

149 FERC ¶ 61,089
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

October 30, 2014

In Reply Refer To:
Mojave Pipeline Company, L.L.C.
Docket No. RP14-1275-000

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

Attention: David R. Cain, Assistant General Counsel

Dear Mr. Cain:

1. On September 24, 2014, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure,¹ Mojave Pipeline Company, L.L.C. (Mojave) filed a Petition for Approval of Stipulation and Agreement (Settlement) in lieu of submitting a general section 4 rate filing under the Natural Gas Act (NGA). The Settlement results in lower base rates for Mojave's customers and is uncontested. As discussed below, the Commission approves the Settlement.

2. Article I of the Settlement provides a brief background to the Settlement. Article II specifies that all rights and obligations under a prior settlement in Docket No. RP10-1082-000 have been cancelled and superseded, including Mojave's obligation to effectuate an NGA general section 4 rate case by November 1, 2014,² pursuant to the terms of the prior

¹ 18 C.F.R. § 385.207(a)(5) (2014).

² On July 31, 2014, the Commission approved an amendment which deferred the deadline by which Mojave must file an NGA general section 4 rate case from September 1, 2014 to November 1, 2014. *Mojave Pipeline Co., L.L.C.*, 148 FERC ¶ 61,084 (2014).

settlement.³ Article III describes the settlement rates, refunds, and the depreciation rates. Pursuant to Article IV, Mojave may not file a new NGA general section 4 rate case proposing base tariff rates to be effective earlier than November 1, 2016. Article IV also provides “[t]o the extent the Commission considers any changes to the provisions of this Stipulation, the standard of review for such proposed changes shall be the most stringent standard of review permitted by law.” Article VI requires Mojave to file a cost and revenue study on or before November 1, 2020, if the pipeline has not filed an NGA general section 4 rate case by that date or if the Commission has not initiated an investigation into Mojave’s base rates pursuant to section 5 of the NGA. Articles V, VII, and VIII describe the stipulated conditions under which the Settlement was negotiated and under which it is to become effective.

3. Public notice of Mojave’s filing was issued on September 25, 2014. Interventions and protests were due as provided in section 154.210 of the Commission’s regulations (18 C.F.R. § 154.210 (2014)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2014)), 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. No protests or adverse comments were filed.

4. Because the Settlement provides that the standard of review for changes to the Settlement by the Commission is “the most stringent standard of review permitted by law,” we clarify the framework that would apply if the Commission were required to determine the standard of review in a later challenge to the Settlement.

5. The *Mobile-Sierra*⁴ “public interest” presumption applies to an agreement only if the agreement has certain characteristics that justify the presumption. In ruling on whether the characteristics necessary to justify a *Mobile-Sierra* presumption are present, the Commission must determine whether the agreement at issue embodies either: (1) individualized rates, terms, or conditions that apply only to sophisticated parties who negotiated them freely at arm’s length; or (2) rates, terms, or conditions that are generally applicable or that arose in circumstances that do not provide the assurance of justness and reasonableness associated with arm’s-length negotiations. Unlike the latter, the former

³ As part of its petition for approval of the Settlement, Mojave also included a request to extend, if necessary, the November 1, 2014 new rate case deadline from the prior settlement until January 1, 2015. Approval of the Settlement renders the need for an extension of the prior deadline moot.

⁴ *United Gas Pipeline Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956); *FPC v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956) (*Mobile-Sierra*).

constitute contract rates, terms, or conditions that necessarily qualify for a *Mobile-Sierra* presumption. In *New England Power Generators Association v. FERC*,⁵ however, the D.C. Circuit determined that the Commission is legally authorized to impose a more rigorous application of the statutory “just and reasonable” standard of review on future changes to agreements that fall within the second category described above.

6. The Commission finds that the Settlement appears to be fair and reasonable and in the public interest, and accordingly the Commission approves the Settlement. The Settlement, which was filed in lieu of a rate case, resolves system-wide rate issues 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.

7. The Commission directs Mojave to file actual tariff records in eTariff format⁷ that implement the Settlement. This letter order terminates Docket No. RP14-1275-000.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁵ *New England Power Generators Ass’n, Inc. v. FERC*, 707 F.3d 364, 370-71 (D.C. Cir. 2013).

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

⁷ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).