateral. The rate to be paid by an

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<sup>12</sup> Application at 4.

<sup>13</sup> 166 FERC ¶ 61,089 (order on rehearing) (2019).

<sup>14</sup> *Id.* Conversely, an expansion facility is not integrated when it is operationally isolated and does not rely on existing facilities to effectuate service. *Colorado Interstate Gas Co.*, 122 FERC ¶ 61,256, at P 60 (2008).

<sup>15</sup> See, e.g., *Colorado Interstate Gas Co.*, 122 FERC ¶ 61,256 at PP 58-62 (permitting additive rates for non-integrated facilities); *Wyoming Interstate Co., Ltd.*, 119 FERC ¶ 61,251, at P 20 (2008) (approving separate incremental rates that were also applicable to shippers using the Kanda supply lateral on a secondary basis).

actual customer under any of the proposed rate schedules will be determined in the certificate proceedings to authorize the subject laterals that Gulf South has not yet filed.<sup>16</sup>

17. Gulf South requests, to the extent necessary, waiver of 18 C.F.R. § 154.202 (a)(1)(viii),<sup>17</sup> the requirement to show the estimated effect on revenue and costs over the 12-month period of a new service. Gulf South does not estimate any revenue within 12 months of the proposed October 4, 2019 effective date of the rate schedules, as the first lateral project that Gulf South proposes to be included under this rate schedule is anticipated to go into service no earlier than the fourth quarter of 2021, provided that the Commission grants the requested certificate approving the yet to be submitted project. Gulf South states the costs associated with providing service under the proposed rate schedules will be addressed in the individual certificate proceeding of each proposed lateral project. The Commission has previously granted waivers of 18 C.F.R. § 154.202 (a)(1)(viii) for new services and sees good cause to do so here, where the costs and potential revenue for each lateral will be addressed in the individual certificate proceedings.<sup>18</sup> Therefore, we grant Gulf South's unopposed request for waiver of 18 C.F.R. § 154.202 (a)(1)(viii).

18. The tariff records listed in the Appendix are accepted, to be effective October 4, 2019. We also accept the proposed language on *pro forma* tariff records included in Gulf South's September 20, 2019 answer, and direct Gulf South to file actual tariff records reflecting such language within 10 days of the issuance date of this order.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>16</sup> In the proposed tariff records, Gulf South proposes a \$0 rate for each rate schedule. This is consistent with the fact that the actual rates cannot be determined until future certificate proceedings are undertaken.

<sup>17</sup> In its September 19, 2019 Response to staff's September 18, 2019 Data Request, Gulf South clarified that it was requesting waiver, to the extent necessary, of 18 C.F.R. § 154.202 (a)(1)(viii), and not 18 C.F.R. § 154.203 (a)(1)(8) as stated in footnote 9 of its application.

<sup>18</sup> *E.g.*, *Tallgrass Interstate Gas Transmission, LLC*, 161 FERC ¶ 61,092, at P 7 (2017); *Texas Gas Transmission, LLC*, 168 FERC ¶ 61,091, at P 12 (2019).

**Appendix**

Gulf South Pipeline Company, LP  
FERC NGA Gas Tariff  
Tariffs

*Tariff records accepted effective October 4, 2019:*

[Section 1, Table of Contents, 19.0.0](#)

[Section 5.22, Rate Schedules - FLS, 0.0.0](#)

[Section 5.23, Rate Schedules - ILS, 0.0.0](#)

[Section 6.2, GT&C - Definitions, 20.0.0](#)

[Section 6.6, GT&C - Primary, Secondary, Comprehensive, and Pooling Points, 10.0.0](#)

[Section 6.8, GT&C - Requests for Service, 20.0.0](#)

[Section 6.12, GT&C - Nominations, Confirmations, & Scheduling, 16.0.0](#)

[Section 6.17, GT&C - Segmentation of Capacity, 10.0.0](#)

[Section 6.18, GT&C - Operational Plans/Emergency Procedures, 12.0.0](#)

[Section 7.1, Form\(s\) of Service Agmts - Firm Transportation Services, 13.0.0](#)

[Section 7.1.1, Form\(s\) of Svc Agmts - Firm Transportation Services - Ex A, 7.0.0](#)

[Section 7.2, Form\(s\) of Service Agreements - ITS/ITS-P/PXS/ILS, 10.0.0](#)

[Section 7.8, Form of Agmt - Firm Services Disc Rates Ltr Agmt, 15.0.0](#)

[Section 7.8.1, Firm Services Disc Rate Ltr Agmt-Exhibit A, 10.0.0](#)

[Section 7.9, Form\(s\) of Agmts - ITS/PXS/ITS-P/ILS Disc. Rate Letter Agmt, 10.0.0](#)

[Section 7.10, Firm Services Neg Rate Letter Agmt, 14.0.0](#)

[Section 7.14, Form\(s\) of Service Agmt - Umbrella Firm Transportation, 10.0.0](#)

[Section 7.16, Form of Addendum to Service Agreement for FLS, 3.0.0](#)