

121 FERC ¶ 61,134  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Gas Technology Institute	Docket Nos. RP97-391-005 RP97-391-006
Interstate Natural Gas Association of America	RP06-51-000 RP06-51-001
Northwest Pipeline Corporation	RP07-689-000
Natural Gas Pipeline Company of America and Kinder Morgan Gas Transmission LLC	RP07-724-000
Panhandle Eastern Pipe Line Company, LP, Florida Gas Transmission Company, LLC, and Trunkline Gas Company, LLC	RP07-696-000
Kern River Gas Transmission Company	RP07-705-000

ORDER GRANTING CLARIFICATION AND WAIVER OF SETTLEMENT  
PROVISION, AND ACCEPTING REFUND REPORTS

(Issued November 5, 2007)

1. On September 27, 2007, the Interstate Natural Gas Association of America (INGAA), on behalf of its interstate natural gas pipeline company members, filed a petition for clarification in Docket Nos. RP97-391-006 and RP06-51-001 requesting the Commission clarify in these proceedings that, pipelines may donate additional refunds received from the Gas Research Institute<sup>1</sup> to a Low Income Home Energy Assistance Program (LIHEAP), consistent with its order of November 21, 2005.<sup>2</sup> On September 10,

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<sup>1</sup> The Gas Research Institute (GRI) is now the Gas Technology Institute. The parties in these proceedings refer to the former name and acronym, and this order does the same.

<sup>2</sup> *Gas Research Institute*, 113 FERC ¶ 61,193 (2005) (November 2005 Order).

2007, Northwest Pipeline Corporation (Northwest) filed in Docket No. RP07-689-000 a request for waiver of its 1998 Settlement<sup>3</sup> obligation to disburse GRI refunds, essentially seeking the same relief that INGAA is requesting. On September 21, 2007, Kern River Gas Transmission Company (Kern River) filed a similar waiver request in Docket No. RP07-705-000. On September 14, 2007, Panhandle Eastern Pipe Line Company, LP, Florida Gas Transmission Company, LLC and Trunkline Gas Company, LLC (jointly, Panhandle companies) in Docket No. RP07-696-000, and on September 28, 2007, Natural Gas Pipeline Company of America (NGPL) and Kinder Morgan Gas Transmission LLC (jointly, KM) in Docket No. RP07-724-000, respectively, filed reports of disbursement of the additional GRI refunds to the same parties it had before. For the reasons appearing below, INGAA's request for clarification and the requests for waiver filed by Northwest and Kern River are granted, and the reports of refunds filed by the Panhandle companies and KM are accepted as being in compliance with the Commission's clarification as granted in this order.

### **Background**

2. On July 1, 2005, GRI filed a "True Up and Accounting Report" in Docket No. RP97-391-000 to comply with the 1998 Settlement. On August 23, 2005, the Commission accepted GRI's July report, and directed GRI to refund \$46,909.98 to 42 pipelines for further distribution to their customers, and to file a refund report with the Commission by September 29, 2005.<sup>4</sup> Subsequently, GRI filed its refund report with the Commission on September 23, 2005, and it was accepted on November 15, 2005 in Docket No. RP97-391-004.

3. Article II, section 1.1 of the 1998 Settlement provides, *inter alia*, that "pipelines will refund the amount received from GRI within 60 days of receipt from GRI in proportion to GRI surcharges paid by customers over the relevant period."<sup>5</sup> In compliance with the Commission's August 2005 Order, GRI distributed the refunds to INGAA pipeline members. Thereafter, several pipeline companies and INGAA filed petitions with the Commission requesting that, in lieu of disbursement of the GRI refunds to customers, the Commission authorize pipelines to donate the money to the American Red Cross, the Low Income Energy Assistance Program, or the Salvation Army, in support of victims of Hurricanes Katrina and Rita.

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<sup>3</sup> *Gas Research Institute*, 83 FERC ¶ 61,093, *order on reh'g*, 83 FERC ¶ 61,331 (1998) (1998 Settlement).

<sup>4</sup> *Gas Research Institute*, 112 FERC ¶ 61,212 (2005) (August 2005 Order).

<sup>5</sup> *See* 83 FERC ¶ 61,093 at 61,454 (1998).

4. In its request for waiver filed on October 7, 2005, in Docket Nos. RP97-391-004 and RP06-51-000, INGAA submitted that it was administratively impractical for the pipelines to comply with the requirement to disburse the refunds to customers in proportion to the GRI surcharges actually paid. INGAA stated that, from the perspective of the individual pipelines, the GRI refunds were very small. INGAA stated that another practical problem was that the refunds were to flow through to customers who paid the GRI surcharge over a seven-year period going back to 1998, but that many of those entities might not still have been customers, and that finding them might be difficult and too costly in view of the amounts involved. INGAA further argued that in many cases, the administrative costs of disbursing the refund to the customers in precise shares based on individual GRI payments would exceed the actual GRI refunds. INGAA proposed that upon making the donation, participating pipelines file a copy of their cover or transmittal letter to the charity in this docket. INGAA emphasized that such an alternative disbursement would avoid the administrative costs of calculating and disbursing small amounts to individual customers. INGAA stated that, moreover, this disposition would promote worthy charitable goals. Finally, INGAA contended that in these circumstances, good cause existed to grant a waiver of the provision of the 1998 Settlement regarding pipelines' obligation to disburse the \$46,909.98 in GRI revenue over-collections to customers.

