

167 FERC ¶ 61,222  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Cheryl A. LaFleur, Richard Glick,  
and Bernard L. McNamee.

Golden Pass Pipeline LLC

Docket No. RP19-1219-000

ORDER APPROVING SETTLEMENT

(Issued June 14, 2019)

1. On May 10, 2019, Golden Pass Pipeline LLC (Golden Pass Pipeline) filed a Stipulation and Agreement (Settlement) and *pro forma* tariff records pursuant to Rules 207(a)(5) and 602 of the Commission's regulations<sup>1</sup> to implement a total rate reduction of approximately 46 percent to Golden Pass Pipeline's maximum base tariff rates for Rate Schedules FT and IT. Golden Pass Pipeline states that the rate reduction reflects, among other things, the impacts of the Tax Cuts and Jobs Act,<sup>2</sup> the Commission's Revised Policy Statement on Treatment of Income Taxes (Revised Policy Statement),<sup>3</sup> and a revision in Golden Pass Pipeline's depreciation rates. We approve the Settlement and direct Golden Pass Pipeline to file revised tariff records implementing the Settlement.

**I. Background**

2. On July 18, 2018, the Commission issued Order No. 849,<sup>4</sup> a final rule adopting procedures for determining which jurisdictional natural gas pipelines may be collecting

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<sup>1</sup> 18 C.F.R. § 385.207(a)(5) and § 385.602 (2018).

<sup>2</sup> Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017).

<sup>3</sup> *Inquiry Regarding the Commission's Policy for Recovery of Income Tax Costs*, 162 FERC ¶ 61,227, *order on reh'g*, 164 FERC ¶ 61,030 (2018) (Revised Policy Statement).

<sup>4</sup> *Interstate and Intrastate Natural Gas Pipelines; Rate Changes Relating to Federal Income Tax Rate*, Order No. 849, 83 Fed. Reg. 36,672 (July 30, 2018), 164 FERC ¶ 61,031 (2018), *reh'g denied*, Order No. 849-A, 167 FERC ¶ 61,051 (2019).

unjust and unreasonable rates in light of (1) the income tax reductions provided by the Tax Cuts and Jobs Act and (2) the Commission's Revised Policy Statement and Opinion No. 511-C<sup>5</sup> establishing a policy that Master Limited Partnerships (MLPs) may not recover an income tax allowance in response to the decision of the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in *United Airlines*.<sup>6</sup> Order No. 849 required all interstate natural gas pipeline companies with cost-based stated rates to file a FERC Form No. 501-G containing an abbreviated cost and revenue study using data in the pipelines' 2017 FERC Form Nos. 2 and 2-A. Order No. 849 provided four options each interstate natural gas pipeline may choose from to address the changes to the pipeline's revenue requirement as a result of certain income tax reductions: (1) a limited rate reduction filing pursuant to section 4 of the Natural Gas Act (NGA) (Option 1), (2) a commitment to file a general NGA section 4 rate case or prepackaged settlement in the near future (Option 2), (3) an explanation why no rate change is needed (Option 3), and (4) no action (other than filing a report) (Option 4).

3. On December 6, 2018, Golden Pass Pipeline submitted its FERC Form No. 501-G in Docket No. RP19-387-000 consistent with the reporting requirements of Order No. 849. In its FERC Form No. 501-G, Golden Pass Pipeline stated that it is not a separate income taxpaying entity. Therefore, its FERC Form No. 501-G eliminated both its tax allowance and its Accumulated Deferred Income Taxes (ADIT) consistent with the *United Airlines* Issuances. The FERC Form No. 501-G showed an indicated cost-of-service reduction of 11.1 percent. The FERC Form No. 501-G also showed that Golden Pass Pipeline's Total Estimated Return on Equity (ROE) would be 13.7 percent,<sup>7</sup> after adjustment to reflect the *United Airlines* Issuances.

4. Golden Pass Pipeline elected to file under Option 3 (statement explaining why no adjustment is needed). Golden Pass Pipeline stated that it currently has a levelized recourse rate, based on levelizing its cost of service over a 25-year period. Golden Pass Pipeline stated that removal of the income tax components and ADIT significantly affects the levelized cost of service. It accordingly developed an updated levelization model that eliminated federal and state income tax allowances and ADIT from 2019 until the end of the 25-year levelization period. Golden Pass Pipeline stated that the updated levelization model indicated that it could, in fact, justify modestly increasing its recourse rate.

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<sup>5</sup> *SFPP, L.P.*, Opinion No. 511-C, 162 FERC ¶ 61,228, at P 9 (2018).

<sup>6</sup> *United Airlines, Inc. v. FERC*, 827 F.3d 122 (D.C. Cir. 2016). For purposes of this order, the Revised Policy Statement, *United Airlines*, and Opinion No. 511-C will collectively be referred to as "*United Airlines* Issuances."

<sup>7</sup> Golden Pass Pipeline's FERC Form No. 501-G, page 3, line 26, column D.

