

105 FERC ¶ 61,171  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Florida Gas Transmission Company

Docket Nos. RP04-12-000  
RP00-387-004

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS  
SUBJECT TO REFUND AND CONDITIONS AND  
ESTABLISHING TECHNICAL CONFERENCE AND HEARING PROCEDURES

(Issued October 31, 2003)

1. On October 1, 2003, Florida Gas Transmission Company (FGT) filed tariff sheets<sup>1</sup> to be effective November 1, 2003, to increase its annual revenues by approximately \$56 million, and to revise certain provisions in its rate schedules and General Terms and Conditions (Primary Case). In addition, FGT filed pro forma proposals to be effective prospectively following a Commission order on the merits or a settlement of this proceeding (Prospective Case). These include a proposal to track certain types of security-related and other capital costs, a proposal to change from levelized rates for FTS-2 service to non-levelized rates, and proposals related to its on-going Order No. 637 proceeding for within-the-path allocation of mainline capacity to secondary points, and outside-the-path segmentation.

2. As discussed below, this order: (1) accepts and suspends the tariff sheets listed in Appendix A, to be effective April 1, 2004, subject to refund, condition, and the outcome of hearing procedures established herein; (2) establishes a technical conference to address certain tariff proposals; (3) accepts certain tariff sheets to be effective November 1, 2003, subject to condition, (4) accepts in part and rejects in part, the pro forma tracker proposal, and (5) sets the remainder of the tracker proposal for hearing. This order benefits the public interest by ensuring that FGT's recourse rates and terms and conditions of service will be just and reasonable.

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<sup>1</sup> See Appendix A.

## Background

3. FGT's system extends from the producing area of the Texas Gulf Coast eastward through most of Florida. FGT designates the Florida part of the system as the Market Area. Since 1995, when a major system expansion was placed in service (Phase III Expansion), FGT has provided nearly all of its firm transportation under two rate schedules: FTS-1 rates apply to service on the pre-1995 system (hereinafter Pre-Expansion System), and incremental, levelized FTS-2 rates apply to service on Phase III and subsequent phased expansions of the system (hereinafter, Expansion System). There is also an 80,000 MMBtu/day system expansion in Alabama called the Western Division serving one customer under Rate Schedule FTS-WD. Finally, there are a handful of small customers on the system served under Rate Schedule SFTS.

4. A 1992 Settlement established incremental, levelized FTS-2 rates effective on March 1, 1995, when the Phase III expansion was placed in service (Phase III Settlement). The term of this Settlement expired in 2000. A 1999 Settlement, approved in connection with FGT's Phase IV expansion, established new rates effective 2001 (1999 Settlement). FGT has since placed into service a Phase V expansion and parts of a Phase VI expansion. The Phase IV and subsequent expansions, whose costs have been rolled into the FTS-2 rate, were less capital intensive than the Phase III expansion, increasing FGT's capacity mainly through the addition of looping and compression.

## The Filing

### A. Primary Case

#### 1. Rates - General

5. FGT proposes increased rates to recover increased system costs. Proposed rates on the Pre-Expansion system are based on a cost-of-service of approximately \$167 million. Proposed rates for service on the Expansion System are based on a cost-of-service of approximately \$342 million. The cost of service for each system utilizes a 12-month base period ending May 31, 2003, adjusted for known and measurable changes expected to occur during the nine-month adjustment period ending February 29, 2004.

6. FGT's test period throughput in its Market Area is 636,881,202 MMBtu, of which 96.5 percent is transported under firm, long-term service agreements. The remaining 3.5 percent of the Market Area throughput is transported under firm short-term FTS-2 agreements (1.7%), interruptible ITS-1 agreements (1.7%), and Park N Ride service (0.1%). FGT projects unadjusted volumes of 744,243 MMBtu for PNR service, and a test period throughput of 75,074,120 MMBtu for service in its Western Division.

7. FGT proposes to switch from using separate capital structures for its Pre-Expansion and Expansion Systems to a single capital structure applicable to both systems. The proposed capital structure consists of 45.92 percent debt and 54.08 percent equity. The proposed overall rate of return is 11.81 percent based on 8.64 percent cost of debt and 14.50 percent return on common equity. FGT represents that, over time, it has commingled revenues generated by each system, and used the funds to retire debt on the Expansion System as well as for capital outlays on both systems. FGT also represents that it has used subsequent finance arrangements for both systems. FGT claims that using a single capital structure is consistent with the Settlement in Docket No. FA94-15-000 (Florida Gas Transmission Co., 76 FERC ¶ 61,349), which required the use of a single capital structure for calculating AFUDC. Finally, FGT notes that the Phase III Settlement requirement to use separate capital structures expired in March 2000.

