

99 FERC ¶ 61, 184  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, Linda Breathitt,  
and Nora Mead Brownell.

Florida Gas Transmission Company

Docket Nos. RP00-387-000  
RP00-583-000  
RP00-583-001

ORDER ON COMPLIANCE WITH ORDER NOS. 637, 587-G and 587-L

(Issued May 16, 2002)

On July 14, 2000 Florida Gas Transmission Company (Florida Gas) filed pro forma tariff sheets in Docket No. RP00-387-000 to comply with Order No. 637.<sup>1</sup> In Order No. 637, the Commission revised, among other things, its regulations relating to scheduling procedures, capacity segmentation, and pipeline penalties in order to improve the competitiveness and efficiency of the interstate pipeline grid. As discussed below, the Commission finds that Florida Gas has generally complied with the requirements of Order No. 637, subject to certain modifications.

On September 29, 2000, Florida Gas filed in Docket No. RP00-583-000 to comply with Order Nos. 587-G and 587-L. Order No. 587-G<sup>2</sup> promulgated section

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<sup>1</sup>Regulation of Short-Term Natural Gas Transportation Services and Regulation of Interstate Natural Gas Transportation Services, FERC Stats. & Regs., Regulations Preambles (July 1996 - December 2000) ¶ 31,091 (Feb. 9, 2000); order on rehearing, Order No. 637-A, FERC Stats. & Regs., Regulations Preambles (July 1996 - December 2000) ¶ 31,099 (May 19, 2000); order on rehearing, Order No. 637-B, 92 FERC ¶ 61,062 (July 26, 2000); aff'd in part and remanded in part, Interstate Natural Gas Association of America v. FERC, No. 98-1333, 2002 U.S. App. LEXIS 6219 (D.C. Cir. Apr. 5, 2002).

<sup>2</sup>Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587-G, FERC Stats. & Regs. Regulation Preambles (July 1996 - December 2000)

(continued...)

284.12(c)(2)(ii)<sup>3</sup> of the Commission's regulations requiring pipelines to establish provisions for netting and trading of imbalances. In Order No. 587-L,<sup>4</sup> the Commission established November 1, 2000 as the date by which pipelines were required to implement imbalance netting and trading. In its filing to comply with Order No. 587-L Florida Gas argued that its tariff was already in compliance with Order No. 587-G and L. On October 27, 2000, the Commission accepted Florida Gas' Order No. 587-G and 587-L compliance filing subject to further review in Florida Gas' Order No. 637 proceeding and directed Florida Gas to file an explanation of how its existing tariff provisions complied with Order Nos. 587-G and 587-L.<sup>5</sup> On November 21, 2000, Florida Gas filed its explanation in Docket No. RP00-583-001. Florida Gas' Order Nos. 587-G and 587-L filings are accepted as in satisfactory compliance with those orders.

In this order, we direct Florida Gas to file actual tariff sheets consistent with the directives set forth herein within 30 days of the issuance of this order. This order encourages competitive conditions on the pipeline grid; helps create competitive equality for capacity release and pipeline capacity; removes impediments to the sale and use of capacity; and creates greater flexibility for shippers. Overall this order benefits customers by enhancing pipeline transportation services.

## **I. Background**

### **A. Summary of Florida Gas' Operations**

Florida Gas' system originates in the Gulf Coast area of Texas, increases its capacity as it goes through Louisiana, and delivers gas throughout Florida, from the northwest to the southeast. Florida Gas' Market Area extends from the Alabama-Florida border eastward and southward. Its Western Division crosses the states of Alabama,

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<sup>2</sup>(...continued)

¶ 31,062, at 30,677-80 (Apr.16, 1998), order on rehearing, Order No. 587-I, FERC Stats. & Regs. Regulation Preambles (July 1996 - December 2000) ¶ 31,067 at 30,735-37 (Sept. 29, 1998).

<sup>3</sup>18 C.F.R. § 284.12(c)(2)(ii) (2001).

<sup>4</sup>Standards for Business Practices of Interstate Gas Pipelines, Order No. 587-L, FERC Stats. and Regs. Regulation Preambles (July 1996 - December 2000) ¶ 31,100 (June 30, 2000).

<sup>5</sup>93 FERC ¶ 61,093 (2000).

Mississippi, and Louisiana. Florida Gas states that it has no storage and no gathering facilities and that nearly all deliveries on its system are made via market area laterals, as distinguished from deliveries at the mainline. Florida Gas states that there are operational constraints on many of its delivery laterals and that most of the gas Florida Gas transports enters at interconnect points with other pipelines. Florida Gas states that it charges firm Rate Schedule FTS-1 transportation rates, firm Rate Schedule FTS-2 incremental transportation rates, and interruptible transportation rates. Florida Gas states in its compliance filing that it has conducted Operating Committee<sup>6</sup> meetings with its customers since implementation of Order No. 636 in order to improve the operating characteristics of Florida Gas' system. These meetings have resulted in several tariff changes designed to strike a balance between the needs for shipper flexibility and Florida Gas' need to maintain system integrity.

## **B. Procedural History**

Notices of Florida Gas' filings in Docket Nos. RP00-387-000 and RP00-583-001 were issued with interventions, protests and comments due in accordance with Rule 214. The appendix lists those companies filing comments or protests in these dockets. Florida Gas filed an answer to the comments and protests. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>7</sup> all timely filed motions to intervene are granted. Also pursuant to Rule 214, we will grant the untimely filed motions to intervene of U.S Agri-Chemicals Corporation and Florida Power and Light Company in Docket No. RP00-583-001. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties.

