

125 FERC ¶ 61,185  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

November 17, 2008

In Reply Refer To:  
Sea Robin Pipeline Company, LLC  
Docket No. RP07-513-000

Sea Robin Pipeline Company, LLC  
5444 Westheimer Road  
Houston, Texas 77056-5306

Attention: Michael T. Langston, Senior Vice President  
Government and Regulatory Affairs

Reference: Stipulation and Agreement

Ladies and Gentlemen:

1. On April 29, 2008, Sea Robin Pipeline Company, LLC, (Sea Robin) filed an Offer of Settlement that includes a Stipulation and Agreement (Settlement) and Explanatory Statement to resolve all of the issues in Sea Robin's general section 4 rate proceeding. The Commission's Trial Staff filed initial comments supporting the Settlement on May 19, 2008. Trial Staff states that the Settlement is the product of extensive negotiations over a lengthy period, resolves all outstanding issues in this proceeding, and is fair, reasonable, and in the public interest. Indicated Shippers also filed comments in support of the Settlement. On June 3, 2008, the Presiding Administrative Law Judge certified the Settlement to the Commission as an uncontested settlement.<sup>1</sup>

2. Article I states that this Settlement is submitted in accordance with Rule 602<sup>2</sup> and resolves all of the pending issues in the above-captioned docket.

3. Article II gives the procedural history.

4. Article III sets forth definitions of key terms used in the Settlement. A "Subject Party" is a party to this proceeding, including FERC Trial Staff but excluding Sea Robin, who either does not file comments or files comments supporting or not opposing the

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<sup>1</sup> *Sea Robin Pipeline Company, LLC*, 123 FERC ¶ 63,015 (2008).

<sup>2</sup> 18 C.F.R. § 385.602 (2008).

Settlement (Article III.A). A “Non-Consenting Party” is any person who files comments opposing the Settlement, only partially supporting the Settlement, or requests clarification that is inconsistent with the Settlement (Article III.B).

5. Article III.C contains a number of restrictions on Subject Parties and Sea Robin. For instance, they are prohibited from challenging the Settlement or the applicability of the Settlement. After becoming effective, the terms of the Settlement will apply only to Sea Robin and the Subject Parties (Article III.D). Non-Consenting Parties will have no rights or obligations or share in any benefits afforded by the Settlement. *Id.*

6. Article IV specifies the terms of the Settlement. It provides that the Settlement will become effective on the first day of the first month after a Final Commission order approving the Settlement without condition or modification (Article IV.A.1). The Settlement rates, which apply to both gathering and transportation, are set forth in Appendix A of the Settlement and will be applicable only to the Subject Parties. *Id.* The Settlement tariff sheets, which are set forth in Appendix A, will be filed with the Commission within ten days after the effective date of the Settlement (Article IV.A.2).

7. In section B of Article IV, Sea Robin enumerates specifically settled matters underlying the Settlement rates. First, the Settlement cost of service is \$18,475,000 (Article IV.B.1). The Settlement depreciation rates (which include a negative salvage rate) are discussed in section B.2. Such depreciation rates shall become effective on the Settlement’s effective date, and are the same as the currently effective depreciation rates with the exception of increases to the depreciation rates for (1) general-computer equipment, and (2) general-transportation. Negative salvage is to be recorded in a subaccount to Account No. 108, subject to section B.6.j of Article IV, in accordance with 18 C.F.R Part 201 (Article IV.B.2).

8. Section B.3 (Deferred Taxes) of Article IV states that Sea Robin will continue to use full interperiod tax normalization to establish its rate base and cost of service, and this Settlement will neither enlarge or diminish Sea Robin’s rights under section 154.305.<sup>3</sup>

9. Article IV.B.4 discusses post employment benefits other than pensions (PBOP). The Commission’s Statement of Policy Regarding Post-Employment Benefits Other Than Pensions<sup>4</sup> shall apply to Sea Robin’s payments of retirement benefits other than pensions. *See also* Statement of Financial Accounting Standards No. 106 (SFAS 106) (Article IV.B.4(a)). Article IV.B.4(b) states that the Settlement rates include an annual PBOP cost of service allowance of \$0 (since no shortfalls are projected in assets available to pay the PBOP benefits).

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<sup>3</sup> 18 C.F.R. § 154.305 (2008).

<sup>4</sup> *See Post-Employment Benefits Other Than Pensions*, 61 FERC ¶ 61,330 (1992).