5. In its November 2005 Order, the Commission granted the petition of INGAA and waived the provisions of the 1998 Settlement regarding pipelines' obligation to disperse the GRI revenue over-collections to customers. The Commission concluded that, in these circumstances, donations to be made from the refund amounts should be limited to the Low Income Home Energy Assistance Program. Therefore, subject to the refund amounts being donated only to the Low Income Home Energy Assistance Program, the Commission granted the requested waiver of Article II, section 1.1 of the 1998 Settlement for all pipelines on whose behalf a petition was made, subject to the conditions contained in the petition respecting disbursing any refunds each company received from GRI, and as conditioned therein. In lieu of each pipeline company reporting individually to the Commission, the Commission directed that all pipelines make their reports to INGAA of the disbursement of refunds, and that INGAA compile and submit to the Commission a single report once such disbursements were made. The Commission also granted the waivers that had been requested by individual pipelines.

6. On August 1, 2007, GRI filed a second refund report in Docket No. RP97-391-005. GRI stated refunds it reported in its September 23, 2005 report, had underestimated the amount of interest income to be received prior to the program close out. The second report indicated that an additional \$50,310.33 has been refunded to pipelines in 2007. Because of this second GRI refund, three pipelines, Williston Basin Interstate Pipeline Company (Williston), Northwest and Kern River sought individual waiver of the 1998

Settlement obligation to flow through refunds received to customers and instead to donate such refunds to the LIHEAP, as had been done with the 2005 GRI refunds. On August 28, 2007, the Commission granted Williston's request.<sup>6</sup>

### **Petition for Clarification and Request for Waiver**

7. In the instant petition, INGAA recites that the circumstances and rationale for granting the relief requested respecting the 2005 GRI refunds also pertains to the 2007 GRI refunds. It seeks clarification that the waiver of the GRI refund obligation granted in the Commission's November 2005 Order applies to the new 2007 GRI refunds, and to any similar future corrective refunds that GRI may determine are owed, and further that pipelines are authorized to donate amounts refunded by GRI to the same or another LIHEAP organization. INGAA states that such a clarification would be consistent with the waiver granted to Williston Basin.<sup>7</sup> Moreover, INGAA states, such a clarification would be a more efficient means of resolving the issue presented by the new GRI refunds rather than addressing individual pipeline filings.

8. The requests for waiver filed by Northwest and Kern River essentially seek the same relief as requested by INGAA, and for the same reasons.

### **Notice, Interventions, and Comments**

9. Public notice of Docket Nos. RP07-689-000 and RP97-391-005 was issued on September 11, 2007. Public notices of Docket Nos. RP07-696-000 and RP07-705-000 were issued on September 17, 2007 and September 25, 2007, respectively. Public notice of Docket No. RP07-724-000 was issued on October 2, 2007. Interventions and protests were due as provided in section 154.210 of the Commission's regulations. Pursuant to Rule 214 (18 C.F.R. § 385.214), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. No protests or adverse comments were filed.

### **Discussion**

10. Since the 2007 GRI refunds directly result from the provisions of the 1998 Settlement, they are factually similar to the 2005 GRI refunds. The amounts involved are also relatively small and it would not be cost-effective, or perhaps even possible, to track down and properly allocate refunds to each customer during the time that the customer took service attributable to the GRI refunds. We will grant the clarification requested by INGAA in these circumstances, and the waiver of the 1998 Settlement obligation

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<sup>6</sup> *Williston Basin Interstate Pipeline Co.*, 120 FERC ¶ 61,191 (2007).

<sup>7</sup> *Ibid.*

requested by Northwest and Kern River. The Commission's grant of waiver of the 1998 Settlement obligation to disburse GRI refunds applies to these 2007 GRI refunds and to any similar corrective refunds that GRI may determine are owed related to the 1998 Settlement obligation.

11. Pipelines receiving such 2007 GRI refunds shall donate the amounts refunded by GRI to the same or similar LIHEAP organization to which they donated the 2005 GRI refunds. Pipeline members of INGAA shall report their disbursements to INGAA and INGAA shall submit a report to the Commission of all disbursements that are made. Northwest and Kern River are directed to report their disbursements to INGAA for further reporting to the Commission. The reports of the Panhandle companies and KM of disbursements are in compliance with the spirit of this order and are therefore accepted.

The Commission orders:

(A) INGAA's petition for clarification and the requests for waiver of section 1.1 of Article II of the 1998 Settlement by Northwest and Kern River are granted. The reports of refunds filed by the Panhandle companies and KM are accepted as being in compliance with this order on clarification.

(B) INGAA's pipeline members, including Northwest and Kern River, must report disbursements to INGAA, and INGAA shall submit to the Commission a report of all disbursements made.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.