## **II. Discussion**

### **A. Scheduling Equality**

Section 284.12(c)(1)(ii) of the Commission regulations requires pipelines to:

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<sup>6</sup>The Operating Committee was established in a Settlement approved by the Commission in Docket No. RP95-103, et al. (73 FERC ¶ 61,057 (1995)). The Operating Committee is defined as a group of interested parties on Florida Gas' system. The Operating Committee meetings may serve as a forum to resolve penalty, balancing, and other operational issues on Florida Gas system.

<sup>7</sup>18 C.F.R. § 385.214 (2001).

permit shippers acquiring released capacity to submit a nomination at the earliest available nomination opportunity after the acquisition of capacity. If the pipeline requires the replacement shipper to enter into a contract, the contract must be issued within one hour after the pipeline has been notified of the release, but the requirement for contracting must not inhibit the ability of the replacement shipper to submit a nomination at the earliest available nomination opportunity.<sup>8</sup>

In Order No. 637, the Commission explained that this rule will enable shippers to acquire capacity at any of the nomination or intra-day nomination times, and nominate gas coincident with their acquisition of capacity. NAESB<sup>9</sup> standard 1.3.2 establishes four nomination opportunities; one timely nomination opportunity and three intra-day nomination opportunities.

The Commission recently adopted Version 1.5 of the NAESB standards in Order No. 587-O.<sup>10</sup> Version 1.5 of Standard 5.3.2 establishes a revised capacity release time line, which the Commission found satisfies the scheduling equality provisions of section 284.12(c)(1)(ii) of the Commission's regulations. Under this standard, biddable releases would be posted by 3:00 p.m (rather than at 5:00 as under the existing time line), contracts would be issued within one hour of posting, and shippers would be able to nominate at the 5:00 p.m. Intra-day 2 nomination cycle or any following nomination cycle. Pipelines must be notified of non-biddable, prearranged deals one hour prior to the nomination deadline for each of the four NAESB nomination cycles. The Commission further found that pipelines may propose shorter prior notice requirements for prearranged non-biddable deals. To provide shippers with the utmost flexibility in scheduling, the Commission encouraged pipelines to reduce or eliminate the prior notice provision for prearranged, non-biddable deals as permitted by their scheduling system.

Florida Gas filed to comply with Order No. 637 prior to the Commission's adoption of Version 1.5 of the NAESB Standards. Upon further review of Florida Gas'

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<sup>8</sup>18 C.F.R. § 284.12(c)(1)(ii) (2001).

<sup>9</sup>North American Energy Standards Board, formerly the Gas Industry Standards Board (GISB).

<sup>10</sup>Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587-O, 99 FERC ¶ 61,146 (2002). NAESB developed Standard 5.3.2 of Version 1.5 to comply with the Commission's scheduling equality requirement.

filing, the Commission finds that it does not comply with the requirements of NAESB Standard 5.3.2 of Version 1.5 as adopted and hence, does not comply with section 284.12(c)(1)(ii) of the Commission's regulations. Therefore, Florida Gas is directed to revise its filing to comply with NAESB Standard 5.3.2 (Version 1.5).

**B. Segmentation, Flexible Point Rights, Secondary Point Priority and Discounts**

**1. Segmentation**

Order No. 637 requires pipelines to permit a shipper to make use of the firm capacity that it has contracted by segmenting that capacity into separate parts for its own use or for the purpose of releasing that capacity to replacement shippers to the extent such segmentation is operationally feasible.<sup>11</sup>

**a. Florida Gas' Proposal**

Florida Gas states that its current tariff permits shippers to segment their capacity through capacity release. Florida Gas proposes to revise its tariff at section 18.1 to add provisions to also permit a shipper to segment capacity for its own use. The revised tariff provides that shippers segmenting capacity must specify:

- (i) the specific point as between valid FGT receipt and/or delivery points within the Shipper's path; and (ii) all applicable changes to the Shipper's MDQ at the Primary Receipt and/or Delivery points and to the Shipper's MDTQ for the beginning point to the ending point of the segment and any other changes to the Shipper's MDTQ.

Florida Gas also proposes to limit the sum of shippers' overlapping nominations to the releasing shipper's original capacity entitlement. The proposal provides that if nominations by releasing and replacement shippers exceed the original shipper's contract demand, capacity will be allocated on a pro rata basis based on nominations, unless the releasing shipper has specified another allocation methodology. The proposed tariff revision specifies that segmenting will be permitted where the transaction will not impede or adversely affect any other shipper's firm service.

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<sup>11</sup>18 C.F.R. § 284.7(d) (2001).

**b. Comments**

Southern Company Services, Inc. (Southern Company) was the only intervenor to raise issues with Florida Gas' segmentation tariff changes. Southern Company objects to Florida Gas' proposed tariff language which states that segmenting "shall be permitted where the transaction will not impede or adversely affect firm service to any other Shipper."<sup>12</sup> Southern Company states that this language is unduly broad, ambiguous, and has the potential to discourage segmenting. Because Florida Gas proposes to cap segmentation at a shipper's firm transportation quantity, Southern Company does not see how segmentation could work to adversely affect another shipper.<sup>13</sup> In addition, Southern Company states that Florida Gas' tariff language limiting segmenting to receipt and delivery points within a shipper's path is unacceptable, since the Commission has expressly recognized that shippers can segment outside their capacity path and that pipelines' tariffs must recognize that capability.<sup>14</sup> Southern Company requests that the Commission require that the within-the-path restriction be eliminated. Southern Company also asserts that the tariff does not recognize shippers' flexibility to use their capacity to make backhauls as well as forwardhauls.

