

134 FERC ¶ 61,074
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

January 31, 2011

In Reply Refer To:
Granite State Gas Transmission, Inc.
Docket Nos. RP10-896-000 and
RP10-896-001

Schiff Hardin LLP
1666 K St. NW
Suite 300
Washington, DC 20006

Attention: Debra Ann Palmer
Attorney for Granite State Gas Transmission, Inc.

Reference: Offer of Settlement

Dear Ms. Palmer:

1. On November 30, 2010, you filed on behalf of Granite State Gas Transmission, Inc., (Granite State) a Stipulation and Agreement and related materials (Settlement) to resolve all the issues in the above-referenced proceedings, including those set for hearing by the Commission's July 30, 2010¹ order concerning Granite State's June 29, 2010 general rate case filing. Granite State; the New Hampshire Public Utilities Commission, Maine Public Utilities Commission, and Maine Public Advocate; and the Commission Trial Staff filed comments in support of the Settlement. No reply comments were filed. The Presiding Administrative Law Judge certified the Settlement to the Commission as uncontested on December 16, 2010. As discussed below, the Commission approves the uncontested Settlement.

2. On June 29, 2010, in Docket No. RP10-896-000, Granite State filed a Natural Gas Act (NGA) general section 4 rate case to increase its transportation rates. That filing included a proposed Capital Cost Surcharge mechanism to collect certain capital costs expected to be incurred between January 1, 2011 and December 31, 2013. On July 30,

¹ *Granite State Gas Transmission, Inc.*, 132 FERC ¶ 61,089 (2010) (July 2010 Order).

2010, the Commission accepted and suspended Granite State's proposed increase to its system transportation rates, to be effective January 1, 2011, subject to the outcome of a hearing.² The revised tariff sheets containing Granite State's proposed Capital Cost Surcharge mechanism were rejected.

3. Following the Commission's July 2010 Order, the parties and Commission Trial Staff engaged in substantive negotiations that resulted in the instant Settlement. The Settlement consists of six articles and below is a summary of the major provisions of those articles.

4. Article I describes the background of the proceedings. Section 2.1 of Article II provides the maximum recourse reservation rates for all firm transportation rate schedules to be \$2.80 per Dth, the IT-1 rate will be \$0.0921 per Dth, and the fuel retention rate will be 0.35 percent. That section also provides that Granite State will not seek to make the rates contained in its initial section 4 rate filing effective, but instead will move to make the lower Settlement Rates effective as of January 1, 2011. Section 2.2 of Article II sets forth the depreciation rates.

5. Article II sets forth the Settlement Rates to be implemented on January 1, 2011. Section 2.3 of Article II states that the Settlement Rates are reflected on the *pro forma* sheets in Appendix B to the Settlement. The Settlement rates will become effective pursuant to the provisions of Article V of the Settlement and will continue in effect until the effective date of any revised rates are placed into effect under sections 4 or 5 of the NGA and in compliance with the filing requirements set forth in Article III of the Settlement.

6. Article III describes future rate filings. Section 3.1 of Article III states that nothing in the Settlement limits or precludes Granite State from submitting for filing and seeking changes in its rates or tariff provisions in accordance with NGA section 4 or Settling Parties from filing to modify Granite State's rates in accordance with NGA section 5. Section 3.2 of Article III provides that Granite State will file a rate case pursuant to NGA section 4 to become effective no later than five years following the effective date of the Settlement.

7. Article IV concerns the request for rehearing in Docket No. RP10-896-001. Section 4.1 of Article IV provides that Granite State and the Settling parties agree that they will not pursue a capital cost surcharge in this proceeding, and Section 4.2 provides that Granite State will withdraw its request for rehearing.

² July 2010 Order, 132 FERC ¶ 61,089.

