

122 FERC ¶ 61,128
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

February 12, 2008

In Reply Refer To:
The Panhandle Complainants v.
Southwest Gas Storage Company
and Southwest Gas Storage
Company; and Pan Gas Storage,
LLC d/b/a Southwest Gas Storage
Company
Docket Nos. RP07-34-000 and
RP07-541-000 (Consolidated),
and Docket No. CP07-69-000
(Not Consolidated)

Mr. Michael T. Langston
Sr. Vice President, Government and Regulatory Affairs
Southwest Gas Storage Company
5444 Westheimer Road
Houston, TX 77056

Dear Mr. Langston:

1. On November 28, 2007, Southwest Gas Storage Company (Southwest Gas Storage) submitted an Offer of Settlement (Offer) under Rule 602 of the Commission's Rules of Practice and Procedure, in the above consolidated proceedings. These proceedings involve (i) a NGA section 5 case arising from a formal complaint filed by a group of entities¹ (Complainants) against Southwest Gas Storage, alleging that Southwest Gas Storage's rates were unjust and unreasonable, and (ii) a NGA section 4 general rate case filed by Southwest Gas Storage seeking an increase in its jurisdictional storage rates. On December 18, 2007, Southwest Gas Storage and FERC Trial Staff (Staff) filed comments in support of the Settlement. Also on December 18, 2007, Complainants and the Missouri Public Service Commission (MoPSC) jointly with the Kansas Corporation

¹ The Complainants are American Forest & Paper Association, American Iron and Steel Institute, American Public Gas Association, Anadarko Petroleum Corporation and Anadarko Energy Services Company, Citizens Utility Board of Illinois, ConocoPhillips Company, ExxonMobil Gas & Power Marketing Company, Independent Petroleum Association of America, and Process Gas Consumers Group.

Commission filed comments stating that they did not oppose the Settlement. On December 20, 2007, the Administrative Law Judge certified the Offer to the Commission as an uncontested offer, to settle all the above captioned dockets, which were referred to the Administrative Law Judge for hearing.²

2. Article I states that the Offer is submitted in accordance with Rule 602 of the Commission's Rules of Practice and Procedure.
3. Article II sets forth the pertinent procedural background of the proceedings affected by the Stipulation and Agreement (Settlement) or which affect the Settlement.
4. Article III identifies the Settlement Rates, the Settlement Depreciation Rates, and reporting requirements under the Settlement.
5. Article III, section 1 provides that Settlement Rates will be the currently effective rates as reflected in Southwest Gas Storage's FERC Gas Tariff, First Revised Volume No. 1. Settlement Rates are minimum and maximum base rates for Rate Schedules FSS and ISS. Settlement Rates are to become effective on the first day of the month following the day when the Settlement becomes effective. *Pro forma* tariff sheets which reflect the Settlement Rates are included in Appendix A of the Settlement. This section states that Southwest Gas Storage shall not be required to provide refunds for rates charged during these proceedings.
6. Article III, section 2 specifies the agreement of the parties that a cost of service level of \$45,750,000 underlies the Settlement Rates.
7. Article III, section 2 also reflects a July 1, 2007 effective date for Settlement Depreciation Rates, including negative salvage rates, shown on Appendix B to the Settlement. This section specifies the agreement to reclassify Base Gas from recoverable to non-recoverable in the amount of \$21,096,277, as reflected in Appendix C to the Settlement. Reclassification will also be effective July 1, 2007.
8. Article III, section 2 recognizes that the Settlement Rates are considered to be based on approved ratemaking methods for purposes of deferred tax accounting under section 154.305 of the Commission's Regulations and that unless changed in accordance with law and regulation, Southwest Gas Storage will continue to use full interperiod tax normalization to establish its rate base and cost of service.
9. Article III, section 2 provides that the Commission's Statement of Policy Regarding Post-Employment Benefits Other Than Pensions (PBOP), Docket No. PL93-1-000, 61 FERC ¶ 61,330 (1992), will be deemed to apply to Southwest Gas

² *Southwest Gas Storage Company*, 121 FERC ¶ 63,020 (2007).

Storage's payments of retirement benefits (other than pensions) in recognition of the requirements of the Statement of Financial Accounting Standards No. 106 (SFAS 106). Since the Voluntary Employees' Beneficiary Association (VEBA) Trust account which funds the Southwest Gas Storage PBOP does not currently project a shortfall in assets available to pay PBOP benefits, Southwest Gas Storage's Settlement Rates include an annual PBOP cost of service allowance of \$0.