8. FGT's Primary Case utilizes a cost of service with straight-line depreciation underlying its FTS-1 rates, and a levelized cost of service underlying its FTS-2 rates, as agreed to in the 1992 Settlement.

9. FGT represents that it will continue to charge postage-stamp rates using the SFV methodology for cost classification, allocation, and rate design. Other rate design proposals include reducing the load factor of the SFTS rate to 40 percent from 50 percent, and using costs and volumes associated with Rate Schedules FTS-1 and FTS-2 to calculate a "blended" ITS-1 rate rather than deriving the ITS-1 rate from the FTS-1 rate using a 125 percent load factor.

## **2. Request for Rolled-in Rate Treatment**

10. FGT is requesting rolled-in rate approval for its Western Division, which has served one customer, the Alabama Electric Cooperative (AEC) under Rate Schedules FTS-WD and ITS-WD since November 2001. FGT notes that in the certificate application, it represented that it would receive full reimbursement for these facilities. FGT states it was later informed by AEC that Enron North America (ENA) would be the reimbursing party, and entered into an agreement with ENA. FGT reports that ENA subsequently filed for bankruptcy and has not reimbursed FGT. FGT maintains that even without reimbursement from ENA, this project meets the Commission's tests for rolled-in rate treatment. FGT states that it does not seek to recover the full capital costs of this project but rather to reduce such costs by the amount estimated to be recovered from ENA.

## **3. Request for Waiver of Refunctionalization**

11. FGT, as a part owner of the Matagorda Offshore Pipeline System (MOPS), requests a waiver of the requirement in Enron Gulf Coast Gathering Limited Partnership, et al., 95 FERC ¶ 61,318 at 62,098 P 23 (2001), that certain of the MOPS facilities be

refunctionalized as gathering for rate and accounting purposes in the next general Section 4 rate case.

#### **4. Tariff Revisions Related to NNTS and SFTS Service**

12. FGT also proposes revisions to its terms and conditions of service as part of its Primary Case. Specifically, FGT proposes to establish a minimum nomination requirement of 25 Dth under Rate Schedule NNTS, where currently no minimum exists. FGT also proposes to permit former SFTS shippers who had converted to Rate Schedule FTS-1, to reconvert to SFTS service only in conjunction with a general rate case filed by FGT. Currently, such shippers have the right to reconvert annually.

#### **5. Reservation Charge Credits**

13. FGT is proposing to make changes to Rate Schedules FTS-1, FTS-2 and FTS-WD relating to reservation charge credits. Under its existing tariff, FGT gives shippers reservation charge credits when it is unable to deliver scheduled quantities based on the quantity not delivered multiplied by the full reservation charge. FGT is proposing that credits be based on the return on equity and related income tax components of the reservation charge rather than on the full reservation charge.

14. FGT proposes an effective date of November 1, 2003 for the Primary Case tariff sheets which, after an anticipated five-month suspension period, would be effective April 1, 2004.

### **Prospective Case**

#### **1. FTS-2 Cost of Service**

15. FGT states that although it will continue to design its FTS-1 rates based on a straight-line cost of service, it proposes to switch prospectively from charging levelized rates for FTS-2 service on its Incremental System, as agreed in the 1992 Settlement, to rates based on a cost-of service utilizing straight-line depreciation.

#### **2. Capital Cost Tracker**

16. FGT seeks approval of a pro forma tariff mechanism to track recovery of future capital costs incurred to (1) enhance FGT's system security, "to reduce vulnerability to malicious damage from third parties" (2) comply with federal and state regulations regarding compressor emissions, (3) comply with the Pipeline Safety Improvement Act, and (4) relocate roughly 20 miles of pipeline to accommodate future expansions of the Florida Turnpike by the state (together, referred to as SEIRS costs). The details of this proposal are described in the Discussion section of this order.

### 3. Order No. 637 Issues

17. FGT included in the filing pro forma tariff proposals to implement, respectively, within-the-path allocation of mainline security to secondary points, and outside-the-path segmentation.

