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DOCKET#42315
DOCUMENT#192189

DOCKET NO. 42315

IN RE: 2019 ATLANTA GAS LIGHT RATE CASE/ AFFILIATE TRANSACTION AUDIT

ORDER APPROVING ADM'S WAIVER OF SUPPLY MISMATCH PENALTY

On April 14, 2022, Southern Natural Gas ("SNG") issued an Operational Flow Order ("OFO") to be effective on April 16, 2022. An OFO penalizes any shipper that does not burn their gas scheduled on SNG's system in its entirety. Due to the mild weather forecast for the long, holiday weekend and the associated demand on SNG's system, SNG issued the OFO to protect the operational integrity of its system by notifying its customers to limit the gas they should receive for a specific period of time. Consequently, Atlanta Gas Light ("AGL") issued a supply mismatch order to be effective on April 16, 2022.

Per Archer Daniels Midland Company ("ADM")'s petition, the company reduced its nomination from 3400 dth per day to 3000 dth per day to avoid oversupplying AGL's system while under the supply mismatch order. However, on Sunday, April 17, 2022, ADM experienced a major mechanical breakdown while still under the supply mismatch order. This breakdown led to a significant part of the plant shutting down for 20 hours. Due to the operational failure and plant shutdown, ADM did not burn the nominated 3000 dth, resulting in an oversupply of 565 dth. Per AGL's tariff, non-compliance with a supply mismatch order is subject to a penalty of $30 for each dth not consumed. This resulted in a penalty of $16,950 being assessed to ADM.

On May 4, 2022, ADM reached out to the Commission via email to request a waiver of the $16,950 penalty. AGL stated that the company "applies the tariff provisions uniformly to all shippers" and that it "does not have the latitude of waiving these penalties." Further, they stated that "the GPSC has the authority to waive the fees" and AGL would act consistent with the order of the Commission.

Staff issued data requests to ADM to analyze and verify the events that took place. In their responses, ADM stated that it could not comply with the supply mismatch order due to the spontaneous failure of a machine that is responsible for a crucial portion of the soybean processing operation. Staff determined that this event met the qualifications as a Force Majeure under AGL's tariff. AGL's tariff's definition of Force Majeure includes breakage or accident to machinery. AGL deposits supply mismatch penalties it receives from marketers into the USF once they receive the funds. ADM has already paid the penalty to Georgia Natural Gas ("GNG"), who paid it to AGL, who subsequently deposited it into the USF.

At the Commission's November 10, 2022 Energy Committee hearing, Staff recommended that the Commission grant ADM's petition and ask AGL and thus GNG to refund the penalty assessed in error, ultimately to ADM. Staff further recommended that the Commission instruct AGL to withhold the amount of the penalty, $16,950, from its October 2022 USF deposit to reimburse the Company for refunding this amount back to GNG, who subsequently will refund ADM.

As such, the Commission finds that the breakage of ADM's machinery and subsequent shutdown constitutes a Force Majeure under AGL's tariff and thus the waiving of the Supply Mismatch penalty is appropriate. The Commission also finds that AGL's withholding of the amount of the penalty from the next USF deposit to reimburse the Company for refunding the penalty is appropriate.

* * * * * * * * * * * * *

WHEREFORE IT IS ORDERED that ADM's petition to waive the penalties incurred under the supply mismatch order issued April 14, 2022, is hereby approved. This will come as a refund from AGL to GNG for the penalty, after which GNG will then return the penalty to ADM which was assessed in error.

ORDERED FURTHER, AGL shall reduce the amount of their October 2022 USF deposit in the amount of $16,950 to reimburse the Company for refunding the penalty.

ORDERED FURTHER, that all findings, conclusions, statements, and directives made by the Commission and contained in the foregoing sections of this Order are hereby adopted as findings of fact, conclusions of law, statements of regulatory policy, and orders of this Commission.

ORDERED FURTHER, that a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

ORDERED FURTHER, that jurisdiction over this matter is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 17th day of November 2022.

Sallie Tanner
Executive Secretary

11-17-22
Date

Tricia Pridemore
Chairman

11-22-22
Date