**c. Reply Comments**

In response to Southern Company's objection to Florida Gas' language which limits segmentation transactions to those that will not impede other customers, Florida Gas highlights the fact that this language simply prohibits a segmenting customer from affecting the services of other customers. Florida Gas likewise responds to Southern Company's objection to the within-the-path requirement by stating that this limitation is consistent with the Commission's policy that a shipper cannot release capacity rights that it does not have.<sup>15</sup> Further, Florida Gas points out that a shipper may change its primary points and that all shippers on its system can submit nominations at alternate receipt and delivery points, subject to the limitation on overlapping segments.

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<sup>12</sup>Pro Forma Third Revised Sheet No. 175.

<sup>13</sup>Southern Company Comments at 12-13.

<sup>14</sup>Id. at 13.

<sup>15</sup>Citing, Texas Eastern Transmission Corp., 63 FERC ¶ 61,100 at 61452 (1993)(releasing shippers . . . are not allowed to release primary receipt or delivery point rights that they do not have.").

#### **d. Commission Ruling**

We find Florida Gas' tariff complies with the Order No. 637 segmentation requirements, with one modification discussed below. We accept Florida Gas' proposed tariff language limiting segmentation to situations where the segmentation will not adversely affect another firm shipper's service. Segmentation is unlikely to adversely affect the rights of firm shippers on the straight-line sections of the Florida Gas' system. However, there is a possibility that segmentation could adversely affect the rights of firm shippers on some sections of the pipeline under certain circumstances. Therefore, the proposed tariff language provides a reasonable means of limiting segmentation on Florida Gas' system to an operationally feasible basis which does not impede the rights of firm shippers.

However, one aspect of Florida Gas' proposal must be modified. Florida Gas' above quoted proposed tariff language provides that shippers may only segment capacity within their primary path. In Order No. 637-A, the Commission stated that a shipper have the right to segment outside of their capacity path. A shipper may move to any point within the zone for which it has paid even if that point is outside of the contractual path because a shipper has the right to utilize all points within the zone for which it has paid.<sup>16</sup> Therefore, Florida Gas is directed to modify its proposed tariff sheets consistent with this discussion.

In addition, as noted by Southern Company, Florida Gas' tariff does not specifically provide for backhaul services. However, Florida Gas' tariff does not appear to prohibit such service. While Florida Gas has an obligation to permit backhauls on its system, we do not find that a tariff revision to specifically provide for such service is necessary to enforce this obligation.

### **2. Flexible Point Rights**

In Order No. 637, the Commission found that permitting flexibility in the selection of primary points in segmented releases can be important to creating effective competition between pipeline services and released capacity. The Commission required pipelines to justify restrictions on shippers' ability to use additional primary points in segmentation transactions and any deviation from the Texas Eastern/El Paso policy.<sup>17</sup>

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<sup>16</sup>Order No. 637-A at 31,592.

<sup>17</sup>Order No. 637, FERC Stats & Regs. Regulation Preambles (July 1996-

(continued...)

Under this policy, the releasing and replacement shippers are both able to choose primary points consistent with their mainline contract demand.

**a. Florida Gas' Proposal**

Florida Gas' current tariff allows replacement shippers acquiring a segment of capacity to request new primary point rights at points within the acquired segment subject to availability of point capacity. The tariff also allows replacement shippers to request changes to primary points if allowed by the releasing shipper.

**b. Commission Ruling**

Florida Gas must modify its tariff language concerning primary points in order to fully comply with the Texas Eastern/El Paso policy. While Florida Gas' tariff permits replacement shippers to obtain new primary points, it only permits them to obtain such points within the acquired segment. This is contrary to the Commission's policy that replacement shippers must be permitted to elect primary points outside the path in the same zone, subject to capacity availability.<sup>18</sup> Florida Gas is directed to revise its tariff accordingly.

**3. Mainline Priority at Secondary Points**

Order No. 637-A provides that each pipeline must afford a higher priority over mainline capacity to shippers seeking to use a secondary point within their capacity path than shippers seeking to use mainline capacity outside of their path, unless the pipeline can demonstrate that such an approach is operationally infeasible or leads to anticompetitive outcomes on its system.<sup>19</sup>

**a. Florida Gas' Proposal**

In the instant compliance filing, Florida Gas urges the Commission not to require it to implement a within-the-path allocation methodology. When Florida Gas made its

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<sup>17</sup>(...continued)  
December 2000) ¶ 31,091, at 31,304.

<sup>18</sup>Iroquois Gas Transmission System, Inc., 97 FERC ¶ 61,164 at 61,732 (2001).

<sup>19</sup>Order No. 637-A, FERC Stats. & Regs. Regulations Preambles (July 1996-December 2000) ¶ 31,099, at 31,596-98.

compliance filing, rehearing of Order No. 637-A's adoption of a policy requiring a within-the-path scheduling priority was pending before the Commission. In the instant compliance filing, Florida Gas makes the same arguments against this policy it made in its request for rehearing of Order No. 637-A. Even if the Commission does not alter its general policy, Florida Gas requests that the Commission allow it to retain its existing alternative point priorities (determined on a pro rata basis) on the grounds that it is operationally infeasible on some portions of its system and will lead to anti-competitive outcomes.<sup>20</sup>

Florida Gas argues that the imposition of a within-the-path priority leads to anti-competitive outcomes because it dictates that only a few parties will be in a position to serve incremental loads. Florida Gas also states that it is not always possible to assign a physical path to each delivery since a "grid" has been formed over the years by interconnecting its mainlines. Thus, Florida Gas states that customers can sometimes be served by multiple paths and the physical path of the gas may change from time to time depending on the markets being served and the volumes going to each market.