#### Notice of Filing, Interventions, and Protests

18. Interventions and protests were due as provided in Section 154.210 of the Commission's regulations. Parties filing timely motions to intervene and protests are listed in Appendix B. Pursuant to Rule 214 (18 C.F.R. ' 385.214), any timely filed motion to intervene is granted unless an answer in opposition is filed within 15 days of the date such motion is filed. Timely filed motions not listed in Appendix B are also granted in accordance with the conditions of Rule 214. Any motions to intervene out-of-time filed as of the date of this order are granted pursuant to 18 C.F.R. ' 214(d), since the Commission finds that granting intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties.

19. Parties have filed protests on a number of issues relating to FGT's proposed Primary Case rate increase, including but not limited to: (1) the rate of return, including the 14.50 percent return on equity; (2) the increased onshore depreciation rate, from 2.13 percent to 3.00 percent; (3) the portion of the proposed rate increase under Rate Schedule SFTS related to FGT using a 40 percent load factor in lieu of a 50 percent load factor to derive the volumetric rate; (4) the "blended" ITS-1 rate proposal; (5) the throughput levels; (6) the partial reservation charge credits; (7) the minimum service level for NNTS service; (8) the limitation on reconversion to SFTS service only in conjunction with FGT filing a general rate case; (9) FGT's request for rolled-in rate treatment for the costs of the Western Division Project approved in Docket No. CP00-4; (10) the lack of a separately stated backhaul rate; and (11) continued utilization of separate firm rate schedules for the Pre-Expansion System and the Expansion System.

20. In addition, parties protested various aspects of FGT's Prospective Case, including but not limited to the proposed Capital Cost Tracker, and the proposed use of a non-levelized cost-of-service to derive FTS-2 rates. Finally, parties protested the pro forma proposal to implement within-the-path allocation of mainline capacity to secondary points.

## Discussion

### A. Primary Case

#### 1. Rate Issues Set for Hearing

21. A number of parties requested summary disposition of various rate issues. However, the Commission finds that all issues concerning FGT's rate derivation and cost-of-service, including but not limited to depreciation, rate of return, cost allocation, rate design, throughput, and proposal to roll-in Western Division rates, should be explored at a hearing established by this order, except to the extent discussed below.

#### 2. Request to Waive Refunctionalization of Matagorda Facilities

22. FGT, as a part owner of the Matagorda Offshore Pipeline System (MOPS), requests a waiver of the requirement in *Enron Gulf Coast Gathering Limited Partnership, et al.*, 95 FERC ¶ 61,318 at 62,098 P 23 (2001), that certain of the MOPS facilities be refunctionalized as gathering for rate and accounting purposes in the next general section 4 rate case.

23. FGT states that it has no other gathering facilities, nor does it have any gathering services or contracts. FGT claims these facilities are fully depreciated, and thus it collects only operation and maintenance costs. FGT also points out that it has only a 6.0606 percent interest in the MOPS facilities found to be gathering and volumes flowing through FGT's capacity in the MOPS system represent only approximately 0.3 percent of FGT's system receipts. Therefore, notwithstanding the Commission's directive, FGT requests a waiver so it can continue to provide a seamless rate, collecting its MOPS costs through the transportation rates, and avoid the need to establish separate gathering rates and accounting entries for these facilities.

24. The Commission finds that this request for waiver should be explored at the hearing established by this order.

#### 3. Tariff Revisions Set for Technical Conference

25. Several proposed changes to FGT's terms and conditions of service would be best addressed at a technical conference, specifically: (1) a proposed minimum nomination of 25 Dth under Rate Schedule NNTS, and (2) a proposed change in the reconversion rights of former SFTS shippers who had converted to Rate Schedule FTS-1.

**a. Reconversion to Rate Schedule SFTS**

26. Under FGT's currently effective tariff, SFTS shippers may convert their service to FTS-1, then reconvert back to SFTS service as frequently as every 12 months. FGT is proposing to eliminate the right of FTS-1 shippers who convert their service from Rate Schedule SFTS to reconvert back to SFTS service between rate cases. FGT claims that such reconversion between rate cases would negatively affect its ability to recover its allocated cost of service.

27. Protestors claim that FGT is inappropriately trying to terminate SFTS service since many small customers have entered into alternative contractual arrangements which will not end until after the effective date of the proposed rates, even assuming a 5-month suspension period, and thus would not be able to reconvert back to SFTS service.