10. In Article IV.B.5, Sea Robin agrees that the existing designation of transmission and gathering assets on the Sea Robin system shall remain the same, with assets upstream of the Vermillion 149 platform designated as gathering assets and the Vermillion 149 platform and all assets downstream of the Vermillion 149 platform designated as transmission assets

11. Article IV.B.6 relates to asset retirement obligation cost recovery. An Asset Retirement Obligation (ARO) is defined as a prudent cost incurred or estimated costs reasonably expected to be incurred, by Sea Robin for the terminal retirement or decommissioning of Sea Robin's tangible long-lived assets as a result of a legal obligation to retire or decommission such assets (Article IV.B.6(b)).

12. Sea Robin is entitled to collect in its rates the amounts necessary to fund the terminal retirement or decommissioning of Sea Robin's tangible long-lived assets as a result of a legal obligation to retire or decommission such assets (Article IV.B.6(a)(i)). The amounts in the rates include estimated costs reasonably expected to be incurred for the terminal retirement or decommissioning (*Id.*). This agreement is not to be interpreted to require shippers to pay more than, or Sea Robin to collect less than, the actual prudently-incurred cost to retire or to decommission a tangible long-lived asset (*Id.*). Sea Robin must use those funds collected for decommissioning and negative salvage collected and held in Account No. 254 only for such decommissioning (Article IV.B.6(a)(ii)). The Subject Parties and Sea Robin expressly state that the provisions set forth in Article IV.B.6(a) shall survive the termination of the Settlement Period and all subsequent rate periods (*Id.*).

13. Article IV.B.6(c) states that no agreement has been made regarding the mechanism by which Sea Robin will fund its AROs in future rate proceedings. In a Sea Robin general rate proceeding after the Settlement period, the Subject Parties and Sea Robin retain the right to propose other mechanisms to fund Sea Robin's AROs and to challenge the estimate, timing, and calculation of Sea Robin's filed-for AROs. However, any future proposals set forth by any party in the next rate proceeding shall be consistent with Article IV.B.6(a) of this Settlement (*Id.*).

14. Sea Robin will make five annual payments of \$738,125 into the ARO Account(s), totaling \$3,690,625, and reflecting the Settlement accrued negative salvage value of assets identified and subject to ARO obligations (Article IV.B.6(d)). Each of these annual payments will be allocated as follows: \$69,404 toward transmission-related AROs and \$668,721 toward gathering-related AROs (*Id.*). Sea Robin will also make five additional annual payments of \$258,215 into the ARO Account(s), reflecting the annual cost of service allowance with respect to the AROs, set out in the Settlement rates (Article IV.B.6(e)). These payments will be allocated as \$9,358 applicable to transmission-related AROs and \$248,857 applicable to gathering-related AROs (*Id.*). The first payments, for both the negative salvage and cost of service payments discussed above, will be due within 60 days of the effective date of this Settlement (Articles IV.B.6(d) and (e)).

15. Article IV.B.6(f) states that if a Natural Gas Act (NGA) section 4 or section 5 proceeding is initiated prior to the fifth anniversary of the effective date, Sea Robin will have no further duty to make the payments discussed in sections B.6.d and B.6.e.<sup>5</sup> The amounts in the ARO Account(s) will be invested in a fixed-rate money market account or a moderate risk portfolio, or both (Article IV.B.6(g)). Permissible disbursements from the ARO Account(s) are enumerated in Article IV.B.6(h). Additionally, this section specifies \$1,389,889 to be retained by Sea Robin as compensation for income taxes already incurred by Sea Robin attributable to the \$3,690,625 negative salvage balance amount that Sea Robin will contribute to the ARO accounts(s).

16. Article IV.B.6(i), states that Sea Robin assets with associated AROs as of the end of the test period are listed in Appendix C to the Settlement. This section also describes the procedures to be followed in the event that Sea Robin assets are retired or decommissioned during the Settlement period and the ARO amount for these assets differs from the ARO actually incurred for the assets upon retirement or decommissioning.<sup>6</sup> Article IV.B.6(j) states that no negative salvage shall be accrued for the assets listed in Appendix C.

17. Article IV.C discusses Sea Robin's refund obligations. Article IV.C.1 states that within 60 days of the effective date of the Settlement, Sea Robin must refund to the Subject Parties any amount collected since January 1, 2008 that was in excess of the Settlement rates, with interest calculated under section 154.501(d).<sup>7</sup> After such refunds are made, Sea Robin must file a report of the refunds with the Commission, consistent with section 154.501(e)<sup>8</sup> (Article IV.C.2). It is also agreed, in Article IV.C.3, that Sea Robin's refund obligations will be subject to the "refund floor" protection under NGA sections 4 and 5, and that the settlement rates established in a prior Stipulation and Agreement<sup>9</sup> dated January 16, 2002, shall constitute the refund floor.

