

132 FERC ¶ 61,082  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

July 29, 2010

In Reply Refer to:  
Natural Gas Pipeline Company of America LLC  
Docket No. RP10-147-000

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Re: Letter Order Approving Uncontested Settlement

Dear Counsel:

1. On November 19, 2009, the Commission, after finding that Natural Gas Pipeline Company of America, LLC (Natural) may be substantially over-recovering its cost of service, thereby causing Natural's existing rates to be unjust and unreasonable, issued an order to initiate an investigation, pursuant to section 5 of the Natural Gas Act (NGA), to determine whether the rates currently charged by Northern are just and reasonable, and setting the matter for hearing.<sup>1</sup>
2. On June 11, 2010, Natural filed a proposed Stipulation and Agreement and related materials (Settlement) in the captioned docket. Natural states that the proposed Settlement resolves all issues in this proceeding. The Settlement provides Natural's shippers with reductions in fuel and gas lost and unaccounted for (GLU) fuel retention factors (Fuel Retention Factors) effective July 1, 2010, reductions in maximum recourse reservation rates effective November 1, 2010, and future additional reductions to both Fuel Retention Factors and maximum recourse reservation rates during the term of the Settlement. In particular, the Settlement provides that for the period July 1, 2010, through June 30, 2011, the Fuel Retention Factors will be the Fuel Retention Factors that

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<sup>1</sup> *Natural Gas Pipeline Co. of America, LLC*, 129 FERC ¶ 61,158 (2009) (November 19 Order), *reh'g denied*, 130 FERC ¶ 61,133 (2010).

were in effect April 1, 2010, reduced by thirty percent. The Settlement also provides that effective July 1, 2011, the Fuel Retention Factors will be the Fuel Retention Factors that were in effect April 1, 2010, reduced by forty-five percent. In regard to maximum recourse rates, the Settlement provides that from November 1, 2010 through March 31, 2011, the maximum recourse reservation rates for all firm transportation rate schedules will be the rates that were in effect April 1, 2010, reduced by three percent. For the period April 1, 2011, through June 30, 2011, the maximum recourse reservation rates for all firm transportation rate schedules will be the rates that were in effect April 1, 2010, reduced by five percent. Effective July 1, 2011, the Settlement provides that the maximum recourse reservation rates for all firm transportation rate schedules will be the rates that were in effect April 1, 2010, reduced by eight percent.

3. In addition, Article V of the Settlement explicitly provides that Natural will submit a cost and revenue study on or before June 1, 2015, based on actual data for the 12-month period ending December 31, 2014 and also provides that Natural shall include its work papers developed to support its submitted cost and revenue study. Article VII provides that neither Natural, pursuant to NGA section 4, nor any other Settling Party, pursuant to NGA section 5, will file to propose changes to the Settlement Rates contained in this Settlement prior to April 1, 2016, except with respect to the filings referenced in Section 7.1 of the Article.

4. In its June 11, 2010 filing, Natural requested that the comment period on the Settlement be shortened such that initial comments would be due on June 21, 2010, and reply comments would be due on June 28, 2010. On June 17, 2010, the Presiding Administrative Law Judge (ALJ) granted this request. Numerous parties filed comments that support or do not contest the instant Settlement.<sup>2</sup> On June 30, 2010, the Presiding Judge certified the Settlement to the Commission as uncontested.<sup>3</sup>

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<sup>2</sup> ArcelorMittal USA Inc.; Black Hills Energy; BP Energy Company and BP Canada Energy Marketing Corp.; Central Illinois Public Service Company d/b/a AmerenCIPS, Illinois Power Company d/b/a AmerenIP, Central Illinois Light Company d/b/a AmerenCILCO, and Union Electric Company d/b/a AmerenUE; the City of Corning, Iowa, the City of Perryville, Missouri, the Village of Bethany, Illinois, the City of Pinckneyville, Illinois, the City of Salem, Illinois, and the City of Sullivan, Illinois; J.P. Morgan Ventures Energy Corp. (J.P. Morgan); Interstate Power and Light Co., North Shore Gas Co., The Peoples Gas Light and Coke Co., and Wisconsin Electric Power Co.; Natural; Nicor Gas; Niska Gas Storage LLC; Tenaska Marketing Ventures; Commission Staff; Anadarko Petroleum Corp., Apache Corp., ConocoPhillips Co., Occidental Energy Marketing, Inc., Shell Energy North America (US), L.P. (Indicated Shippers); the Process Gas Consumers Group, American Forest & Paper Association, United States Gypsum Company, and United States Steel Corporation (collectively, the Industrials); the American Public Gas Assoc. (APGA); Missouri Public Service Commission; and Grain Processing Corp.

