

132 FERC ¶ 61,256  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

September 23, 2010

In Reply Refer To:  
Portland Natural Gas Transmission System  
Docket No. RP08-306-001

Portland Natural Gas Transmission System  
1400 SW 5th Avenue  
Portland, OR 97201

Attention: Carl Fink, Associate General Counsel

Reference: Order on Uncontested Partial Settlement

Dear Mr. Fink:

1. On May 11, 2009, pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602 (2008), Portland Natural Gas Transmission System (Portland) filed a Motion for Certification and Approval of a Partial Settlement, along with a Stipulation and Agreement and related materials (Settlement) to resolve all outstanding issues associated with its short-term services.<sup>1</sup> Portland states that the sponsoring participants had differences concerning the short-term service issues and that the Settlement is the product of renewed negotiations following the submission of additional evidence regarding its short-term services. According to Portland, the Settlement would resolve all such disputes. Comments in support of certifying the Settlement were filed by Portland, Calpine Energy Services, L.P. (CES), Canadian Association of Petroleum Producers (CAPP) and the Commission Trial Staff. The PNGTS Shippers' Group (Shippers' Group) submitted comments requesting clarification, or alternatively opposing certification. Portland filed reply comments to resolve the concern of the Shippers' Group.

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<sup>1</sup> On May 1, 2008, the Commission suspended the effectiveness of Portland's section 4 Natural Gas Act (NGA) tariff filing for five months and set for hearing several issues including proposals regarding short-term services. *Portland Natural Gas Transmission System*, 123 FERC ¶ 61,108 (2008).

2. The Administrative Law Judge (ALJ) found that Portland had adequately addressed the concerns of the Shippers' Group and certified the Settlement, on June 18, 2009, as an uncontested offer of partial settlement which presents no genuine issues of material fact, resolves all outstanding issues related to the design of Portland's rates for short-term services and is just and reasonable and in the public interest.<sup>2</sup> The Commission will approve the Uncontested Partial Settlement which appears to be a fair and reasonable resolution of the short-term service issues in this proceeding.

3. The major features of the Settlement are as follows: Article I provides an overview of the procedural history concerning Portland's short-term services. Article II provides the scope of the Settlement which resolves all outstanding issues related to the design of Portland's rates for short-term services which would apply to Portland's rate schedules for interruptible transportation services (IT), park and loan services (PAL), and firm transportation services (FT) for FT contracts with a primary term of less than one year. The proposed seasonally shaped multipliers in the Rate Multiplier Schedule (*see* Appendix A to the Settlement) ensures that a short-term shipper that contracts for service at the maximum short-term rates would pay a rate equal to the 100 percent load-factor long term FT recourse rate on an annual basis.<sup>3</sup>

4. Article III provides for implementation of the Settlement and Article IV provides the reservations to the Settlement. Section A of Article III provides that the maximum short-term services rates calculated according to the Rate Multiplier Schedule shall become effective on the first day of the month after the Settlement is filed with the Commission. This section further provides that, after filing and prior to the Settlement becoming fully effective, the Sponsoring Participants may neither oppose adoption of the Settlement by the Commission, nor propose any condition or modification thereto. Section B of Article III provides that the Settlement shall remain in effect for five years from the last day of the month on which the Commission issues an order (1) approving

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<sup>2</sup> *Portland Natural Gas Transmission System*, 127 FERC ¶ 63,026 (2009).

<sup>3</sup> For the months of January, February, November, and December, Portland would be permitted to charge up to 150 percent of the long-term FT recourse rate. However, in March, April, May, September, and October, Portland would only be permitted to charge up to 60 percent of the FT recourse rate. In the three remaining months, Portland could charge up to 100 percent of the FT recourse rate. Article II B of the Settlement makes it clear that the transportation rate calculation set forth in the Rate Multiplier Schedule would be applied to the then-effective maximum recourse long-term FT rate on a daily basis. That provision additionally states that the short-term rate calculation would apply to the three services: (a) FT services for FT contracts with a primary term of less than one year; (b) IT services; and (c) PAL services.

the Settlement, or (2) modifying or conditioning the Settlement in the event that the modified or conditioned Settlement ultimately becomes effective.<sup>4</sup>

5. Article V provides for the effectiveness of the Settlement. Specifically, pursuant to section A of Article V the Settlement became effective on the first day of the month after the Settlement was filed with the Commission. However, section B of Article V states that the Settlement will be deemed fully effective on either (1) the day on which a Commission order approving the Settlement without modification or condition has become final and non-appealable, or (2) at the conclusion of a thirty (30) day period after an order modifying or conditioning the Settlement in a manner that adversely affects a Sponsoring Participant if that Sponsoring Participant has not elected to withdraw its participation in the Settlement.

6. Article VI describes the effect of the Commission's approval of the Settlement. This includes that the Settlement would constitute (1) authorization for Portland to implement the contemplated rate and tariff changes and (2) waiver of any inconsistent provisions of the Commission's regulations if such waiver is necessary.

7. In its comments requesting clarification, or alternatively opposing certification, the Shippers' Group emphasizes that it is not opposed to the Settlement to the extent the scope of the Settlement is limited to resolving issues concerning the design of Portland's short-term rates. However, the Shippers' Group is concerned that the Settlement might be broadly construed as more than merely resolving the design of Portland's short-term rates but also resolving issues regarding the crediting of short-term service revenues to Portland's test period cost of service or allocating costs to short-term services. As such, the Shippers' Group requests that any order certifying or approving the Settlement clarify that the scope of the Settlement is limited to the design of Portland's rates for short-term services. In its reply comments, Portland states that, as the Commission Trial Staff noted in its comments, the issue of crediting test period revenues from interruptible, park and loan and short term firm services against the cost of service for long-term firm shippers remains in this case for hearing, which it argued should resolve the Shippers' Group concerns. The ALJ determined that the Settlement is limited in scope to resolving issues concerning the design of Portland's rates for short-term services.

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<sup>4</sup> Pursuant to the terms of the Settlement, the agreement will continue to be effective beyond the minimum five year term until new rates become effective either in Portland's general section 4 NGA rate case, or pursuant to a successful section 5 NGA complaint. No Sponsoring Participant may challenge the terms of the Settlement during the minimum five year term, and Portland will honor the Rate Multiplier Schedule in rate filings it may make (if any) during that time, including any general rate case(s), and will not propose or request any change to those provisions of its rates.

8. The record reflects that this Settlement is uncontested and resolves all outstanding issues related to the design of Portland's rates for short-term services in this proceeding. Consistent with the comments of the parties, the revenue crediting issue remains in this case to be resolved in the hearing proceeding. The Commission may approve an uncontested offer of settlement upon a finding that the settlement appears to be fair and reasonable and in the public interest.<sup>5</sup> The Commission finds that the Uncontested Partial Settlement filed in this proceeding appears to be fair and reasonable and in the public interest. Therefore, the Commission will approve the Settlement to become effective as provided in Article V of the Settlement. Approval of this Settlement does not constitute a precedent regarding any principle or issue in this proceeding.

The Commission orders:

(A) The Settlement is approved, to be effective as provided for in Article V thereof.

(B) Portland is directed to file, within 10 days of the issuance of this order, tariff sheets consistent with the *pro forma* tariff sheets and the Settlement, to be effective as provided in Article V thereof.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>5</sup> 18 C.F.R. § 385.602(g)(3) (2010).