8. Article V sets forth the effectiveness of the Settlement. Section 5.1 of Article V provides that the Settlement will not become effective unless: (1) the Commission issues an order approving the terms and provisions of the Settlement; (2) that order (i) waives compliance by Granite State with the requirements of the Commission's Rules and Regulations, including but not limited to Part 154 thereof, to the extent necessary to effectuate all provisions of the Settlement, and (ii) permits the rate changes made pursuant to the Settlement to become effective as of the dates specified therein without suspension or material condition unacceptable to Granite State or any Settling Party; and (3) that order becomes final. The Commission order shall become final if (i) no timely requests for rehearing of the order are filed, or (ii) in the event that a timely request for rehearing of the order is filed, the Commission issues an order denying such request for rehearing in its entirety.

9. Section 5.2 of Article V provides that, in the event that the Commission issues an order that does not satisfy Section 5.1, Granite State or any Settling Party shall have the right to reject the Settlement. If Granite State or any Settling Party rejects the Settlement pursuant to Section 5.2, Granite State and the Settling Parties may, within thirty days, attempt to resolve the issues causing a Settling Party to reject the Settlement. If Granite State and the Settling Parties fail to resolve those issues within that thirty-day period, the Settlement shall be null and void and this proceeding shall be promptly set for hearing before an Administrative Law Judge. Section 5.3 of Article V provides that the Settlement shall become effective immediately upon issuance of a final Commission order approving the Settlement, as consistent with Section 5.1.

10. Section 5.4 of Article V provides that, on or before December 1, 2010, Granite State will file a motion with the Commission seeking to place into effect the Settlement Rates on January 1, 2011. If the Settlement fails to become effective pursuant to Article V, Granite State will file a motion to place its filed rates in effect and to impose surcharges equaling the difference between its filed rates and the Settlement Rates for service provided beginning on January 1, 2011, with interest as provided in the Commission's regulations. Any such surcharge will remain subject to refund in the event that the Commission issues an order finding that the filed rates are unjust and unreasonable. The parties agree not to oppose the filing of such a motion for surcharges. Section 5.5 of Article V provides that the Settlement is an integrated package and must be reviewed and approved in its entirety in order to become effective.

11. Article VI sets forth reservations to the Settlement. Section 6.1 of Article VI provides that the Settlement is submitted pursuant to Rule 602,³ and, unless and until it becomes effective under Article VI, the Settlement shall be privileged and of no effect.

³ 18 C.F.R § 385.602 (2010).

Section 6.2 of Article VI provides that, unless and until it becomes effective, the Settlement shall not be admissible in evidence or in any way used against any person in this proceeding. Section 6.3 of Article VI provides that, to the extent that the Commission considers any changes to the terms of the Settlement during the term of the Settlement, the standard of review for such changes shall be the most stringent standard permissible under applicable law. Section 6.4 of Article VI provides that the provisions of the Settlement are limited to the specific matters referred to therein, and every party reserves any claim or right that it may otherwise have with respect to any matters not expressly provided for by the Settlement. Section 6.5 of Article VI provides that no participant shall be deemed to have approved, accepted, agreed to or consented to any principle of any method of regulation or ratemaking underlying or supposed to underlie any of the provisions thereof, or be prejudiced or bound thereby in any way, except as specifically provided by the Settlement, in any other proceeding. Without limitation of its terms, that statement shall apply to principles of methods relating to (i) the allocation or recoverability of costs, (ii) the level of such costs, (iii) the level or design of any rate or charge, and (iv) the method of developing or assessing any rate or charge. Nothing in the Settlement shall be deemed to create a settled practice within the meaning of the decision *Public Serv. Comm'n of New York v. FERC*, 642 F.2d 1335 (1980), or to affect or shift the burden of proof on any issue in any proceeding. Section 6.6 of Article VI provides that no party shall be deemed the drafter of the Settlement or any part of it, and that the Settlement shall not be construed against any party as the drafter. In the event of conflict between terms contained in the Settlement and those of the Explanatory Statement, the terms of the Settlement control. Section 6.7 of Article VI provides that the provisions of the Settlement are not severable and may become effective only in accordance with the Settlement.

12. The Commission finds that the Settlement appears to be fair, reasonable, and in the public interest. The Settlement is therefore approved, to become effective as proposed. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

13. This letter terminates Docket Nos. RP10-896-000 and RP10-896-001.

By direction of the Commission.

Kimberly D. Bose,
Secretary.