

127 FERC ¶ 61,065
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

April 21, 2009

In Reply Refer To:
Maritimes & Northeast Pipeline, L.L.C.
Docket Nos. RP08-374-000
RP08-374-001
RP08-374-002

Maritimes & Northeast Pipeline, L.L.C.
M&N Management Company
5400 Westheimer Court
P.O. Box 1642
Houston, TX 77251-1642

Attention: Gregg E. McBride
Vice President, Rates and Certificates

Reference: Offer of Settlement

Dear Mr. McBride:

1. On February 27, 2009, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) submitted for filing a Stipulation and Agreement (Settlement) that would resolve all pending issues in Docket No. RP08-374-000, *et al.* The Settlement lists as “Consenting Parties” all active participants in the proceeding who are listed on Exhibit 3 to the Settlement and Commission Trial Staff, who unconditionally support or do not oppose the Settlement. Supporting comments were filed by three parties and Commission Trial Staff. No party filed comments opposing the Settlement.
2. As discussed below, the Commission approves the Settlement as proposed, including the contents of the *pro forma* tariff sheet attached as Exhibit 2 to the Settlement. Upon the “Effective Date” of the Settlement, as defined in Article III of the Settlement, the proceeding in Docket No. RP08-374-000, *et al.* is terminated.
3. On May 12, 2008, Maritimes filed to implement new gas quality and interchangeability specifications in its tariff. On June 11, 2008, the Commission accepted the filing and suspended it for five months, subject to conditions and a technical

conference.¹ After the July 15, 2008 technical conference, Maritimes submitted a list of contested issues developed by the parties to the Commission, and the parties filed initial and reply comments on these stipulated issues. The Commission resolved most of those stipulated issues in its order dated November 10, 2008, and set two of the stipulated issues for hearing.² Calpine Energy Services, L.P. (Calpine) filed a request for rehearing of the November 10 Order. The Commission denied rehearing of that order.³ On February 27, 2009, Maritimes submitted the Settlement. The Administrative Law Judge certified the Settlement to the Commission on March 17, 2009.⁴

4. Article I provides that, as of the date the Commission issues an order accepting without modification or condition the “Tariff Filing,” as defined below, all issues in the proceeding will be resolved.

5. Article II, section 2.1 provides that the Consenting Parties agree to the *pro forma* tariff sheet contained in Exhibit 2 to the Settlement. Article II, Section 2.2 requires Maritimes to file a tariff sheet with the Commission that is substantively identical to the *pro forma* tariff sheet included with the Settlement (Tariff Filing) within seven business days of the Effective Date of the Settlement.

6. Article III establishes the Effective Date of the Settlement as the later of the tenth business day following the date on which Maritimes receives a final Commission order, no longer subject to rehearing or appeal, approving the Settlement as filed and without modification or condition (Acceptable Order) or the date Calpine withdraws its petition for review, which Calpine is obligated to do within three business days after the Commission’s order approving the Settlement becomes an Acceptable Order.

7. Article IV, section 4.1 requires Maritimes to install one new mainline chromatograph at its Richmond compressor station on its system and to provide hourly

¹ *Maritimes & Northeast Pipeline, L.L.C.*, 123 FERC ¶ 61,256 (2008).

² *Maritimes & Northeast Pipeline, L.L.C.*, 125 FERC ¶ 61,159 (2008) (November 10 Order).

³ *Maritimes & Northeast Pipeline, L.L.C.*, 126 FERC ¶ 61,119 (2009). Calpine submitted a petition for review of the Commission’s orders in this docket with the United States Court of Appeals for the District of Columbia Circuit on March 4, 2009. Article III of the Settlement provides that Calpine will be obligated to withdraw said petition within three business days after issuance of a final order accepting the Settlement that is no longer subject to rehearing.