#### **b. Comments**

The Southern Company, Florida Cities, Florida Municipals, and Tropicana all support Florida Gas' requested exemption from a within-the-path priority method. Florida Cities asserts that an adoption of the within-the-path priority would award downstream competitors a windfall advantage by enhancing the value of their capacity.<sup>21</sup> Florida Municipals requests that the Commission allow Florida Gas to retain its current system for allocating secondary points.<sup>22</sup> Tropicana states that a change in scheduling of alternate firm capacity to secondary delivery points could have an immediate adverse impact on its ability to use natural gas at its Bradenton facilities.<sup>23</sup>

#### **c. Reply Comments**

In its answer, Florida Gas highlights the comments made by its customers in support of an exemption from using of a within-the-path priority allocation methodology.

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<sup>20</sup>Florida Gas Transmittal letter at 4.

<sup>21</sup>Florida Cities' comments at 6.

<sup>22</sup>Florida Municipals' comments at 7.

<sup>23</sup>Tropicana comments at 3.

In addition, Florida Gas states that at a June 7, 2000, Operating Committee meeting, all of the customers in attendance stated that they either agreed with or would not file comments opposing Florida Gas' proposal to retain its existing allocation priorities.

**d. Commission Ruling**

Florida Gas is directed to revise its tariff to grant priority to those shippers whose secondary points are within their capacity path. Florida Gas raised no new policy arguments to persuade us to alter the Commission's decision in Order No. 637-B, which denied Florida Gas' and others' rehearing request on this issue. In that order the Commission addressed each of the arguments raised here and affirmed its determination that within-the-path allocation priority generally will best facilitate competition in the capacity release market and reiterated its Order No. 637-A finding that competition and capacity release will be more efficient if one party has a defined right that can be exchanged, rather than two or more shippers having equal rights.<sup>24</sup>

Florida Gas argues that on its system it is not always possible to assign a physical path to each delivery since a "grid" has been formed over the years by the interconnection of its mainlines, and, therefore, for this operational reason the Commission's within-the-path methodology cannot be adopted. However, the Commission notes that Florida Gas is able to assign a path for segmentation of capacity on its system and therefore, the Commission directs Florida Gas to file revised tariff sheets within 30 days of the date of this order to incorporate the within-the-path allocation priority.

**4. Discount Provisions**

In Order No. 637-A, the Commission stated that the current policy permitting pipelines to limit discounts to particular points needs to be reexamined in the compliance filings, as part of the examination of restrictions on capacity release and segmentation.<sup>25</sup>

**a. Florida Gas' Proposal**

Florida Gas did not file revised tariff sheets to comply with the Commission's directives as set forth in previous Order No. 637 proceedings.

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<sup>24</sup>Order No. 637-B at 61,169.

<sup>25</sup>Order No. 637-A, FERC Stats. & Regs., Regulations Preambles (July 1996-December 2000) ¶ 31,099, at 31,595.

**b. Commission Ruling**

In Order No. 637-A, the Commission stated that the current policy permitting a pipeline to limit discounts to particular points needed to be reexamined in the compliance filings, as part of the examination of restrictions on capacity release and segmentation.<sup>26</sup>

In CIG/Granite State,<sup>27</sup> the Commission adopted a new policy that permits a shipper to retain a discount when it moves to segmented points or secondary points through a streamlined request process in which the pipeline processes requests for discounts within 2 hours. The Commission reasoned that its discount and segmentation policies can best be balanced by adoption of a policy under which a shipper with a discounted rate that seeks to use an alternate receipt or delivery point (whether through segmentation, capacity release, or its own exercise of flexible receipt and delivery point rights) can continue to receive a discounted rate if the pipeline has granted a discount to a similarly situated transaction at the alternate point.<sup>28</sup> As the Commission explained in CIG, "this policy is an application of the general requirement that pipelines must not engage in undue discrimination,"<sup>29</sup> by ensuring that a shipper with a discounted contract can continue to receive a discount at points where it is similarly situated to other shippers receiving a discount. This policy allows a shipper to better compete with the primary capacity offered by the pipeline and with other shippers holding contracts for capacity at these points.

Under this policy, there is a rebuttable presumption that a shipper holding a discount at a point will retain a discounted rate if it chooses to segment, release capacity, or use its flexible receipt and delivery point rights to move gas to another point at which

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<sup>26</sup>Order No. 637-A at 31,595.

<sup>27</sup>Colorado Interstate Gas Company, 95 FERC ¶ 61,321 (2001); Granite State Gas Transmission, Inc., 96 FERC ¶ 61,273 (2001) reh'g denied, 98 FERC ¶ 61, 019 (2002).

<sup>28</sup>See Paiute Pipeline Company, 96 FERC ¶ 61,167, at 61,750 (2001) (explaining that the CIG discount policy applies to the use of secondary points whether through capacity release transactions, segmentation, or the use of flexible receipt or delivery points).

<sup>29</sup>95 FERC ¶ 61,321, at 62,121.

the pipeline has granted discounts for its firm or interruptible transportation services.<sup>30</sup> The pipeline can rebut this presumption by demonstrating that the segmented or secondary point transaction is not similarly situated to the transactions receiving the discount at the secondary point. The Commission placed the burden on the pipeline to justify a denial of a discount, because the Commission was concerned that pipelines may not have the same incentive to offer discounts to segmented transactions or to secondary points that compete directly with their sale of primary capacity.

