

171 FERC ¶ 61,176
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

June 1, 2020

In Reply Refer To:
National Fuel Gas Supply Corporation
Docket No. RP19-1426-006

National Fuel Gas Supply Corporation
6363 Main Street
Williamsville, NY 14221

Attention: Alice A. Curtiss
Deputy General Counsel

Dear Ms. Curtiss:

1. On March 13, 2020, pursuant to Rule 602 of the Commission's Rules of Practice and Procedure,¹ National Fuel Gas Supply Corporation (National Fuel) filed a Stipulation and Agreement (Settlement).² The Pennsylvania Office of Consumer Advocate, Equinor Natural Gas LLC, the Commission Trial Staff and National Fuel separately filed comments supporting the Settlement. On April 20, 2020, the Settlement Judge certified the Settlement to the Commission as uncontested.³ We approve National Fuel's Settlement as proposed.

2. National Fuel states that the Settlement is the result of extensive discussions and negotiations between National Fuel and the participants and is a comprehensive package that resolves all issues raised in its July 31, 2019 Natural Gas Act (NGA) section 4 rate

¹ 18 C.F.R. § 385.602 (2019).

² On March 24, 2020, National Fuel filed an errata to change the first sentence in Article III of the Settlement to read "any Settling party," as opposed to "any person."

³ *National Fuel Gas Supply Corp.*, 171 FERC ¶ 63,010 (2020).

case filing that were set for hearing,⁴ including all cost-of-service issues.⁵ National Fuel also states that the Settlement establishes procedures for the resolution of other matters, including certain operational issues that the Commission had excluded from the proceeding. National Fuel further states that the Settlement makes final its Interim Settlement Rates, which National Fuel asserts are significantly lower than those contained in the July 31, 2019 filing. National Fuel contends that any modification of the Settlement could disrupt the negotiated settlement and result in further litigation and delay providing benefits to its customers.

3. According to National Fuel, the Settlement rates were designed on a “black box” basis using a total cost of service of \$245,000,000. National Fuel states that the Settlement does not identify any component of the Settlement cost of service, except for the depreciation rates and the rate base and plant balances underlying the period 1 rates. However, National Fuel states that, for purposes of computing the allowance for funds used during construction and developing incremental recourse rates in certificate proceedings, the Settlement provides that National Fuel must utilize a 12.5% return on equity.⁶ The Settlement also provides that National Fuel will not file a general NGA section 4 rate case for rates to be effective before February 1, 2024 and that no person will initiate a complaint under NGA section 5 for rates to be effective before such date. In addition, the Settlement requires National Fuel to file an NGA section 4 rate case for

⁴ In an August 30, 2019 Order, the Commission established hearing and settlement procedures to address the issues raised by National Fuel’s section 4 rate case filing. *See National Fuel Gas Supply Corp.*, 168 FERC ¶ 61,140 (2019). The filing included tariff records and a *pro forma* tariff record containing a Modernization Cost Recovery Mechanism (MCRM). In its order, with one exception, the Commission accepted and suspended the tariff records until February 1, 2020, subject to refund and the outcome of the hearing, and set the *pro forma* tariff records implementing the MCRM for hearing. Because Rate Schedule W-1 reflected a rate decrease, the Commission directed National Fuel to file a revised tariff record to be effective September 1, 2019, which was filed and subsequently accepted by the Commission. *See National Fuel Gas Supply Corp.*, Docket No. RP19-1426-002 (September 25, 2019) (delegated order).

⁵ National Fuel states that the July 31, 2019 filing was made pursuant to a Settlement in Docket No. RP15-1310-000 and to comply with Order No. 849 in its FERC Form No. 501-G proceeding in Docket No. RP19-429-000. However, the Commission terminated National Fuel’s FERC Form No. 501-G proceeding in the August 30, 2019 Order.

⁶ *See* Settlement, Article X, Section 2.

rates to be effective on February 1, 2025, if no rate case filing has been made under NGA section 4 or complaint has been filed under NGA section 5.

4. According to National Fuel, the Settlement provides that the standard of review⁷ “for any proposed modifications to the provisions of the [Settlement] to be applied by the Commission acting *sua sponte*, or the parties and/or their affiliates in these proceedings acting unanimously, will be the just and reasonable standard” and the standard of review “for any proposed modifications to the provisions of the [Settlement] at the request of one or more but less than all parties and/or their affiliates in these proceedings will be the ‘public interest’ standard for review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956).”

5. The Settlement appears to be fair and reasonable and in the public interest and is hereby approved. The Commission’s approval of the instant Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings. National Fuel is directed to file revised tariff records in eTariff format,⁸ in accordance with the terms of the Settlement.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁷ See Settlement, Article XI.

⁸ *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008).