

160 FERC ¶ 61,092  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

September 20, 2017

In Reply Refer To:  
Texas Eastern Transmission, LP  
Docket No. RP17-519-000

Texas Eastern Transmission, LP  
P.O. Box 1642  
Houston, TX 77251-1642

Attention: Berk Donaldson, General Manager  
Rates and Certificates

Reference: Offer of Stipulation and Agreement

Dear Mr. Donaldson:

1. On March 3, 2017, Texas Eastern Transmission, LP (Texas Eastern) filed<sup>1</sup> a Stipulation and Agreement (Stipulation) to resolve issues related to payment of the true-up required by the Joint Stipulation and Agreement approved by the Commission in Docket No. RP88-67-000, *et al.*, on March 18, 1992 (PCB Settlement).<sup>2</sup> Texas Eastern states that the shippers listed in Exhibit 1 to the Stipulation (Shippers) either support or do not oppose the Stipulation. As discussed below, the Commission approves the Stipulation to be effective according to its terms.<sup>3</sup>

2. Texas Eastern states that the Stipulation provides for a complete resolution of any issues related to payment of the true-up amount of Texas Eastern's incurred, but unrecovered, eligible PCB-Related Costs (PCB Costs) as of March 31, 2017, plus applicable interest, as required by Articles VI.B.6, VI.B.7, and XI.B of the PCB

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<sup>1</sup> The filing is made pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.207(a)(5) (2017).

<sup>2</sup> *Texas Eastern Transmission Corp.*, 58 FERC ¶ 61,295 (1992) (March 18 Order).

<sup>3</sup> According to Article I, the Stipulation will become effective on the date that a Commission order, approving the Stipulation as filed and without modification or condition, becomes a final order.

Settlement. Texas Eastern explains that the PCB Settlement resolved the issues regarding Texas Eastern's recovery of costs related to the environmental assessment and remediation program it has undertaken as a result of the contamination of its system with polychlorinated biphenyls (PCBs). Texas Eastern states that the PCB Settlement provided for the allocation of PCB Costs incurred on or after December 1, 1990, among Texas Eastern and its shippers. Texas Eastern states that the PCB Settlement included an annual increase limitation of 15 percent from the previous year's recoverable PCB Costs and that any overage in excess of 15 percent is to be carried forward to the following year, with interest. Texas Eastern states that this deferred balance is then subject to a true-up, pursuant to Articles VI.B.6, VI.B.7, and XI.B of the PCB Settlement, to allow Texas Eastern to recover any incurred, but unrecovered, PCB Costs. Texas Eastern states that, although the PCB Settlement terminated on March 17, 2017, it will continue in effect past the termination date pursuant to Article XI of the PCB Settlement.<sup>4</sup>

3. Texas Eastern states that as a result of discussions with Shippers, Texas Eastern and the Shippers reached an agreement regarding payment of the true-up. Texas Eastern states that the Stipulation addresses only the true-up required under Articles VI.B.6, VI.B.7, and XI.B of the PCB Settlement and does not address or resolve any other issue, controversy or dispute arising under, or related to, the PCB Settlement, nor does it preclude any party from taking any position with respect to such other issue, controversy or dispute in a dispute resolution proceeding under the PCB Settlement or any other proceeding.

4. Public notice of the filing was issued on March 7, 2017. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2017)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2017)), all timely filed motions to intervene and any unopposed motion to intervene out-of-time filed 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. Comments in support of the filing were filed by the Tennessee Valley Authority. No comments in opposition to the settlement were filed.

5. The principal terms of the Stipulation are summarized below.

6. Article I describes the terms and structure of the true-up Stipulation, including the effective date, a definition of deferred account balance, the true-up cost allocation methodology, waiver of collections from negotiated and discount rate shippers, a provision addressing shipper default, and the payment period and mechanisms.

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<sup>4</sup> Issues related to whether the PCB Settlement may continue in effect after March 17, 2017 are addressed in Docket No. RP17-461-000.

7. Section 1.1 defines the effective date as the date that Texas Eastern receives an acceptable order, defined as a final Commission order no longer subject to rehearing or appeal and approving the Stipulation as filed and without modification or condition. This section provides that the Shippers may mutually agree to waive the requirement that an acceptable order must no longer be subject to rehearing or appeal, in which case the effective date would be the date of the final Commission order accepting the Stipulation.

8. Section 1.2 defines deferred account balance and explains that the deferred account balance is equal to the incurred, but unrecovered, costs under the PCB Settlement, plus interest. The deferred account balance, totaling \$8,878,456 as of August 31, 2016, will be updated to reflect costs accrued through March 31, 2017 and any over- or under-recoveries from the billing period ending March 31, 2017 (plus applicable interest).

9. Section 1.3 provides the true-up cost allocation methodology. This section explains that Texas Eastern will allocate the deferred account balance to four service types in accordance with Article VI.B.2 of the PCB Settlement. The amount allocated to each service type will be further allocated among shippers with contracts on Texas Eastern's system as of March 31, 2017, including negotiated rate and discount rate contracts, based on the aggregate contract quantity in effect from the period of April 1, 2016 through March 31, 2017, to account for seasonal, short-term, and new contracts. This section also provides that Texas Eastern will submit a compliance filing to the Commission reflecting the amount of each shipper's allocated portion of the deferred account balance, based on the allocation methodology above, no later than July 1, 2017. Lastly, this section refers to Exhibit 2, which shows individual shipper responsibility as of August 31, 2016.

10. Section 1.4 provides that Texas Eastern will not collect the portion of the deferred account balance allocated to service agreements in effect as of March 31, 2017, for which a party is paying a negotiated or discount rate in accordance with the General Terms & Conditions of Texas Eastern's FERC Gas Tariff. This section states that Texas Eastern will not reallocate to any other shipper, but instead will be at risk for and absorb such uncollected amounts.

11. Section 1.5 addresses the event of a shipper default.

12. Section 1.6 describes the payment mechanisms and payment periods and explains that each shipper has two possible methods to pay its allocated true-up obligation.

13. Article II contains several representations, warranties and covenants of the Shippers regarding their ability to enter into the Stipulation and the actions they will take in supporting the Stipulation before the Commission, including that the Shippers agree to support or not oppose the Stipulation.

14. Article III describes the effect of the approval of the Stipulation. Specifically, Section 3.3 provides that all Shippers understand that the Stipulation addresses only the true-up under Articles VI.B.6, VI.B.7, and XI.B of the PCB Settlement.

15. Article IV establishes that the just and reasonable standard of review will apply to any future modification of the Stipulation.

16. Article V contains miscellaneous provisions.

17. The Commission approves the Stipulation as it appears to be fair, reasonable, and in the public interest. The Commission's approval of the Stipulation does not constitute acceptance of, or precedent regarding, any principle or issue in this proceeding.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.