In order to comport with the Commission's requirement to ensure nomination equality,<sup>31</sup> the Commission further has required pipelines to process requests for discounts within two hours of the time the request is submitted.<sup>32</sup> This processing requirement ensures that shippers requesting the continuation of discounts can submit nominations at each of the four standard nomination opportunities provided by the pipeline.<sup>33</sup>

Florida Gas therefore, is directed to file, within 30 days of this order, actual tariff sheets implementing the rebuttable presumption policy discussed above along with a

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<sup>30</sup>The shipper seeking to move its point will pay the higher of its contractual rate or the discount rate being offered at the alternate point. See CIG, 95 FERC ¶ 61,321, at 62,121 n.38.

<sup>31</sup>18 C.F.R § 284.12 (c)(1)(ii) (2001).

<sup>32</sup>The Commission has further provided that "if a pipeline and its shippers can reach agreement on a standard processing period for discount requests that retains the nomination equality requirement of the Commission's regulations, such an agreement also could be an acceptable method of implementing the discount policy." Granite State Gas Transmission Inc, 98 FERC ¶ 61, 019.

<sup>33</sup>Pipelines, of course, can choose shorter periods for processing. Moreover, the Commission has recognized that pipelines may not have staff to process discount requests overnight. Therefore, pipelines must act on overnight requests to retain discounts received after 4 p.m. by no later than 8:30 a.m. CCT the next business day, and need not process requests on weekends. See National Fuel Gas Supply Corporation, 98 FERC ¶ 61,123 (2002). Pipelines providing for additional nomination opportunities after the 6:00 p.m. Evening Nomination cycle need not process corresponding discount requests for nominations coming after the 6:00 p.m. standard nomination time period until 8:30 a.m. the next business day.

procedure for processing requests to retain discounts at each scheduling opportunity provided by the pipeline.

### **C. Imbalance Services, Penalties and OFOs**

#### **1. Imbalance Services**

Order No. 637 requires pipelines with imbalance penalty provisions in their tariffs to provide, to the extent operationally practicable, imbalance management services, such as park and loan service. Pipelines are prohibited from giving undue preference to their own balancing services over such services that are provided by a third party.<sup>34</sup>

##### **a. Florida Gas' Proposal**

Florida Gas believes its tariff currently complies with the imbalance services requirements of Order No. 637. Florida Gas offers a parking and lending service through its Rate Schedule PNR and, as discussed below, it also offers opportunities for its customers to net and trade imbalances. Florida Gas states that it provides shippers information for imbalance management by providing delivery information several times each day. Operators of large volume delivery points are given information every fifteen minutes, while small point operators are given information every four hours. Florida Gas states that since it has no storage or supply input in its market area, it must rely on line pack management to absorb imbalances. Florida Gas states that given these constraints, imbalances can best be managed by providing timely accurate information.

##### **b. Comments**

Southern Company argues that Florida Gas has not shown that it is offering all operationally feasible imbalance services as required by Order No. 637. Southern Company states that Florida Gas should be required to implement an imbalance auction or brokering system and an interruptible imbalance management service on a no-notice basis for shippers serving end-use facilities, or prove that these services are infeasible on its pipeline. Florida Gas states that, with regard to imbalance services, cashouts, OFOs, and penalties, it is content to rely on the meetings of the Operating Committee to effect any additional changes to Florida Gas' tariff.

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<sup>34</sup>18 C.F.R. § 284.12(c)(2)(iii) (2001).

Altra Energy Technologies, Inc. (Altra) filed generic comments requesting that the Commission ensure that a pipeline's creditworthiness standards for third party providers be established based on the nature of the service being provided.

**c. Reply Comments**

Florida Gas replies that Order No. 637 does not require pipelines to offer every imbalance service that may be operationally feasible or to justify why it cannot offer the service, as argued by Southern Company.

**d. Commission Ruling**

The Commission finds that Florida Gas has complied with the requirements of Order No. 637 concerning imbalance management services. Florida Gas offers shippers adequate flexibility in managing imbalances in its system given the constraints on its system such as lack of storage and supply inputs in the market area. Florida provides a parking and lending service and in addition, Florida Gas provides timely imbalance information to parties to assist its shippers in managing imbalances and provides end-of-month imbalance information. While Order No. 587-G addressed pipeline responsibility with respect to conducting electronic auctions for imbalance trading, the Commission has not required pipelines to use auctions and we will not place such a requirement on Florida Gas in this proceeding. The Commission will also not require Florida Gas to implement an interruptible imbalance management service, because the Commission finds that Florida Gas has adequately complied with the Commission's imbalance management requirements.

With regard to Altra's comments, Altra has not identified a specific concern with regard to Florida Gas' creditworthiness provisions, nor has it identified the type of service that it contemplates providing. Without a showing of the type of service the third party will be providing and the potential risk to Florida Gas, the Commission can not evaluate whether Florida Gas' creditworthiness standards are applicable to the third party. Accordingly, Altra has not shown the need to change Florida Gas' creditworthiness standards. Florida Gas, however, must not apply its creditworthiness standards on an unduly discriminatory basis.

## 2. Netting and Trading

Order No. 587-G<sup>35</sup> promulgated section 284.12(c)(2)(ii)<sup>36</sup> of the Commission's regulations requiring pipelines to establish provisions for netting and trading of imbalances. In Order No. 587-L,<sup>37</sup> the Commission established November 1, 2000 as the date by which pipelines were required to implement imbalance netting and trading. In its filing to comply with Order No. 587-L Florida Gas argued that its tariff was already in compliance with Order Nos. 587-G and L. On October 27, 2000, the Commission accepted Florida Gas' Order No. 587-G and 587-L compliance filing subject to further review in Florida Gas' Order No. 637 proceeding, and directed Florida Gas to file an explanation of how its tariff provisions complied with Order Nos. 587-G and 587-L.<sup>38</sup> On November 21, 2000, Florida Gas filed its explanation in Docket No. RP00-583-001.