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<sup>5</sup> On June 2, 2008, Sea Robin filed a Motion to Amend Cross-Reference in the Stipulation and Agreement. In its motion, Sea Robin requested that certain cross references within section B.6.f of Article IV of the Settlement referring to sections B.6.f and B.6.g of Article IV be corrected to refer instead to sections B.6.d and B.6.e of Article IV. Sea Robin states that all parties to the proceeding support or do not oppose the motion and agree that a further comment period is not necessary. Because the requested amendments appear to be necessary from the face of the document, good cause has been demonstrated, the motion is granted and the comment period is not extended.

<sup>6</sup> "Settlement Period" is defined in section IV.A.1 as the period of this Settlement.

<sup>7</sup> 18 C.F.R. § 154.501(d) (2008).

<sup>8</sup> *Id.*

<sup>9</sup> This settlement was filed in Docket No. CP95-168-006. This settlement was approved by the Commission in a letter order dated March 13, 2002. *See Kinder Morgan Interstate Gas Transmission, LLC*, 98 FERC ¶ 61,262 (2002).

18. Article IV.D discusses insurance reimbursements for Hurricane Rita-related capital expenditures. Sea Robin will credit \$6,216,688 of insurance reimbursements for Hurricane Rita-related capital expenditures to Account No. 101, Gas Plant-in-Service, and appropriate sub-accounts. Sea Robin and the Subject Parties agree that at the end of the test period, the balances for Gas Plant-in-Service and Accumulated Provision for Depreciation, Depletion and Amortization will total \$317,587,979 and \$253,961,983, respectively. The Settlement has no effect on treatment of insurance proceeds related to any other hurricane.

19. Article IV.E states that Sea Robin will file a new general rate case under NGA section 4 no later than the fifth anniversary of the effective date of this Settlement.

20. Article V sets out general terms of the Settlement. Article V.A states that this Settlement will not be binding on Sea Robin or the Subject Parties unless it becomes effective as set forth in Article VI. Nothing in the Settlement will preclude Sea Robin or the Subject Parties from making a NGA section 4 filing or a NGA section 5 filing, respectively (Article V.C). Article V.D states that the Settlement rates shall not affect the periodic, or other, adjustments to base rates that become effective during the Settlement period.

21. Article VI discusses the effectiveness of the Settlement. The Settlement will become effective on the effective date, as defined, *supra*, in Article IV.A.1, provided that the Commission issues an order approving the Settlement without condition or modification (Article VI.B). Article VI.E provides that the final order approving the Settlement will constitute Commission authorization for Sea Robin to implement all of the terms and conditions of the Settlement.

22. Article VI.C provides that if Commission approval of the Settlement is conditioned or modified, Sea Robin will be permitted to withdraw from the Settlement by providing written notice within twenty days of the final Commission order and the Settlement will then not become effective. If Commission approval of the Settlement is with condition or modification, the Settlement can still become effective if: (1) the Subject Parties that are adversely affected by the condition or modification do not file written notice of objection to the Settlement within fifteen days after the final order, and (2) Sea Robin provides written notice of acceptance of the Settlement within twenty days after the Final Order (Articles VI.D.1 and VI.D.2).

23. Article VI.F provides that the term of the Settlement will end on the effective date of revised rates pursuant to a subsequent NGA section 4 or section 5 case. Article VI.G states that if the Settlement does not become effective, it will remain privileged pursuant to Rule 602<sup>10</sup> and will not constitute admissible evidence in any proceeding. The terms of the Settlement are not severable (Article VI.H), and the effectiveness of the settlement terminates Docket No. RP07-513-000 (Article VI.I).

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<sup>10</sup> 18 C.F.R. § 385.602 (2008).

24. Article VII sets forth further miscellaneous provisions of the Settlement. Briefly, Appendices A, B and C are incorporated by reference into the Settlement (Article VII.A); in the event of an inconsistency between the Explanatory Statement and the Settlement or Tariff Sheets, the Settlement or Tariff Sheets shall control (Article VII.B); and capitalized terms, used but not defined in the Settlement, shall have the same meaning as in Sea Robin's Tariff (Article VII.C). Additionally, after the Settlement becomes effective, modifications to the Settlement proposed by Sea Robin or a Subject Party will be reviewed under the "public interest" standard. *See* Article VII.D, *citing United Gas Pipeline Co., v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956) and *FPC v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956). Modifications proposed by a Non-Consenting Party or the Commission acting *sua sponte* will be subject to the just and reasonable standard of review.

25. The Commission finds that the Settlement is 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 this proceeding.

26. This letter order terminates Docket No. RP07-513-000.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

cc: All Parties

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