28. We conclude that it would benefit the parties and the Commission to convene a technical conference on this matter. In this way, the Commission can insure this matter is resolved before the 5-month suspension period ends.

**b. Minimum Nomination under Rate Schedule NNTS**

29. FGT proposes to establish a minimum level of service under Rate Schedule NNTS. FGT explains that it has received nominations of one Dth per day from some Rate Schedule NNTS customers for certain months. FGT asserts that such service levels are of no practical benefit to the customers and result in unreasonable administrative costs to FGT in accounting for such services and rendering invoices. Therefore, FGT is proposing that, if a customer requests daily NNTS service above zero in any month, a minimum level of 25 Dth per day will apply.

30. Protestors claim that small customers nominated 1Dth in order to protect their interests while attempting to gain information from FGT on a possible change in company policy that would prohibit shippers who had been eligible for NNTS service but no longer transported under that rate schedule, to resubscribe to NNTS service. These parties request that this proposal be summarily rejected or set for technical conference.

31. We conclude that it would benefit the parties and the Commission to convene a technical conference on this matter. In this way, the Commission can insure this matter is resolved before the 5-month suspension period ends.

**4. Tariff Revisions to Implement Partial Reservation Charge Credits**

32. FGT also proposes to revise Rate Schedules FTS-1, FTS-2 and FTS-WD relating to reservation charge credits. Under its existing tariff, FGT gives shippers reservation

charge credits when it is unable to deliver scheduled quantities based on the quantity not delivered multiplied by the full reservation charge. FGT is proposing that credits be based on the return on equity and related income tax components of the reservation charge rather than on the full reservation charge. FGT asserts that because FGT is itself a victim of force majeure events which may require significant expenditures by FGT to correct, it should not be required to forego recovery of all of its fixed costs at such time. Protestors assert that the proposal for partial reservation charge credits in other than force majeure situations clearly violates Commission policy and should be rejected.

33. In Tennessee Gas Pipeline Company (Tennessee),<sup>2</sup> we required partial reservation charge credits in instances of force majeure. In Tennessee's case, the partial credits were equal to Tennessee's return on equity and associated income taxes for the underdelivered amount. This resulted in a sharing by Tennessee and its customers of the risk during force majeure interruptions of service, since neither the shipper nor the pipeline is at fault for the interruption. In non-force majeure situations, Tennessee requires full credits for all scheduled gas not delivered.

34. FGT's proposal to give partial credits is consistent with the Commission's policy in force majeure situations. However, we agree with the protestors that providing only partial credits related to non-force majeure interruption of service is inconsistent with Commission policy. FGT is directed to file revised tariff sheets to provide for full credits for undelivered gas in non-force majeure situations to be effective November 1, 2003.

## **B. Prospective Case**

### **1. Switch from Levelized FTS-2 Cost of Service**

35. FGT states that although it will continue to design its FTS-1 rates based on a straight-line cost of service, it proposes to switch prospectively from charging levelized rates for FTS-2 service on its Expansion System, as agreed in the 1992 Settlement, to rates based on a cost-of-service utilizing straight-line depreciation. FGT states that it needed a levelized cost-of-service to achieve market-clearing rates on the Expansion System initially after placing the Phase III expansion in service. However, it now believes it can achieve market-clearing rates using a traditional cost-of-service because it has rolled lower costs associated with subsequent, less capital-intensive system expansions into its FTS-2 rates. Finally, FGT asserts that a levelized cost-of service has not been required since the term of the Phase III Settlement ended.

36. Protestors assert that FGT has not provided adequate support, particularly regarding depreciation, for its proposal to abandon levelized FTS-2 rates. In addition,

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<sup>2</sup> Opinion No. 406, 76 FERC ¶ 61,022, at 61,085-61,089 (1996); Opinion No. 406-A, order on reh'g, 80 FERC ¶61,070 (1997).

they question the fairness of amortizing the regulatory asset carried on FGT's books as a result of adopting levelized rates, and assert that FGT's proposal is an attempt to maintain the level of its FTS-2 rates in the face of a declining rate base. The Commission concludes that this proposal should be explored in the hearing established by this order.