### a. Florida Gas' Proposal

Florida Gas explains that it permits netting and trading of imbalances both within and across contracts with two exceptions. Under its tariff, imbalances under no-notice Rate Schedule NNTS can only be netted or traded against other Rate Schedule NNTS contract imbalances or against imbalances at receipt points pursuant to contracts under any rate schedule. Similarly, imbalances under small customer Rate Schedule SFTS can only be netted against other Rate Schedule SFTS imbalances unless the party pays the difference in transportation charges between the Rate Schedule SFTS rate and the weighted average of the non-Rate Schedule SFTS usage charges scheduled at the delivery point.

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<sup>35</sup>Standards for Business Practices of Interstate Natural Gas Pipelines, Order No. 587-G, FERC Stats. & Regs. Regulation Preambles (July 1996 - December 2000) ¶ 31,062, at 30,677-80 (Apr.16, 1998), order on rehearing, Order No. 587-I, FERC Stats. & Regs. Regulation Preambles (July 1996 - December 2000) ¶ 31,067 at 30,735-37 (Sept. 29, 1998).

<sup>36</sup>18 C.F.R. § 284.12(c)(2)(ii) (2001).

<sup>37</sup>Standards for Business Practices of Interstate Gas Pipelines, Order No. 587-L, FERC Stats. and Regs. Regulation Preambles (July 1996 - December 2000) ¶ 31,100 (June 30, 2000).

<sup>38</sup>93 FERC ¶ 61,093 (2000).

**b. Comments**

Dynegy argues that Florida Gas should provide for netting and trading of Rate Schedule NNTS imbalances across all rate schedules subject to only operational considerations and not financial considerations and that Florida Gas should be required to implement new measures to facilitate the trading process. Dynegy also argues that Florida Gas should be required to permit agents for shippers to trade imbalances. Dynegy maintains that because there is no central location to find shippers with offsetting imbalances, Florida Gas should be required to create a netting and trading function on its EBB.

**c. Reply Comments**

In response to Dynegy's protest that parties should be able to net and trade Rate Schedule NNTS imbalances against other imbalances, Florida Gas states that it bills transportation charges based on scheduled quantities to all services, except Rate Schedule NNTS service. However, Florida Gas states that because Rate Schedule NNTS volumes are not scheduled, transportation charges are billed under this rate schedule based upon actual (physical) deliveries. Florida Gas states that when it implemented this provision, its shippers agreed that, rather than excluding Rate Schedule NNTS imbalances from netting and trading, these imbalances would be considered as akin to receipt point imbalances and could only be traded with other Rate Schedule NNTS imbalances or with receipt point imbalances under any other rate schedule. Florida Gas states that this a fair way of providing shipper flexibility without creating a loss of transportation revenues to Florida Gas. Florida Gas also points out that total subscribed Rate Schedule NNTS volumes equate to only about two percent of Florida Gas' subscribed firm service so its restrictions on this service have little or no impact on overall imbalance netting and trading.

Similarly, Florida Gas also explains that the restrictions it has placed upon trading of small customer Rate Schedule SFTS imbalances are designed to keep parties from avoiding transportation charges by trading imbalances to avoid transportation charges.

Florida Gas states that it reports tradable balances on its EBB and on its Internet Website. Florida Gas states that it posts this information and provides ten days for parties to trade imbalances. Florida Gas states that parties to any imbalance trade must complete a one-page form to notify Florida Gas of the trade and Florida Gas then adjusts imbalance levels prior to sending out cashout notices.

Florida Gas also states that Section 10E of its GT&C provides that a shipper may name any designee to conduct the administrative duties of the shipper. Florida Gas states

that under this provision shippers may authorize a designee (or agent) to be in charge of imbalance resolution and to conduct imbalance trading.

**d. Commission Ruling**

The Commission accepts Florida Gas' explanation and finds that it has adequately complied with Order Nos. 637, 587-G and 587-L with respect to its imbalance services. The Commission finds that Florida Gas' tariff complies with the Commission's policies with respect to trading and netting imbalances under Rate Schedule NNTS and Rate Schedule SFTS.

A review of the Florida Gas system reflects that it utilizes postage stamp rates and that it bills for transportation service on the basis of scheduled volumes. Under this method, system imbalances are calculated based upon the difference between scheduled quantities and physical quantities at both receipt points and at delivery points. These factors have lead Florida Gas to structure its netting and trading mechanism in order to ensure that the pipeline does not lose transportation revenue by permitting the trading of imbalances in certain circumstances. For instance, for imbalances incurred under Rate Schedule NNTS Florida Gas has proposed to permit shippers to net and trade imbalances only with other Rate Schedule NNTS imbalances or with a shipper under any other rate schedule with a receipt imbalance. Because of the billing features of Rate Schedule NNTS service, to allow the netting and trading of Rate Schedule NNTS imbalances with delivery point imbalances pursuant to contracts under other rate schedules would cause Florida Gas to lose transportation revenue.