⁴ *Maritimes & Northeast Pipeline, L.L.C.*, 126 FERC ¶ 63,008 (2009).

chromatograph data on its Informational Postings website for this new chromatograph. Maritimes also agrees to provide hourly chromatograph data for all of the listed chromatographs on its Informational Postings website until the end of the fourth year following the Effective Date. Following that period, Maritimes will continue to post gas quality data as shown on the posting included as Exhibit 4 to the Settlement and agrees that all such data should be deemed “hourly average gas quality information (or other agreed to measure of rapidly changing gas quality)” as set forth in proposed NAESB WGQ Standard 4.3.x1, provided that this standard is adopted by the Commission, to be thereafter governed exclusively by such adopted standard, so long as that standard is required by Commission regulation.

8. Article IV, section 4.2 states that Maritimes will provide Calpine with access to data from a chromatograph located at milepost 100.56 at mainline valve site 1-100-BB. Calpine will have access to the real-time data provided by this chromatograph, subject to the execution of a mutually acceptable data access agreement, and Maritimes will post the gas quality data provided by the chromatograph on its Informational Postings website.

9. Article IV, section 4.3 obligates Maritimes to proceed with due diligence to implement Article IV of the Settlement by May 1, 2009, provided in no event will Maritimes’ obligation to make postings in accordance with Article IV begin any later than the end of the sixtieth day following the Effective Date, subject to equipment availability.

10. Article V explains that Maritimes has provided operating pressure and temperature data in Exhibit 5 to the Settlement, with estimates of pressures and temperatures at various levels of operating gas flows on the system. During the Phase-In Period, as that term is defined in Section 6.1, Maritimes will use reasonable efforts to respond to periodic requests from Calpine for pressure and temperature information for historical gas flows on the system, provided such periodic requests are reasonably related to operational concerns at the “Westbrook Plant,” as defined in the Settlement.

11. Article VI, section 6.1 provides for a “Phase-In Period,” as that term is defined in the Settlement, during which the upper Wobbe Number limit downstream of Westbrook, Maine will be 1395. Certain exceptions to the 1395 Wobbe Number limit are also provided for in Section 6.1.

12. Article VI, section 6.2 provides for an early termination of the Phase-In Period six months after the installation of “auto-tuning” equipment at the Westbrook Plant if Calpine reasonably believes that the equipment can mitigate any material adverse effects associated with variability in Wobbe Number.

13. Article VII establishes a “Moratorium Period” during which no party to the proceedings may seek to amend Section 12 of the general terms and conditions of Maritime’s FERC gas tariff to modify the upper Wobbe Number limit or impose

limitations affecting the Wobbe Number rate of change limitation on gas quality. The Moratorium Period will run from the settlement effective date through the conclusion of the Phase-In Period and does not apply to modifications proposed or required by the Commission acting *sua sponte*.

14. Article VIII, section 8.1 states that the Settlement represents a negotiated settlement of the issues in the proceeding and that the benefits accruing to both Maritimes and the Consenting Parties represent compromises by the parties to achieve a balance between competing interests. Article VIII, section 8.2 provides that Commission approval of the Settlement and the Tariff Filing constitutes a termination of the proceedings in the above-captioned dockets and constitutes any and all waivers of the Commission's rules and regulations that may be necessary to effectuate the Settlement.

15. Article IX contains representations, warranties, and covenants by the parties regarding their ability to enter into the Settlement and the actions they will take in supporting the Settlement before the Commission.

16. Article X contains a number of "Miscellaneous" provisions, including section 10.2, which states that the applicable standard for any future modification of the Settlement for Consenting Parties and the Commission is the just and reasonable standard.

17. The Commission approves the Settlement as proposed, including the contents of the *pro forma* tariff sheet attached as Exhibit 2 to the Settlement, under Rule 602(g). The Settlement is fair and reasonable and in the public interest. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Commission notes that settlement of these issues will result in a savings in time and expense for all parties involved.

18. Maritimes is directed to file an actual tariff sheet within seven (7) business days of the Effective Date of the Settlement, pursuant to section 2.2 of the Settlement.

19. Docket No. RP08-374-000, *et al.* shall terminate upon the Commission's acceptance of the Tariff Filing without modification or condition, pursuant to Article I of the Settlement.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.