10. Finally, Article III, section 2 delineates certain reporting requirements by Southwest Gas Storage to file, with service to all parties of record who have executed a confidentiality agreement with Southwest Gas Storage, semiannual reports, on December 1 and June 1 of each year for the term of this Settlement, demonstrating how it has met its contractual obligations to its storage customers for the prior six-month period ending October 31 and April 30. Such reports shall begin June 1, 2008 (covering the period November 1, 2007 through April 30, 2008) and shall include: the contract demand levels set forth in any firm and interruptible contract(s) with Southwest Gas Storage's storage customers and the beginning and expiration date of any such contract(s); the balance of working gas and base gas (recoverable/ nonrecoverable) by storage field and working gas under third party storage contract on a monthly basis; corresponding monthly data demonstrating how Southwest Gas Storage satisfied actual monthly customer demands (injections/withdrawals) from Southwest Gas Storage's own storage fields (on a field-by-field basis) and, injections and withdrawals from third-party storage contracts; and, any change in the rates applicable for the service under each third party contract and any change in the contracted capacity or deliverability and months in which such change occurred.

11. Article III, section 3 establishes that Commission approval of the Settlement constitutes authorization for Southwest Gas Storage to reflect the Appendix B of the Settlement depreciation rates on its books and records and to make the rate and accounting adjustments set forth in the Settlement, effective July 1, 2007, as well as approval of any waivers necessary to carry out the Settlement.

12. Article III, section 3 also establishes that the effectiveness of the Settlement will terminate the captioned proceedings except as may be necessary to carry out the provisions of the Settlement and requires the withdrawal of requests for rehearing and/or motions for clarification in Docket Nos. RP07-34-000, RP07-541-000, and CP07-69-000. Pursuant to Article III, section 3 of the Settlement, requests for rehearing and/or motions for clarification in Docket Nos. RP07-34-000, RP07-541-000, and CP07-69-000 are deemed withdrawn.

13. Article IV defines the rights of and restrictions placed on Subject Parties, Southwest Gas Storage and Non-Consenting Parties. Subject Parties are those who either filed in support or did not object to the Settlement, or do not file comments in a timely manner, as specified by the Commission's Rules of Practice and Procedure.

Non-Consenting Parties are those who do not wish to agree to the Settlement and as a consequence will not receive any of its benefits.

14. Article V sets forth conditions respecting the non-prejudicial effect of the Settlement. Specifically, the Settlement constitutes a negotiated settlement of the captioned proceeding and that no participant is consenting to any ratemaking or tariff principles by agreeing to be bound by the Settlement, except for the period that the rates underlying this Settlement are in place as expressly provided in section 3 of Article V. No party shall be deemed to have waived any position or argument made in these settled proceedings or which could be made in future proceedings. No party shall be deemed to have waived its right to challenge the cost of base gas acquired under the Commission's September 7, 2007 order in Docket No. CP07-69-000.

15. Except as specifically provided for in section 3 of Article III of the Settlement, Article V provides that nothing in the Settlement will operate to limit Southwest Gas Storage from submitting for filing and seeking to place in effect, changes in its rates or tariff provisions in accordance with section 4 of the Natural Gas Act or preclude Subject Parties from filing in accordance with section 5 of the Natural Gas Act. Commission approval of the Settlement shall constitute the requisite approval necessary to permit the implementation of the provisions of the Settlement and shall also constitute a determination that all Settlement rates, and the terms and provisions of the Settlement, are fair, equitable, and in the public interest. The Settlement Rates do not impair or affect the effectiveness of the periodic or other adjustments to base rates which have or which will become effective during the Settlement Period.

16. Article VI sets forth the conditions under which the Settlement becomes effective.

17. Article VII contains standard reservations and miscellaneous provisions providing that (a) Appendices A, B, and C are incorporated herein by reference and made a part of the Settlement for all purposes, as if fully set forth in the Settlement, (b) in the event a statement in the attached Explanatory Statement conflicts with the Settlement or the Tariff provisions attached to the Settlement, the Settlement or Tariff provisions shall control, (c) capitalized terms not defined in the Settlement shall have the meaning ascribed to them in Southwest Gas Storage's Tariff, (d) the standard for review or proposed changes to the provisions of the Settlement by the parties or by the Commission on its own motion is the just and reasonable standard, and (e) upon effectiveness of the Settlement, the proceedings in Docket Nos. RP07-34-000 and RP07-541-000 shall be deemed terminated.

18. The Commission finds that the Settlement is fair, reasonable, and in the public interest and it is hereby approved, under Rule 602(g)(3) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.602 (2007)). We find that the parties intend that the applicable standard for review or proposed changes to the provisions of the

Settlement by the parties or by the Commission on its own motion is the just and reasonable standard.

19. This letter terminates Docket Nos. RP07-34-000 and RP07-541-000.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

cc: All Parties