

140 FERC ¶ 61,145
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 27, 2012

In Reply Refer To:
Northern Border Pipeline Company
Docket No. RP06-72-000

Northern Border Pipeline Company
717 Texas Street
Houston, TX 77002

Attention: Eva N. Neufeld, Associate General Counsel

Reference: Petition to Amend Filing Requirement in Existing Settlement

Ladies and Gentlemen:

1. On August 13, 2012, pursuant to Rules 207(a) and 212 of the Commission's Rules of Practice and Procedure,¹ Northern Border Pipeline Company (Northern Border) filed a petition (Petition) asking the Commission to amend language contained in the settlement agreement resolving its last Natural Gas Act (NGA) section 4 general rate case proceeding in Docket No. RP06-72-000. The Commission's letter order issued November 21, 2006,² approved the 2006 Settlement, which provides for Northern Border to file a new general section 4 rate case no later than the sixth annual anniversary of the last day of the month in which the Commission approved the 2006 Settlement. Northern Border states that the parties to the 2006 Settlement intend to file a new settlement (2012 Settlement) that will eliminate that requirement. Northern Border seeks a shortened comment period and Commission action no later than August 27, 2012. As discussed below, the Commission will approve the proposed amendment to the 2006 Settlement as it appears to be fair, reasonable, and in the public interest.

¹ 18 C.F.R. §§ 385.207(a) and 385.212 (2012).

² See *Northern Border Pipeline Co.*, 117 FERC ¶ 61,217 (2006) (2006 Settlement).

2. On September 18, 2006, Northern Border filed a general NGA section 4 rate case, which the parties resolved by the 2006 Settlement. On November 21, 2006, the Commission issued an order approving that settlement.³ As stated above, the 2006 Settlement requires Northern Border to file a new NGA section 4 general rate case this year.

3. Northern Border explains that it has been actively engaged with its shippers in settlement discussions intended to achieve a non-litigated disposition that will avoid the requirement that it file a new rate case. Northern Border states that it has reached agreement in principle with all active parties to resolve all rate and service-related issues. Northern Border anticipates filing the 2012 Settlement no later than 45 days after the date of the instant Petition, thereby eliminating the need to file another general rate case according to the schedule prescribed by the 2006 Settlement.

4. Northern Border states that, on behalf of itself, and 35 other parties active in settlement discussions,⁴ it is submitting the Petition to amend language in the 2006 Settlement, thereby obviating the need to file another general rate case according to the

³ *Id.*

⁴ The Active Parties are those parties invited to participate in settlement discussions, who executed confidentiality agreements facilitating, *inter alia*, access to settlement materials pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602 (2012), and Rule 408 of the Federal Rules of Evidence, and whose representative(s) attended settlement meetings in person. The Active Parties include: Northern Border, Anadarko Energy Services Company, BP Canada Energy Marketing Corp., Tenaska Marketing Ventures, Enterprise Products Operating LLC, EDF Trading North America, LLC, Shell Energy North America (US), L.P., Macquarie Energy, LLC, ConocoPhillips Company, WPX Energy Marketing, LLC, Encana Marketing (USA) Inc., Ameren Illinois Company, Dakota Gasification Company, Hess Corporation, NJR Energy Services Company, ONEOK Rockies Midstream, L.L.C., Tidal Energy Marketing (U.S.) L.L.C., Minnesota Energy Resources Corporation, The Peoples Gas Light and Coke Company, North Shore Gas Company, Suncor Energy Marketing Inc., J.P. Morgan Ventures Energy Corporation, Citigroup Energy, Inc., MidAmerican Energy Company, MidAmerican Energy Company -- Unregulated Retail Services Business Unit, Alcoa Inc., Concord Energy LLC, the Canadian Association of Petroleum Producers, Sequent Energy Management, L.P. and AGL Services Company, on behalf of itself, AGL Resources Inc. and its subsidiaries and affiliates, Northern Illinois Gas Company d/b/a Nicor Gas Company, Twin Eagle Resource Management, LLC, Occidental Energy Marketing, Inc., Prairielands Energy Marketing, Inc., and Alliant Energy Corporate Services on behalf of Interstate Power and Light Company and Wisconsin Power and Light Company.

schedule prescribed in the 2006 Settlement. Northern Border requests that the Commission modify Articles II.B and XII.A of the 2006 Settlement to extend the deadline to file its required NGA section 4 rate case. Specifically, Northern Border proposes to amend Article II.B by deleting the text contained in that article in its entirety and substituting the following:

1. Northern Border shall file a new NGA Section 4 general rate case, consistent with Article II.B.2, no later than four months after the Commission issues a final order on the merits of the settlement agreement (“2012 Settlement”), to be filed by Northern Border no later than September 27, 2012.
2. If the Commission accepts the 2012 Settlement, the obligation to file a new NGA Section 4 general rate case pursuant to Article II.B.1 is rendered moot and Northern Border is deemed to have satisfied its obligation to file a new NGA Section 4 general rate case as established in the Docket No. RP06-72 Settlement.
5. Northern Border states that the extension will provide it with the opportunity, in the event the Commission does not accept the 2012 Settlement, to prepare its next NGA section 4 general rate case. Northern Border affirms that the proposed amendment enables participants to expend their resources in the most cost-effective and efficient manner possible, which ultimately benefits Northern Border and its shippers.
6. Public notice of Northern Border’s Filing was issued on August 13, 2012. Interventions and protests were due on or before August 20, 2012. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2012)), all timely filed motions to intervene and any unopposed motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. The following parties filed comments in support of the petition: (1) Minnesota Energy Resources Corporation, North Shore Gas Company and the Peoples Gas Light & Coke Company; (2) Indicated Shippers;⁵ and (3) NJR Energy Services Company. No party filed a protest or adverse comments.
7. The Commission finds that the requested settlement amendment appears to be fair and reasonable and in the public interest because it is unopposed and will allow the parties to continue settlement negotiations consistent with the Commission’s policy

⁵ The Indicated Shippers in this proceeding are: Anadarko Energy Services Company; ConocoPhillips Company; EDF Trading North America, LLC; Hess Corporation; Occidental Energy Marketing, Inc.; and Shell Energy North America (US), L.P.

favoring settlements. Therefore, the Commission grants Northern Border's Petition to amend the 2006 Settlement. Article II.B of the 2006 Settlement is hereby amended to state that Northern Border is obligated to file, by September 27, 2012, a proposed settlement in lieu of the 2006 Settlement's requirement to file a general section 4 rate case. In the event that the Commission rejects the 2012 Settlement, Northern Border shall have four months from the date of that rejection order to file a general rate case or to respond as the rejection order might otherwise permit.

8. In its Petition, Northern Border states that the parties "have been actively working to reach a settlement agreement in lieu of Northern Border filing a general rate case and, in fact, have agreed to a settlement-in-principle resolving all rate and service-related issues."⁶ Northern Border also states that "the Commission is requested to amend [the 2006 Settlement] to effectuate the suspension of Northern Border's obligation to file its next NGA Section 4 general rate case until four months after a Commission order on the merits of the 2012 Settlement, as a precaution in the unlikely event the 2012 Settlement is not accepted without modification."⁷

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁶ Petition to Amend Settlement and Motion for Shortened Answer Period and Expedited Action, August 13, 2012, at 2.

⁷ *Id.* at 4.