## 2. Capital Cost Tracker

37. FGT included pro forma tariff sheets in the filing that would implement a tracking mechanism to recover capital costs needed to: (1) enhance system security; (2) comply with federal and state regulations regarding compressor emissions; (3) comply with the provisions of the Pipeline Safety Improvement Act of 2002 [Pub. Law 107-355] and regulations issued thereunder; and (4) relocate portions of FGT's system to accommodate expansions or improvements to the Florida Turnpike as proposed by the Florida Department of Transportation.

38. In support, FGT states that because the capital investment associated with these items will be significant and because such expenditures do not involve the addition of any new billing units, absent a tracker, such expenditures would require that FGT file several new rate cases over the next few years, in order to recover the costs.<sup>3</sup> According to FGT, a tracker will provide FGT the means to recover the costs it actually incurs and results in the most efficient use of scarce resources for all parties.

39. FGT also relies on the Commission's Policy Statement issued in Docket No. PL01-6, where the Commission proposed to allow pipelines to recover, through a separate rate recovery mechanism, such as a surcharge, its prudently incurred costs, for the purpose of further safeguarding the reliability and security of pipeline infrastructure.<sup>4</sup> FGT maintains that increased costs related to emissions control, safety, integrity, and pipeline relocations are similar to security costs, since the costs are incurred as a response to events outside of FGT's control – here, government action.

40. The tracker would take the form of several Security, Emissions, Integrity, and Relocation Surcharges (SEIRS). These would be a SEIRS-1 reservation surcharge collected from firm shippers on the pre-expansion system under Rate Schedule FTS-1, a SEIRS-2 reservation surcharge collected from firm shippers on the expansion system under Rate Schedule FTS-2, and a SEIRS-SFTS volumetric surcharge on firm small customers under Rate Schedule SFTS. FGT has not proposed to allocate SEIRS costs to interruptible shippers.

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<sup>3</sup> Prepared Direct Testimony of Robert Kilmer at 30-33.

<sup>4</sup> Extraordinary Expenditures Necessary to Safeguard National Energy Supplies, 96 FERC ¶ 61,299 (2001).

41. These costs would be either directly assigned or allocated to SEIRS gross plant accounts for the pre-expansion system and the expansion system. Each gross plant would then be reduced by its corresponding Accumulated Provision for Depreciation and Deferred Income Taxes to arrive at separate rate bases. The surcharges for each system (SEIRS-1 and SEIRS-2) would be derived by combining the allocated pre-tax return expense and the depreciation expense, and dividing by the applicable reservation billing determinants. The SEIRS-SFTS surcharge would be a 125 percent load factor derivative of the SEIRS-1 surcharge. FGT would file each year to make new surcharges effective on April 1, based on the balances in its SEIRS accounts ending the previous December 31.

42. Protestors contend that the proposed surcharge is contrary to Commission policy, in particular Section 284.10 (c)(2) of the Commission's regulations, which provides that "[a]ny rate filed for service subject to this section must be designed to recover costs on the basis of projected units of service." They argue that the tracker would allow FGT to avoid making future Section 4 rate filings. Furthermore, the parties assert that the Policy Statement addressed only expenditures directly related to security improvements, and therefore the proposed recoverable costs are beyond the scope of the Policy Statement. They also point out that the costs covered by the tracker were not clearly defined since FGT provided no further information on what projects would actually be undertaken, or any estimates of the costs.

43. In the wake of the events of September 11, 2001, the Commission, on September 14, issued a Statement of Policy "to provide regulatory guidance on certain energy infrastructure reliability and security matters." The Statement provided that the Commission would "approve applications to recover prudently incurred costs necessary to further safeguard the reliability and security of our energy supply infrastructure in response to the heightened state of alert."

44. Further, the Commission allowed companies to propose "a separate rate recovery mechanism, such as a surcharge to currently existing rates or some other cost recovery method." The Statement emphasized that "[t]he Commission would give the highest priority to processing any filing made for the recovery of extraordinary expenditures to safeguard the reliability of our energy transportation systems and energy supply infrastructure."

45. FGT's proposal to recover security-related costs as they are incurred through a surcharge on rates is generally consistent with the Policy Statement. A special surcharge to recover these costs helps assure that a pipeline will not delay needed security improvements because of the need to await a future general section 4 rate case to recover the costs or because of any other uncertainty about the pipeline's ability to recover the costs. While the Commission generally disfavors cost trackers, the Commission finds it appropriate that, once recovery in a special surcharge is permitted, there also be a

mechanism to track the costs. Such a tracking mechanism not only assures that the pipeline will not underrecover the costs in question, it also protects the customers by assuring that the special surcharge will not result in the pipeline overrecovering the costs.