Florida Gas explains that Rate Schedule NNTS provides that daily deviations from scheduled quantities but within the no notice quantity are accumulated in a no-notice account and the amounts collected thereunder are added to a shipper's Rate Schedule FTS-1 or SFTS account for determining the applicable usage surcharges. Florida Gas states that the scheduled quantities of Rate Schedule NNTS service will later be adjusted by these accumulated amounts. As a result, Rate Schedule NNTS shippers are billed upon actual deliveries, while other shippers are billed based upon scheduled volumes. Florida Gas provides an example of why it restricts the trading of Rate Schedule NNTS imbalance volumes.

Assume Shipper A is a shipper without no-notice service and Shipper B is a shipper who has subscribed to no-notice service under Rate Schedule NNTS. Assume Shipper A nominates deliveries of 100 dth but takes 200 dth, while Shipper B nominates deliveries of 200 dth but takes 100 dth.

Thus, a total of 300 dth is transported by [Florida Gas] to delivery points. Shipper A would be billed transportation charges based on the 100 dth scheduled, and incur an imbalance due Transporter of 100 dth. Shipper B would be billed transportation charges on 100 dth (200 dth scheduled [plus a negative 100 dth] in its No-Notice Account) and incur an imbalance due Imbalance Party of 100 dth.<sup>39</sup>

If Shipper A and Shipper B would trade their imbalances, the balances would offset each other and no portion of the imbalances would be cashed out. Therefore, under this example, Florida Gas would bill transportation charges on only 200 dth despite the fact that it transported 300 dth to delivery points. In such case Florida Gas would lose transportation revenue by allowing the trade. If Florida Gas imposes its restriction limiting the trading of the Rate Schedule NNTS imbalances to other Rate Schedule NNTS imbalances and receipt point imbalances of all other contracts, then under the scenario posited above, the 100 dth imbalance due to Florida Gas from Shipper A would be resolved through the cashout mechanism, and a transportation element would be applied to the excess deliveries so that Florida Gas would receive recompense for the transportation it rendered. Shipper B would be permitted to trade its imbalances with another Rate Schedule NNTS shipper or a shipper under another rate schedule that wished to trade an imbalance it had incurred at a receipt point. This is because under such a trade Florida Gas would remain revenue neutral.

The Commission is persuaded by the explanation given by Florida Gas that the netting and trading restrictions that it placed upon Rate Schedule NNTS to remain revenue neutral during trading transactions are reasonable given the nature and the total amount of the service.

Florida Gas has placed a similar restriction on the trading of imbalances related to small customer Rate Schedule SFTS. Florida Gas explains that under Rate Schedule SFTS it charges a volumetric rate based upon a 50 percent load factor derivative of the two-part rate for service under Rate Schedule FTS-1. Florida Gas maintains that its tariff allow imbalances under this rate schedule to be traded only with other Rate Schedule SFTS imbalances unless the customer agrees to pay the difference between the Rate Schedule SFTS rate and the weighted average of the non-Rate Schedule SFTS usage charges scheduled at the delivery point. Florida Gas states that this restriction is

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<sup>39</sup>Florida Gas November 21, 2000, Explanation of Imbalance Trading at 7.

necessary to prevent shippers from gaming the system through the use of the trading mechanism.

The Commission understands that Florida Gas has placed a restriction on the trading of Rate Schedule SFTS volumes in order to prevent transportation revenue losses from shippers trading imbalances incurred under this volumetric rate schedule with imbalances incurred under other two-part rate schedules. Such imbalances could be traded in a manner which would cause Florida Gas to lose transportation revenue because the volumetric rate under Rates Schedule SFTF is higher than the usage charge of other two-part rates. Therefore, the restriction placed on the trading of Rate Schedule SFTS imbalances is reasonable in that it permits Rate Schedule SFTS shippers to trade imbalances while keeping Florida Gas whole for transportation revenue.

### **3. Penalties**

Order No. 637 requires that a pipeline's penalties adhere to three principles.<sup>40</sup> First, a pipeline may include transportation penalties in its tariff only to the extent necessary to prevent the impairment of reliable service. Second, a pipeline must credit to shippers all revenues from all penalties net of costs. Third, a pipeline must provide to shippers, on a timely basis, as much information as possible about the imbalance and overrun status of each shipper and the imbalance of the pipeline's system as a whole.

#### **a. Florida Gas' Proposal**

Florida Gas does not propose to change its existing penalties. Florida Gas' tariff contains penalties for non-compliance with Alert Day and OFO orders, both of which are issued to maintain system integrity. Penalties for both Alert Day and OFO overages are calculated at 200 percent of the highest cashout index price, and shortages are calculated at 50 percent of the lowest cashout index price. Florida Gas also utilizes a tiered cashout mechanism for resolving monthly imbalances that have not been resolved through netting

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<sup>40</sup>18 C.F.R. § 284.12(c)(2)(v) (2001).

and trading.<sup>41</sup> Florida Gas states that it credits all net penalty revenues to its shippers pursuant to Section 19.1 of its tariff.

**b. Comments**

Southern Company complains that Florida Gas has not complied with Order No. 637 because it has not rejustified its existing penalty levels.

**c. Reply Comments**

Florida Gas replies that its existing penalties have all been found to be just and reasonable by the Commission in past proceedings, and that Florida Gas does not benefit financially from penalty revenues because they are credited back to customers. Florida Gas states that its penalties comply with Order No. 637 because such penalties are only imposed to ensure system integrity.