<sup>3</sup> *Natural Gas Pipeline Co. of America, LLC*, 131 FERC ¶ 61,158 (2010).

5. The Offer of Settlement may be summarized as follows:
6. Article I provides the background and procedural history of the case.
7. Article II sets forth the new lower maximum reservation rates for transportation and storage services, the reduced Fuel Retention Factors and the rate periods in which such rates will be effective.
8. Article III provides that fuel will be retained based on a fixed percentage matrix and not a fuel tracker. This article also provides that Natural will make periodic Transparency Report filings and under certain circumstances may make a limited NGA section 4 filing to adjust the Fuel Retention Factors.
9. Article IV sets forth Natural's rights to make filings to recover certain costs during the Rate Moratorium.
10. Article V provides that Natural will submit a cost and revenue study on or before June 1, 2015.
11. Article VI provides that Natural will amend Section 5.2(c) of the General Terms and Conditions of its Tariff to revise the nomination requirements under the reservation charge credit provision. All parties agree to support or not oppose this tariff change.
12. Article VII provides that neither Natural, pursuant to NGA section 4, nor any Settling Party, pursuant to NGA section 5, will seek to modify the Settlement Rates prior to April 1, 2016.
13. Article VIII provides that during the Rate Moratorium, Natural will not:  
(1) propose to make any of the restrictive tariff changes enumerated in the article; propose market-based rates for any existing service; or (2) propose to recover any future ad valorem taxes imposed on Natural related to customer-owned working gas in Natural's storage fields.
14. Article IX sets forth the definitions of "Settling Party" and "Contesting Party." The article sets forth the rights and obligations of a Settling Party and Natural in the event that the Commission issues an order that materially and adversely affects a Settling Party or Natural. The article provides that a Contesting Party is not entitled to any of the benefits, or subject to any of the burdens imposed in the Settlement and may be severed from the Settlement. The article specifies the maximum rate that will apply in a right of first refusal procedure or capacity release where a different maximum rate applies to Settling and Contesting Parties.
15. Article X provides that Natural will not effectuate the reduction in Fuel Retention Factors on July 1, 2010, if the Settlement has not been approved by a final Commission order by such date. The article further provides for a fuel and/or rate crediting

mechanism in the event the Settlement is not approved by a final order by the dates specified therein.

16. Article XI provides that Natural will withdraw its petition for review at the United States Court of Appeals for the District of Columbia Circuit in Case No. 10-1086 when the Settlement becomes effective.

17. Article XII sets forth the criteria which must be met in order for the Settlement to take effect. The article also provides that the Settlement supersedes the settlement dated May 31, 1996 in Docket Nos. RP95-326 and RP95-242.

18. Article XIII provides that the Settlement is privileged if it does not become effective. The article also provides that the standard of review for any changes to the terms of the Settlement shall be the most stringent standard permissible under law. The article also provides that no participant shall be deemed to have approved, accepted, agreed or consented to any principle or method of regulation or ratemaking underlying or supposed to underlie any of the provisions of the Settlement. The provisions of the Settlement shall not be construed against any party as the drafter and are not severable.

19. The Settlement appears to be fair and reasonable and in the public interest, and pursuant to 18 C.F.R. § 385.602(g)(3) (2010) of the Commission's regulations is hereby approved. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. If Natural has made its baseline electronic tariff filing pursuant to Order No. 714, and did not file the instant settlement in the eTariff format required by Order No. 714, it is required to make a compliance filing in eTariff format to ensure that its electronic tariff provisions reflect the Commission action in this order.<sup>4</sup> Such a compliance filing also is necessary for any settlement filing such as the instant one that contains *pro forma* tariff sheets.

20. This letter terminates Docket No. RP10-147-000.

By direction of the Commission. Commissioner Moeller is not participating.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

cc: All parties of record

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<sup>4</sup> See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 96 (2008).