46. However, we will set for hearing the specific elements or mechanics of the tracker for security costs proposed by FGT. The parties should explore, among other things, the definition of security-related costs, the appropriate amortization period, whether the special surcharge recovery mechanism should be in place only for a specific time period, and what services should be allocated these costs.

47. We find that costs not related to security should not be included in the SEIRS surcharges proposed by FGT. The Commission previously stated that cost-of-service tracking provisions are contrary to the requirement, in Section 284.10(c)(2), to design rates based on estimated units of service.<sup>5</sup>

As discussed in Order No. 436, this requirement means that the pipeline is at risk for under-recovery of its costs between rate cases, but may retain any over-recovery. This gives the pipeline an incentive both to minimize its costs and maximize the service it provides. A cost tracker would undercut these incentives by guaranteeing the pipeline a set revenue recovery<sup>6</sup>

48. We are not persuaded by FGT's argument that the non-security costs it is proposing to track are similar to security costs in that they are incurred as a response to events outside its control. Jurisdictional pipelines commonly incur capital costs in response to regulatory requirements intended to benefit the public interest. They are entitled to seek recovery of such costs, along with a just and reasonable return, at any time through a general NGA Section 4 rate proceeding. Therefore, the proposal to recover costs related to compressor emissions, pipeline relocation, and the requirements of the Pipeline Safety Improvement Act of 2002 are not eligible costs under the Policy Statement and should be removed from any such proposal.

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<sup>5</sup> See ANR Pipeline Company, 70 FERC ¶ 61,143 at 61,431 (1995). The Commission rejected the pipeline's request for a base rates cost-of-service tracker.

<sup>6</sup> Canyon Creek Compression Co., 99 FERC ¶ 61,351 at P 14-15 (2002). See also Canyon Creek Compression Co., 101 FERC ¶ 61,233 at P 22 (2002) where the Commission reiterated that such trackers are contrary to Commission regulations and only approved Canyon Creek's tracker because of the singular circumstances of that case.

### 3. Order No. 637 Issues

49. In Docket No. RP00-387, the Commission issued a May 16, 2002, order on FGT's compliance with Order No. 637 (May 16 order).<sup>7</sup> The May 16 order directed FGT to file, within 30 days thereof, a tariff sheet to implement outside-the-path segmentation. On February 26, 2003, the Commission issued an order finding that FGT's subsequent filing was not in compliance with the May 16 order regarding outside-the-path segmentation, and directing FGT to comply.<sup>8</sup> FGT filed a request for rehearing of the February 26 order, which is pending before the Commission, and also filed Pro Forma Sheet No. 175 in this docket reflecting the outside-the-path segmentation policy. To date, FGT has not complied with the May 16 order's directive to file an actual tariff sheet implementing this policy in FGT's Order No. 637 proceeding in Docket No. RP00-387. Pro Forma Sheet No. 175 will be redocketed, in Docket No. RP00-387-004, and considered along with FGT's pending rehearing request at a later date.

50. Similarly, the May 16 order required FGT to file tariff sheets to implement a within-the-path method for allocating capacity to secondary points. The February 26 order rejected FGT's rehearing request on this issue, and also issued a clarification that required FGT, by October 1, 2003, the date FGT was required to file the rate case, to file revised tariff sheets in the Order No. 637 docket to reflect the within-the-path allocation method. As part of the filing in this docket, FGT included Pro Forma Tariff Sheet Nos. 119 and 120A to reflect the allocation method. These sheets do not comply with the requirements of either the May 16 order or the February 26 order that FGT file actual tariff sheets in Docket No. RP00-387 concerning FGT's compliance with Order No. 637. The Commission will redocket the pro forma tariff sheets in Docket No. RP00-387-004, to be considered along with the rehearing request referred to above.

### Suspension

51. Based upon a review of the filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept the tariff sheets for filing and suspend their effectiveness for the period set forth below, subject to the conditions set forth in this order.

52. The Commission's policy regarding rate suspensions is that rate filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may be inconsistent with other statutory standards. See Great Lakes Gas Transmission

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<sup>7</sup> Florida Gas Transmission Co., 99 FERC ¶ 61,184 (2002).

<sup>8</sup> Florida Gas Transmission Co., 102 FERC ¶ 61,217 (2003).

