

136 FERC ¶ 61,079  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

August 4, 2011

In Reply Refer To:  
Ozark Gas Transmission, L.L.C.  
Docket No. RP11-1495-000

Ozark Gas Transmission, L.L.C.  
5400 Westheimer Court  
Houston, TX 77056

Attention: Richard J. Kruse

Reference: Letter Order Approving Uncontested Settlement

Dear Counsel:

1. On November 18, 2010, the Commission initiated a proceeding pursuant to section 5 of the Natural Gas Act (NGA) into the justness and reasonableness of the rates of Ozark Gas Transmission, L.L.C. (Ozark) and established hearing procedures.<sup>1</sup> In the November 18 Order, the Commission required Ozark to file a cost and revenue study within 75 days.
2. On April 29, 2011, pursuant to Rule 602 of the Commission's Regulations, Ozark filed a Stipulation and Agreement (Settlement) and related materials. The Settlement resolves all remaining issues in the above-captioned docket. The Settlement provides, among other things, that there will be no change in Ozark's currently effective recourse rates and total fuel retention percentage. However, Ozark and the participants have agreed to a one-year rate moratorium, and Ozark has agreed to file a section 4 rate case no later than the fourth anniversary of the Settlement effective date. Starting with calendar year 2011, the Settlement also provides that Ozark and its customers will share in Ozark's revenues above \$35.5 million on an annual basis for the term of the Settlement and on a prorated basis to reflect any partial year of the Settlement.

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<sup>1</sup> *Ozark Gas Transmission, L.L.C.*, 133 FERC ¶ 61,158 (2010) (November 18 Order), *reh'g granted in part and denied in part*, 134 FERC ¶ 61,062 (2011).

3. The terms of the Settlement are described briefly immediately below.
4. Article 1 establishes the Settlement rates, the Settlement effective date, and other terms. In particular, paragraph 1.2 provides that the currently effective recourse rates and total fuel retention percentage shall remain in effect and are not modified by the Settlement. Paragraph 1.3 provides that neither Ozark nor the other participants in this proceeding shall file a NGA section 4 general rate case or file a complaint seeking the initiation of an NGA section 5 rate investigation, as applicable, prior to one year following the Settlement effective date.
5. Paragraph 1.4 describes the revenue sharing mechanism. Subparagraph A provides that Ozark shall institute a revenue sharing mechanism upon the Settlement effective date and that the mechanism shall terminate when the Settlement terminates. Under the revenue sharing mechanism, which shall commence with calendar year 2011, Ozark shall credit on an annual, calendar-year basis 30 percent of its Annual Revenues<sup>2</sup> in excess of \$35.5 million to the customers with Rate Schedule FTS service agreements on Ozark during the applicable calendar year. Any such credit under the revenue sharing mechanism shall be allocated pro rata based on actual demand charge revenue under the Rate Schedule FTS service agreements during the applicable calendar year.
6. Paragraph 1.5 provides that Ozark shall file an NGA section 4 general rate case no later than the fourth anniversary of the Settlement effective date and, in the rate case, Ozark is required to propose a fuel tracker and true-up mechanism.
7. Article 2 contains a number of miscellaneous provisions. In particular, paragraph 2.3 provides that the Settlement shall terminate upon the earlier of: (a) the date on which Ozark first places rates into effect in an NGA section 4 general rate case proceeding (whether or not such rates are placed into effect subject to refund); (b) the date on which a complaint is filed by the Commission to initiate an NGA section 5 proceeding to investigate Ozark's transportation or fuel rates; or (c) the date the Commission *sua sponte* initiates an NGA section 5 investigation of Ozark's transportation or fuel rates.
8. Article 3 of the Settlement sets forth several covenants regarding the action the parties will take in supporting the Settlement before the Commission
9. Article 4 describes the effect of the approval of the Settlement. In particular, paragraph 4.2 provides that within three business days following the Settlement effective date, Ozark will withdraw its petition in Case No. 11-1091 pending before the U.S. Court of Appeals for the D.C. Circuit. In addition, paragraph 4.4 provides that the applicable

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<sup>2</sup> For each applicable calendar year, Ozark's Annual Revenues shall be the amount shown on Line 21, Column (f) of Page 301 in Ozark's FERC Form No. 2 filed pursuant to 18 C.F.R. section 260.1 for the calendar year.

standard of review for any future modifications to the Settlement is the “just and reasonable” standard.

10. Arkansas Western Gas Company, Trial Staff and Ozark each filed initial comments supporting the Settlement. Trial Staff states that when it conducted its on-site audit, it became apparent that while Ozark was most likely significantly over-recovering its fuel costs, circumstances had changed since the Commission issued its initial order in this proceeding which resulted in a significant decrease in Ozark’s firm transportation throughput. Trial Staff states that the rate impact of this change offset Ozark’s over recovery of its fuel costs. Trial Staff notes that for this reason, the Settlement provides that there will be no change in Ozark’s current recourse rate or fuel retention percentage. However, Trial Staff states that circumstances may change again in the future and Ozark’s throughput could increase significantly up to previous levels. Trial Staff states that to ensure that Ozark’s firm transportation shippers are protected should that occur in the future the Settlement provides that should Ozark’s revenues exceed \$35.5 million on an annual basis, Ozark will share the excess revenues with its FTS shippers on a 30/70 basis (i.e., 30 percent for firm shippers and 70 percent for Ozark). Trial Staff states that while Ozark’s current rates do not appear to be unjust and unreasonable, the revenue sharing mechanism in the Settlement ensures that Ozark’s FTS customers are protected against unjust and unreasonable rates should Ozark’s throughput go back up to prior levels.

11. On June 9, 2011, the Presiding Judge certified the Settlement to the Commission as uncontested.<sup>3</sup>

12. The Commission finds that the Settlement is fair and reasonable and in the public interest, and therefore, the Commission approves the Settlement pursuant to Rule 602(g), 18 C.F.R. § 385.602(g) (2011).

13. This letter order terminates Docket No. RP11-1495-000.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>3</sup> *Ozark Gas Transmission, L.L.C.*, 135 FERC ¶ 63,014 (2011).