**d. Commission Ruling**

In Order No. 637-A, the Commission shifted its policy away from one that fosters the use of penalties, to a service-oriented policy that gives shippers other options to obtain flexibility and relies on penalties when necessary to protect system integrity.<sup>42</sup> The Commission finds that Florida Gas' penalties continue to be just and reasonable. With the exception of the use of penalty tiers in its cashout mechanism, Florida Gas only imposes penalties during critical periods, and imposes no penalties during non-critical periods. The tiered cashout mechanism in the Florida Gas tariff contains a penalty element for resolving transportation imbalances, therefore a shipper may incur a penalty in cashing out transportation imbalances during a non-critical period. However, the

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<sup>41</sup>Under this tiered cash out mechanism, Florida Gas charges the sales posted price for the month (which is the highest monthly average spot price for gas delivered to Transporter at Mustang Island, Vermillion Parish or St. Helena Parish, as reported in Natural Gas Week) multiplied by the factor for the applicable imbalance level. For imbalance levels of 0 percent to five percent the factor is one. For imbalance levels of greater than five percent but less than 20 percent the factor is 1.10. For imbalance levels greater than 20 percent the factor is 1.2. Sub. Forth Revised Sheet No. 131. If Florida Gas must pay for excess receipts or deficient deliveries the cash out is calculated based upon the posted price multiplied by factors of 1.0, 0.90, and 0.80 respectively for the same tolerance levels. Sub. Sixth Revised Sheet No. 132.

<sup>42</sup>91 FERC ¶ 61,169 at 31,598 (2000).

Commission has previously accepted tiered cash-out mechanisms as a reasonable manner in which to resolve transportation imbalances particularly, as in the instant case, where the pipeline has also provided imbalance management methods to its shippers.<sup>43</sup> Accordingly, the Commission finds that Florida Gas' existing penalty structure complies with Order No. 637.

#### **4. OFOs**

Order No. 637 requires a pipeline to take all reasonable actions to minimize the issuance and adverse impacts of OFOs or other measures taken to respond to adverse operational events on its system. Pipelines are required to revise their tariffs to adopt objective standards and procedures for the use of OFOs.<sup>44</sup> Specifically, the Commission required each pipeline's tariff to: (1) state clear, individualized standards, based on objective operational conditions, for when OFOs begin and end; (2) require the pipeline to post information about the status of operational variables that determine when an OFO will begin and end; (3) state the steps and order of operational remedies that will be followed before an OFO is issued; (4) set forth standards for different levels or degrees of severity of OFOs to correspond to different degrees of system emergencies the pipeline may confront; and (5) establish reporting requirements that provide information after OFOs are issued on the factors that caused the OFO to be issued and then lifted.<sup>45</sup>

##### **a. Florida Gas' Proposal**

Florida Gas does not propose any changes to its existing tariff provisions regarding OFOs. Florida Gas' existing tariff provisions define when an Alert Day or an OFO will be issued and the prior notification period to shippers. Florida Gas states that an Alert Day or OFO is issued when the system is at or near 100 percent utilization and the system is experiencing high or low line pack. The tariff also specifies that OFOs must identify the situation to be addressed, the action to be taken by the recipient of the OFO, and the length of time the OFO will be in effect. Florida Gas posts information on its website regarding how much capacity is being used four times a day, in addition to placing a phone mail message twice a day stating whether line pack is at high, low, or

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<sup>43</sup>Colorado Interstate Gas Co., 95 FERC ¶ 61,321 at 61,121-122 (2001) and High Island Offshore System, 85 FERC ¶ 61,406 (1998).

<sup>44</sup>18 C.F.R. § 284.12(c)(2)(iv) (2001).

<sup>45</sup>Order No. 637, FERC Stats & Regs. Regulation Preambles (July 1996-December 2000) ¶ 31,091, at 31,312-13.

optimal levels. Florida Gas states that it relies on a variety of actions such as using operational sales or purchases or deferred exchanges to keep line pack at appropriate levels prior to issuing Alert Days or OFOs.

**b. Comments**

Southern Company argues that Florida Gas has failed to comply with the OFO requirements of Order No. 637. Southern Company states that Florida Gas has only offered vague generalized OFO standards; has not offered to post the status of operational variables that will determine when an OFO will begin; has not specified the remedial steps that will be taken before an OFO is issued; and has not specified standards for different degrees of OFO severity.

**c. Reply Comments**

Florida Gas states that it has worked with its customers over many years to develop a system of operational controls designed to maintain system integrity. Florida Gas states that it has included many of the controls and procedures in its tariff over the years, and no party that has ever been subject to an Alert Day or an OFO has complained regarding Florida Gas' compliance with the OFO-related sections of Order No. 637.

**d. Commission Ruling**

The Commission finds that Florida Gas has, with one exception, reasonably complied with the intent of Order No. 637 that pipelines take all reasonable actions to minimize the use of OFOs. Shippers are informed of operational information that may lead to issuance of Alert Days or OFOs. When Alert Days or OFOs are imposed, they are limited to specific shippers that are causing the problem. Florida Gas' tariff specifies that OFO notices must describe the conditions leading to issuance of the OFO, and specify the actions to be taken by the affected party. However, Florida Gas' tariff does not provide for reporting information after an OFO is issued concerning the factors that caused the OFO to be issued and then lifted. The Commission directs Florida Gas to revise its tariff to provide for the reporting of that information to its customers.

The Commission orders:

(A) Florida Gas is directed to file, within 30 days of the date of issuance of this order, revised actual tariff sheets consistent with the discussion in the body of this order.

(B) Florida Gas may not place the revised tariff sheets into effect before further order of the Commission.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

Docket No. RP00-387-000, et al.

**Appendix**

Florida Gas Transmission Company

Commenters

Tropicana Products Inc.  
Dynergy Marketing and Trade  
Florida Municipal Natural Gas Association  
Southern Company Services, Inc.  
Florida Gas Transmission Company  
Florida Cities