

133 FERC ¶ 61,093
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 28, 2010

In Reply Refer To:
Mojave Pipeline Company, L.L.C.
Docket No. RP10-1082-000

Mojave Pipeline Company, L.L.C.
P.O. Box 1087
Colorado Springs, Co. 80944-1087

Attention: Ms. Catherine E. Palazzari
Vice President, Rates & Regulatory

Reference: Petition for Approval of Stipulation and Agreement and to Amend Filing Requirement

Dear Ms. Palazzari:

1. On August 16, 2010, pursuant to Rule 207(a)(5),¹ Mojave Pipeline Company, L.L.C. (Mojave) petitioned the Commission to (1) amend a filing requirement in a settlement previously approved in Docket No. RP07-310-000 (2007 Settlement); and (2) approve an uncontested Stipulation and Agreement (Settlement) that would resolve all issues regarding Mojave's transportation rates during the term of the Settlement. As discussed below, the Commission will approve the proposed Settlement as it appears to be fair, reasonable, and in the public interest.
2. On October 9, 2007, Mojave filed the 2007 Settlement, which resolved all issues in Mojave's rate case in Docket No. RP07-310-000. The Commission approved the 2007 Settlement on December 7, 2007.² Section 2.8 of the 2007 Settlement required Mojave to file new base rates to be effective no later than September 1, 2010.

¹ 18 C.F.R. § 385.207(a)(5) (2010).

² *Mojave Pipeline Co., L.L.C.*, 121 FERC ¶ 61,244 (2007).

3. On July 7, 2010, Mojave filed an unopposed petition to amend the 2007 Settlement to provide that new base rates be effective no later than December 1, 2010. The Commission granted the petition on August 4, 2010,³ to provide parties additional time to settle issues and avoid a general rate case filing.

4. On August 16, 2010, Mojave filed the instant Settlement in lieu of the Natural Gas Act (NGA) section 4 general rate filing required by the 2007 Settlement. Mojave states that the Settlement will establish the base rates for Mojave and its shippers during the term of the agreement, as well as the depreciation rates Mojave will use. Mojave states that approval of the Settlement will provide rate certainty and allow the parties to avoid costly litigation.

5. The major features of the Settlement are summarized as follows:

6. Article I provides a brief background. Article II provides that Mojave's obligations to file a general section 4 rate case under the settlement previously approved in Docket No. RP07-310-000 are extinguished. Article II also provides that the Settlement resolves all issues relating to whether the base rates for Mojave's transportation services are lawful under the NGA for the term of the Settlement.

7. Article III describes (1) the maximum and minimum base settlement rates for transportation services during the term of the Settlement; (2) the depreciation and amortization expense; (3) the extinguishment of the filing requirement under Section 2.8 of the 2007 Settlement, as amended, and (4) that in Mojave's next annual Fuel and L&U Reimbursement filing, to be effective January 1, 2011, Mojave will remove the "cost and revenue true-up" component of its Fuel and L&U tracking mechanism.

8. Article IV provides that the term of the settlement extends from September 1, 2010 through the earlier of (a) the date that rates become effective as a result of a general rate change application by Mojave, or (b) Commission action taken pursuant to NGA section 5. Article IV also provides that Mojave shall file a new system-wide rate case proposing base tariff rates to be effective no earlier than September 1, 2012 but no later than September 1, 2014. Article IV also states that during the settlement period, no consenting party may file a complaint under (or suggest the Commission's initiation of a proceeding pursuant to) NGA section 5 that causes directly or indirectly the base transportation rates to be changed in any way to be effective prior to September 1, 2012. Article IV, section 4.4, provides that "the Commission shall review any proposed changes by the most stringent standard of review permitted by law."

³ *Mojave Pipeline Co., L.L.C.*, 132 FERC ¶ 61,106 (2010).

9. Article V explains when the Settlement will go into effect, as well as the procedures to be followed if the Commission modifies or conditions the Settlement.

10. Article VI sets forth reservations and limitations and provides that the Settlement represents a negotiated settlement and relates only to the specific matters referred to therein.

11. In the instant filing, Mojave also requests that the Commission amend Article II of the 2007 Settlement. Mojave requests that the first three sentences of section 2.8 of Article II (as amended) be replaced with the following:

Mojave shall also be obligated to file a new system-wide rate case proposing new base tariff rates no later than ninety (90) days after a Commission order becomes final that either:
(1) rejects the Petition and/or Stipulation and Agreement (“S&A”) filed on August 16, 2010 requesting modification of Article II of the S&A filed in RP07-310-000, or
(2) conditions, clarifies or modifies in any way the S&A in a manner that is unacceptable to Mojave or any other Consenting Party. Mojave or any other Consenting Party shall notify the Commission in writing within fifteen (15) days of the issuance of such an order if it is unacceptable pursuant to Section 5.2. A Commission order becomes final after it is no longer subject to rehearing or to review by a court.

12. Mojave states that this amendment will allow Mojave to continue to defer substantial preparation of the rate filing and also allow the Commission adequate time to review the Settlement.

13. Notice of Mojave’s filing was issued on August 17, 2010. Comments were due on August 30, 2010. Southern California Edison Company and the Indicated Shippers⁴ filed comments in support of the Settlement. No party filed comments in opposition. Accordingly, the Settlement is uncontested.

14. The Commission may approve an uncontested settlement upon a finding that the settlement “appears to be fair and reasonable and in the public interest.”⁵ The Commission finds that the proposed Settlement appears to be fair and reasonable and in

⁴ The Indicated Shippers include ConocoPhillips Company, Occidental Energy Marketing, Inc., and Shell Energy North America (US) L.P.

⁵ 18 C.F.R. § 385.602(g)(3) (2010).

the public interest, and is hereby approved, effective December 1, 2010, pursuant to its terms. The Commission also grants Mojave's petition to amend the 2007 Settlement to eliminate the requirement in the 2007 Settlement that Mojave file an NGA section 4 rate case to be effective no later than December 1, 2010. The Settlement, which was filed in lieu of said rate case, resolves rate issues without a hearing and lengthy litigation, consistent with the Commission's guidance for settlements outside the context of an existing proceeding.⁶ The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. This letter order does not relieve Mojave of its obligations to file the required reports under Part 284 of the Commission's regulations.

15. Consistent with the Settlement, the Commission directs Mojave to file, in eTariff format, an actual tariff section identical to the Settlement's *pro forma* tariff section within 10 days of this order. The Commission will treat such a filing as a filing to comply with this order approving the Settlement, and the Commission will place the tariff section properly implementing the Settlement, as approved, into effect on the date provided for in the agreement, December 1, 2010.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶ *Dominion Transmission, Inc.*, 111 FERC ¶ 61,285 (2005).