

166 FERC ¶ 61,133
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Young Gas Storage Company, Ltd.

Docket Nos. RP19-276-000
RP19-276-001

ORDER APPROVING SETTLEMENT AND TERMINATING
FERC FORM NO. 501-G PROCEEDING

(Issued February 21, 2019)

1. On November 8, 2018, Young Gas Storage Company, Ltd. (Young) filed the one-time report FERC Form No. 501-G as required by section 260.402 of the Commission's regulations.¹ On December 28, 2018, Young filed a Stipulation and Agreement of Settlement (Settlement) pursuant to Rules 207(a)(5) and 602 of the Commission's regulations² to implement a reduction in Young's rates effective January 1, 2019. The Commission approves Young's Settlement, as proposed, and terminates Young's FERC Form No. 501-G proceeding.

I. Background and Proposal

2. On July 18, 2018, the Commission issued Order No. 849,³ a final rule adopting procedures for determining which jurisdictional natural gas pipelines may be collecting unjust and unreasonable rates in light of (1) the income tax reductions provided by the Tax Cuts and Jobs Act⁴ and (2) the Commission's Revised Policy Statement⁵ and

¹ 18 C.F.R. § 260.402 (2018).

² 18 C.F.R. § 385.207(a)(5) and § 385.602 (2018).

³ *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.

⁴ An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, Pub. L. No. 115-97, 131 Stat. 2054 (2017) (Tax Cuts and Jobs Act).

⁵ *Inquiry Regarding the Commission's Policy for Recovery of Income Tax Costs*, Revised Policy Statement, 83 Fed. Reg. 12,362 (Mar. 21, 2018), *order on reh'g*,

Opinion No. 511-C⁶ establishing a policy that Master Limited Partnerships (MLP) 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 in *United Airlines*.⁷ Order No. 849 required, pursuant to sections 10 and 14(a) of the Natural Gas Act (NGA), that all interstate natural gas companies with cost-based stated rates, that filed a 2017 FERC Form No. 2 or 2-A, must file a FERC Form No. 501-G informational filing.⁸ The FERC Form No. 501-G is designed to collect financial information to evaluate the impact of the Tax Cuts and Jobs Act and *United Airlines* Issuances on interstate natural gas pipelines' revenue requirements. Using the data in the pipelines' 2017 FERC Form Nos. 2 and 2-A, the form estimates (1) the percentage reduction in the pipeline's cost of service resulting from the Tax Cuts and Jobs Act and the Revised Policy Statement and (2) the pipeline's current Return on Equity before and after the reduction in corporate income taxes and the elimination of income tax allowances for MLP pipelines.

3. Order No. 849 also provided several options each interstate natural gas pipeline may choose from to address the changes to the pipeline's revenue requirement as a result of the income tax reductions. These included (1) a limited NGA section 4 rate reduction filing (Option 1), (2) a commitment to file a general NGA section 4 rate case or a prepackaged settlement in the near future (Option 2), (3) an explanation why no rate change is needed (Option 3), and (4) no action (Option 4).

4. On November 8, 2018, in Docket No. RP19-276-000, Young submitted its FERC Form No. 501-G in response to Order No. 849. In that filing, Young stated that it had negotiated an agreement in principle with its shippers and that it intended to file a prepackaged, non-contested settlement with the Commission by December 31, 2018 consistent with Option 2 in Order No. 849. On December 28, 2018, Young filed its Settlement.

5. Young states that the Settlement provides for Initial Settlement Base Rates for Rate Schedules FS-1, IS-1, and PAL which shall become effective January 1, 2019. Young states that it is authorized to state that the Settlement is supported by all parties.⁹ Young contends that the Settlement resolves all issues relating to Order No. 849 and the

164 FERC ¶ 61,030 (2018).

⁶ *SFPP, L.P.*, Opinion No. 511-C, 162 FERC ¶ 61,228, at P 9 (2018).

⁷ *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."

⁸ The One-time Report on Rate Effect of the Tax Cuts and Jobs Act may be referred to interchangeably as "One-time Report" or "FERC Form No. 501-G."

⁹ Transmittal letter submitting Settlement at 1.

impact of the Tax Cuts and Jobs Act on Young's rates, and will provide the benefits from the Tax Cuts and Job Act to Young's customers.¹⁰

6. In the Settlement package, Young submitted *pro forma* tariff records to show how it would implement the rate reduction. Article I states the purpose and scope of the Settlement. Article II provides that the Settlement rates set forth in Appendix B will become effective January 1, 2019. Additionally, Article II states that Young will file an application, prior to March 31, 2019, pursuant to section 7(c) of the NGA to increase total certificated storage inventory of the Young Storage Field by an additional one billion cubic feet and to seek authorization to inject 800 million cubic feet of additional base gas inventory. Furthermore, Article II states that on the later of June 1, 2019 or the first day of the month after the date upon which Young has actually purchased and injected the additional base gas inventory into its storage field, Young's maximum reservation rate components and the maximum rates for Rate Schedules FS-1, IS-1, and PAL will be increased back to the levels in effect on November 1, 2018.

7. Article III states that the term of the Settlement shall extend from the Effective Date through the earlier of (a) the date new rates become effective pursuant to a new general, system-wide rate change submitted by Young pursuant to section 4 of the NGA or (b) the date new rates become effective pursuant to action taken by the Commission under section 5 of the NGA. Article IV states that the parties have agreed to a moratorium on changes to the Settlement Rates for a three-year period ending on January 1, 2022. Additionally, Article IV states that Young has committed to file a rate case pursuant to section 4 of the NGA, with rates to be effective no later than April 1, 2022, absent a prior agreement with its shippers that no such section 4 rate case is necessary or warranted.

8. Articles V and VI state the Reservations and Conditions between Young and the parties.

9. Article VII of the Settlement provides that "the standard of review for any proposed changes by Young or any Settling Party to the terms of this [Settlement] including, but not limited to, the Settlement Base Rates shall be the more rigorous application of the statutory 'just and reasonable' standard of review which is characterized as the *Mobile-Sierra* 'public interest' standard."¹¹ It further specifies that "[w]ith respect to proposed changes to any terms of this [Settlement] sought by a third party or the Commission acting *sua sponte*, the standard of review shall be the just and reasonable standard."

¹⁰ Settlement at 1.

¹¹ Settlement, art. VII.

II. Notice of Filing

10. Public notice of Young's FERC Form No. 501-G was issued on November 13, 2018, with interventions and protests due by November 20, 2018. Public notice of the Settlement was issued on January 3, 2019, with initial comments due by January 14, 2019 and reply comments due by January 23, 2019. Pursuant to Rule 214,¹² all timely filed motions to intervene and any unopposed motion to intervene filed out-of-time before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

III. Discussion

11. The Commission finds that the Settlement appears to be fair and reasonable and in the public interest. The Settlement is uncontested and provides a reduction in Young's rates and anticipated benefits to customers with increased storage inventory. Accordingly, the Commission approves the Settlement. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. This order terminates the above-captioned dockets.

The Commission orders:

- (A) Young's Settlement is approved, as discussed in the body of this order.
- (B) The captioned FERC Form No. 501-G proceeding is terminated.
- (C) Young must file actual tariff records consistent with the Settlement in eTariff format as required by Order No. 714¹³ in order to implement the *pro forma* tariff records proffered with the Settlement.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹² 18 C.F.R. § 385.214 (2018).

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