

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

Northern Natural Gas Company

Docket Nos. RP03-398-014  
RP04-155-006  
RP04-280-002  
RP04-94-003  
RP05-113-001

ORDER ON REHEARINGS

(Issued June 2, 2005)

1. On January 28, 2005, Northern Municipal Distributors Group and Midwest Region Gas Task Force Association (NMDG/MRGTF) filed a motion for clarification or, in the alternative, a request for rehearing of the Commission's December 29, 2004 Letter Order (December 29 Order).<sup>1</sup> The December 29 Order accepted and suspended tariff sheets, to become effective January 1, 2005, related to Northern Natural Gas Company's (Northern) annual System Balancing Agreement (SBA) cost recovery surcharge for 2005, subject to the outcome of the pending partial settlement in Northern's rate case proceedings in Docket Nos. RP03-398-000 and RP04-155-000 (Partial Settlement). On March 14, 2005, NMDG/MRGTF also filed a request for rehearing of the Commission's February 14, 2005 Order approving that partial uncontested settlement in Docket Nos. RP03-398-011, *et al.* (Settlement Order).<sup>2</sup> For the reasons discussed below, the Commission denies the request for clarification and rehearing of the December 29 Order as moot. In addition, the Commission grants the request for rehearing of the Settlement Order, as discussed below. This order benefits customers by protecting them from the improper collection of SBA costs.

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<sup>1</sup> 109 FERC ¶ 61,377 (2004).

<sup>2</sup> 110 FERC ¶ 61,149 (2005).

## **Background**

2. Northern uses its SBA surcharge to recover the costs of purchasing system supply gas for packing, drafting, peaking, and no-notice service. On December 30, 2003, in Docket No. RP04-94-000<sup>3</sup>, the Commission conditionally approved Northern's SBA cost recovery surcharge for 2004, subject to Northern filing additional information necessary to evaluate the costs included in the 2004 surcharge. In a March 25, 2004 Letter Order on Northern's additional information filing,<sup>4</sup> the Commission directed Northern to file, an explanation addressing the concerns expressed in the February 4, 2004 comments of NMDG/MRGTF. Specifically, the March 25, 2004 letter order directed Northern to explain what circumstances prompted it to reduce the quantity and term parameters of its bid packages. Northern filed its explanation on April 9, 2004. On April 21, 2004, NMDG/MRGTF filed a protest to Northern's April 9, 2004 filing. On November 24, 2004, Northern filed the Partial Settlement agreement in Docket Nos. RP03-398-000 and RP04-155-000, its consolidated general section 4 rate increase proceedings. Among other things, the Partial Settlement provides for the termination of the existing SBA surcharge mechanism effective January 1, 2005. Thereafter, Northern will recover these costs in its Market Area base tariff rates. On February 14, 2005, the Commission approved the Partial Settlement as uncontested. Several other proceedings were terminated, including the pending proceeding in Docket No. RP04-94-000 concerning the proposed 2005 SBA surcharge.

3. While the Partial Settlement was pending before the Commission, Northern filed its SBA surcharge for 2005. Northern stated that if the Commission approved the Partial Settlement it would refund any amounts collected pursuant to the 2005 SBA surcharge. In its December 29 Order, the Commission conditionally accepted and suspended subject to refund Northern's proposed 2005 SBA surcharge. The Commission noted that while NMDG/MRTGF protested the costs included in the filing it stated that the protest would be moot if the Partial Settlement is approved by the Commission. The Commission's conditioned its acceptance on approval of the Partial Settlement.

## **The Requests for Rehearing and Clarification**

4. In their request for clarification or rehearing of the December 29 Order, NMDG/MRTGF asserts that the Commission should clarify the December 29 Order to state that, in the event that the Partial Settlement is not approved, the Commission will address the issues raised in NMDG/MRGTF's initial protest of the 2005 SBA surcharge filing. In the alternative, NMDG/MRGTF requests rehearing and that the Commission modify the December 29 Order to state that the Commission would address the issues

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<sup>3</sup> 105 FERC ¶ 61,395 (2003).

<sup>4</sup> 106 FERC ¶ 61,287 (2004).

raised in the NMDG/MRGTF protest in the event that the Partial Settlement is not approved.

5. NMDG/MRGTF, in its request for rehearing of the Settlement Order, requests that the Commission reverse the termination of the proceeding in Docket No. RP04-94-000 concerning the 2004 SBA surcharge, and issue an order in that docket on their April 24, 2004 protest of the costs included in the 2004 SBA surcharge. NMDG/MRGTF asserts that the Partial Settlement, which it supported, does not resolve all issues pertaining to the SBA proceeding in Docket No. RP04-94-000. NMDG/MRGTF further asserts that the Partial Settlement, at Article I, section A, Paragraph 2, as quoted below, provides, in part, that the parties shall retain the right to challenge the level of SBA costs for the period November 2003 through the last month that the SBA surcharge is in effect.

### **Discussion**

6. The Commission denies NMDG/MRGTF's request for clarification and rehearing of the December 29 Order. NMDG/MRGTF asks only that the Commission clarify that it will address NMDG/MRGTF's protest to the 2005 SBA surcharge if the Partial Settlement does not become effective. Since the Commission approved the Partial Settlement that request is moot.

7. However, the Commission grants NMDG/MRGTF's request for rehearing of the Settlement Order. The Partial Settlement (at 1) states that it resolves all issues in the proceeding in RP04-94-000 concerning the 2004 surcharge. However, as NMDG/MRGTF points out, Article I, section A, Paragraph 2, of the Partial Settlement provides, in part, that, "the pending SBA proceeding in Docket No. RP04-94 shall be deemed final; provided, however, that the parties, including The Group<sup>5</sup> as defined in Paragraph 5 and The Cities<sup>6</sup> as defined in Paragraph 6 hereof, shall retain the right to challenge the level of SBA costs for the period November 2003 through the last month that the SBA surcharge is in effect." Northern in its reply comments in support of the Partial Settlement (at 2-3), in response to comments by NMDG/MRGTF, states that, in resolving all issues, the Partial Settlement included a right to challenge as part of such resolution. Therefore, the final nature of Docket No. RP04-94-000, *et al.*, is subject to the right to challenge SBA costs granted to NMDG/MRGTF by the Partial Settlement. NMDG/MRGTF requests that, pursuant to their right to challenge SBA costs under the Partial Settlement, the Commission issue an order in Docket No. RP04-94-000 on NMDG/MRGTF's April 21, 2004 protest in that proceeding. The Commission interprets the Partial Settlement to permit this challenge to the level of SBA costs in the 2004 SBA

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<sup>5</sup> The Group is defined as NMDG/MRGTF.

<sup>6</sup> The Cities is defined as the Cities of Everly, Hartley, and Orange City.

surcharge. Accordingly, the Commission grants rehearing to modify the Settlement Order to eliminate the termination of Docket No. RP04-94-000. Further, the Commission will act on NMDG/MRGTF's April 21, 2004 protest in that proceeding.

The Commission orders:

(A) The request for clarification and rehearing of the December 29 Order is denied, as discussed in the body of this order.

(B) The request for rehearing of the Settlement Order is granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.