Co., 12 FERC & 61,293 (1980) (five-month suspension). It is recognized, however, that a shorter suspension period may be warranted in the circumstances where suspension for the maximum period may lead to harsh and inequitable results. See Valley Gas Transmission, Inc., 12 FERC & 61,197 (1980) (one-day suspension). No such circumstances are present here. Accordingly, the Commission will suspend FGT's rates for five months and will permit them to take effect on April 1, 2004, subject to refund and subject to the conditions set forth in the body of this order and in the ordering paragraphs below.

The Commission orders:

(A) The tariff sheets listed in Appendix A are accepted and suspended, to be effective as indicated therein, subject to refund, condition, the outcome of a hearing, and of a technical conference established in this proceeding, as described in the body of this order.

(B) Staff is directed to convene a technical conference to discuss FGT's proposed tariff revisions as discussed in the body of this order, as well as any other issues concerning FGT's terms and conditions, or system operations raised by the parties to this proceeding. Staff is directed to report the results of the technical conference to the Commission within 120 days of the date of this order.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of FGT's proposed rates.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. ' 375.304, shall convene a prehearing conference in this proceeding, within 20 days of the date of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The prehearing conference shall be held for the purpose of clarification of the positions of the participants and establishment by the presiding judge of any procedural dates necessary for the hearing. The presiding administrative law judge is authorized to conduct further proceedings in accordance with this order and the rules of practice and procedure.

(E) FGT's request for waiver of the Commission's order in Enron Gulf Coast Gathering Limited Partnership, et al., 95 FERC ¶ 61,318 at 62,098 P 23 (2001), that certain of the MOPS facilities be refunctionalized as gathering for rate and accounting purposes shall be addressed in the hearing established by this order.

(F) FGT is directed to file revised tariff sheets within 30 days hereof, as discussed in the body of this order, to be effective November 1, 2003.

Docket No. RP04-12-000 and RP00-387-004

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(G) The Commission will redocket Pro Forma Sheet Nos. 119, 120A, and 175 in FGT's Order No. 637 proceeding in Docket No. RP00-387-004, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

**Florida Gas Transmission Company  
Docket No. RP04-12-000  
FERC Gas Tariff, Third Revised Volume No. 1**

**Revised Tariff Sheets**

**Suspended to be Effective April 1, 2004**

Sixty-Second Revised Sheet No. 8A  
Fifty-Fourth Revised Sheet No. 8A.01  
Fifty-Fourth Revised Sheet No. 8A.02  
Second Revised Sheet No. 8A.03  
Fifty-Seventh Revised Sheet No. 8B  
Fiftieth Revised Sheet No. 8B.01  
Seventh Revised Sheet No. 8B.02  
First Revised Sheet No. 22A  
Second Revised Sheet No. 22C  
Third Revised Sheet No. 31  
First Revised Sheet No. 33

Accepted to be Effective November 1, 2003, subject to condition

Third Revised Sheet No. 14  
First Revised Sheet No. 22H  
Fourth Revised Sheet No. 59

**Florida Gas Transmission Company  
Docket No. RP04-12-000**

**Interventions**

AES Ocean Express and AES LNG Marketing \*\*  
Anadarko Petroleum Corporation  
Associated Gas Distributors Commission \*  
Auburndale Power Partners, L.P. \*  
BP America Production Company and BP Energy Company  
Chevron U.S.A. Inc  
Duke Energy Trading and Marketing, L.L.C.  
ExxonMobil Gas & Power Marketing Company  
Florida Cities \*  
Florida Municipal Natural Gas Association \*  
Florida Power & Light Co. \*  
Florida Power Corp. \*  
Florida Public Service Commission  
Gulf South Pipeline Company, LP  
Gulfstream Natural Gas System, L.L.C.  
Indicated Shippers \*  
Industrial Gas Users of Florida and the Florida Industrial Gas Users \*  
Infinite Energy, Inc.  
Louisiana Municipal Gas Authority  
Northern Natural Gas Company  
NUI Utilities Inc. \*  
People's Gas System \*  
Reedy Creek Improvement District \*  
Reliant Energy Services, Inc. \*  
Seminole Electric Cooperative Inc. \*  
Southern Company Services, Inc.  
Tampa Electric Co. \*  
Tractebel Calypso LNG Marketing, L.L.C.

\*\* Filed Comments

\* Filed Protest