

135 FERC ¶ 61,124
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 11, 2011

In Reply Refer To:
Northern Natural Gas Company
Docket Nos. RP03-398-018
RP04-155-009

Northern Natural Gas Company
1111 South 103rd Street
Omaha, NE 68124

Attention: Penny B. Tvrdik, Senior Counsel

Reference: Amendment to 2005 Settlement

Ladies and Gentlemen:

1. On March 28, 2011, Northern Natural Gas Company (Northern) filed a Petition for Approval of Settlement Amendment to modify its Stipulation and Agreement of Settlement (Settlement) that the Commission approved by letter order issued on June 20, 2005, in Docket Nos. RP03-398-000 and RP04-155-000.¹ On April 29, 2011, Northern filed a Modified Settlement Amendment revising certain elements of its original proposed Settlement Amendment. In general, Northern proposes to suspend the \$3,004,781 annual payment to its Voluntary Employee Beneficiary Association (VEBA) trust fund, since that fund is currently over-funded, and increase its FAS No. 143 allowance by the same amount.² Northern's Modified Settlement Amendment is unopposed. Northern requests Commission action no later than May 11, 2011. As explained below, the Commission approves the uncontested Modified Settlement Amendment, as it appears to be fair, reasonable, and in the public interest.

2. Northern filed a Natural Gas Act (NGA) section 4 rate case on May 1, 2003, in Docket No. RP03-398-000. Northern filed a subsequent NGA section 4 rate case on January 30, 2004, in Docket No. RP04-155-000 while the original rate case was still pending Commission action. The Commission consolidated both rate cases, and on June 20, 2005, approved the Settlement resolving the rate cases.

¹ *Northern Natural Gas Co.*, 111 FERC ¶ 61,444 (2005).

² The FAS No. 143 allowance provides for the recovery of abandonment costs related to Northern's Gulf Coast Facilities.

3. In the subject Modified Settlement Amendment, Northern proposes to modify two provisions from the original Settlement. The VEBA fund provision is Article I, section 5, of the Settlement, which provides:

Northern shall contribute equal amounts associated with the recovery of the Net Periodic Cost and the PBOP section Assumption Amortization included in the Settlement (\$3,004,781 annually) to fund the VEBA trust. Such trust shall be used to pay applicable benefits when due and shall not be used for any other purpose other than that for which it was established.

The other Settlement provision at issue is Article 1, section C, which provides that Northern's cost of service shall include an allowance of \$1.3 million to provide for the future abandonment costs related to Northern's Gulf Coast facilities asset retirement obligations (the FAS No. 143 allowance).

4. Northern states that it has made the required quarterly contributions to the VEBA trust fund, and that the fund is now over-funded with no further contributions projected. As a result, in its proposed Settlement Amendment, Northern proposes to suspend the \$3,004,781 annual payment to the VEBA trust fund. Since Northern claims that its FAS No. 143 allowance is now inadequate because of cost increases for work done in the Gulf of Mexico, Northern proposes to increase its annual contributions to its FAS No. 143 account by the amounts that will no longer be contributed to the VEBA trust fund. All parties agree that the payments into the VEBA trust fund should be terminated, as any refund disbursed from the trust fund that was not used for trust purposes would likely be subject to 100-percent excise taxation since such a refund may be considered a disqualified benefit that did not serve the trust's purpose.

5. The Modified Settlement Amendment will prevent additional unnecessary contributions to the VEBA trust fund. Northern states that if the VEBA trust is under-funded at the end of any year in the future, Northern may make contributions to the trust, up to the \$3 million limit, and reduce the FAS No. 143 allowance by an equal amount. Accordingly, Northern's rates will not change if the Commission approves the Modified Settlement Amendment.

6. Public notice of Northern's petition issued on April 11, 2011. Interventions and protests were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2010)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2010)), 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. Alliant Energy Corporate Services, Inc. filed comments in support of Northern's proposed Settlement Amendment. The Northern Municipal Distributors Group and The Midwest Region Gas Task Force Association (NMDG/MRGTF) and Xcel Energy Companies filed protests and adverse comments concerning the FAS No. 143

elements of Northern's originally proposed Settlement Amendment. Both parties withdrew their opposition to the Settlement Amendment, however, based on the modifications Northern made in its Modified Settlement Amendment. No party filed a protest or adverse comments to Northern's Modified Settlement Amendment, which is thus uncontested.

7. In response to the initial comments, Northern has revised section 3(d) of Article 1 to provide that if the cumulative FAS No. 143 allowance exceeds the cumulative amount Northern has actually expended for Gulf Coast retirements, Northern will meet expeditiously with interested parties to the Settlement to discuss alternatives to the provisions set forth in the Settlement. If Northern and parties are unable to reach agreement with respect to any such alternative, Northern and/or any party may seek relief by making a filing with the Commission, and Northern and/or parties reserve all rights to respond to such filing.

8. Northern also added a new section 3(e) to provide that all Gulf Coast retirement expenditures and the FAS No. 143 allowance will be recorded to the negative salvage accrual subaccount of Account No. 108 (Accumulated Provision for Depreciation of Gas Utility Plant) as a regulatory asset for negative balances, or a regulatory liability for positive balances. All parties shall retain the right to challenge on any grounds the prudence of any of the Gulf Coast retirement expenditures in any appropriate proceeding.

9. Finally, Northern added a new section 3(f) to provide that, in Northern's next general rate proceeding (under section 4 or section 5 of the NGA), Northern may reflect the cumulative FAS No. 143 allowance and the Gulf Coast retirement expenditures in the negative salvage account, whether as an asset or liability, in the rate base. However, all parties shall retain the right to challenge the regulatory treatment of the cumulative FAS No. 143 allowance.

10. The Commission finds that the Modified Settlement Amendment will allow the parties to avoid overfunding the VEBA trust and provide an interim update to the FAS No. 143 allowance, subject to final resolution in the next general rate case. Accordingly, Northern's uncontested Modified Settlement Amendment appears fair and reasonable and in the public interest, and it is hereby approved.

By direction of the Commission.

Kimberly D. Bose,
Secretary.