No party intervened in Golden Pass Pipeline's FERC Form No. 501-G proceeding and on March 20, 2019 the Commission terminated that proceeding.<sup>8</sup>

5. Golden Pass Pipeline's mainline transmission system extends approximately 69 miles in a northeasterly direction from the Golden Pass LNG liquefied natural gas import terminal near Sabine Pass, Texas (Import Terminal), to its terminus in Starks, Louisiana. Golden Pass Pipeline is authorized to transport up to 2.5 billion cubic feet per day of natural gas from the Import Terminal to interconnects with several interstate and intrastate pipelines and storage facilities along its route. On December 21, 2016, the Commission approved a certificate for construction and operation of compression and looping facilities in Texas and Louisiana in order to expand the Golden Pass Pipeline and make it bidirectional. At the same time, the Commission approved construction and operation of facilities for the export of LNG located at the existing Import Terminal.<sup>9</sup>

6. Golden Pass Pipeline states the Settlement revises its base rates based on (1) impacts due to the Tax Cuts and Jobs Act and the Revised Policy Statement; and, (2) revisions to its depreciation rates to reflect an extension of its depreciable life from 25 years to 50 years to reflect the expansion of the Golden Pass Pipeline in conjunction with new LNG export facilities.

## **II. Settlement**

7. On May 10, 2019, Golden Pass Pipeline filed the Settlement. Golden Pass Pipeline states its current firm shippers, accounting for 100 percent of its mainline capacity, have indicated to Golden Pass Pipeline their support of the Settlement. Golden Pass Pipeline seeks to implement the Settlement provisions as quickly as possible and requests Commission approval of the Settlement without condition or modification by June 14, 2019, to enable Golden Pass Pipeline to make the Settlement rates effective as of July 1, 2019, thereby providing its shippers with significant rate reductions. Further, Golden Pass Pipeline states the purpose of the Settlement is to reduce and restructure its rates for the benefit of its present and future shippers.

8. Article III of the Settlement states the base tariff rates established pursuant to the Settlement provide for a rate reduction of approximately 46 percent for both firm and interruptible transportation.

9. Article IV (1) provides that the Settlement rates have been agreed to on a "black-box" basis; (2) addresses the revisions to Golden Pass Pipeline's current depreciation

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<sup>8</sup> *Cheniere Creole Trail Pipeline, L.P.*, 166 FERC ¶ 61,198 (2019).

<sup>9</sup> *Golden Pass Products LLC*, 157 FERC ¶ 61,222 (2016) (which approves construction and operation of compression and looping facilities in Texas and Louisiana).

rates to, among other things, eliminate levelization in favor of straight-line depreciation over a 50-year life of transmission plant to be applied prospectively, as well as to future expansions; and (3) provides the methodology for determining cost-of-service levels in Golden Pass Pipeline's certificate applications and for calculating allowances for funds used during construction (AFUDC) for new facilities.

10. Article VI of the Settlement establishes a rate moratorium with respect to the Settlement to be effective until July 1, 2025. Article VI. B. of the settlement states:

1. Except as provided in Section 2 below, because the parties hereto are sophisticated participants in Commission rate proceedings, the standard for review for any proposed change to Settled Matters, to be effective during the Rate Moratorium, shall be the "public interest" standard for review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.* and *Federal Power Commission v. Sierra Pacific Power Co.*[<sup>10</sup>]

2. With respect to proposed changes to any Settled Matter sought by non-settling third parties or the Commission acting *sua sponte*, the standard of review shall be the just and reasonable standard.

### **III. Notice, Interventions and Responsive Pleadings**

11. Public notice of Golden Pass Pipeline's Settlement was issued on May 14, 2019. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.<sup>11</sup> Pursuant to Rule 214, all timely motions to intervene and any unopposed motions to intervene filed out-of-time before the issuance date of this order are granted.<sup>12</sup> Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

### **IV. Discussion**

12. We find that the Settlement appears to be fair and reasonable and in the public interest. The Settlement provides rate relief in the form of an approximately 46 percent reduction in Golden Pass Pipeline's maximum base tariff rates, effective July 1, 2019. The Settlement also establishes a rate moratorium through July 1, 2025. Furthermore, the

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<sup>10</sup> *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332, 339 (1956); *FPC v. Sierra Pac. Power Co.*, 350 U.S. 348, 355 (1956) (*Mobile-Sierra*).

<sup>11</sup> 18 C.F.R. § 154.210 (2018).

<sup>12</sup> 18 C.F.R. § 385.214 (2018).

Settlement is uncontested and supported by the active parties. Accordingly, we approve the Settlement and the *pro forma* tariff records included in Exhibit B. Golden Pass Pipeline is directed to file in eTariff format actual tariff records to be effective July 1, 2019, consistent with the terms of the Settlement.

13. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

14. This order terminates Docket No. RP19-1219-000.

The Commission orders:

(A) The Settlement filed by Golden Pass Pipeline in Docket No. RP19-1219-000 is approved, as discussed in the body of this order.

(B) Golden Pass Pipeline shall file actual tariff records in eTariff format as required by Order No. 714.<sup>13</sup> consistent with the terms of the Settlement.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>13</sup> *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008).