

150 FERC ¶ 61,006  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

January 8, 2015

In Reply Refer To:  
NV Energy, Inc.  
Docket Nos. ER13-1605-000  
ER13-1605-005  
ER13-1607-000  
(Consolidated)

Troutman Sanders LLP  
401 9<sup>th</sup> Street, NW  
Suite 1000  
Washington, DC 20004-2134

Attn: Clifford S. Sikora, Esq.

Dear Mr. Sikora:

1. On September 19, 2014, NV Energy, Inc. submitted, in the above-referenced proceedings, an Offer of Settlement (Settlement) on behalf of its public utility subsidiaries Nevada Power Company (Nevada Power) and Sierra Pacific Power Company (Sierra Pacific) (collectively, NV Energy) and on behalf of the other Settling Parties.<sup>1</sup> On October 9, 2014, Commission Trial Staff and the Southern Nevada Water Authority submitted comments in support of the Settlement. On October 20, 2014, NV Energy filed reply comments. On October 27, 2014, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.<sup>2</sup>

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<sup>1</sup>The Settling Parties are: NV Energy; Barrick Goldstrike Mines Inc., Barrick Turquoise Ridge Inc. as Operator of Turquoise Ridge Joint Venture, and Barrick Cortez Inc. as Operator of Cortez Mines (Barrick Mines); Deseret Generation & Transmission Co-operative, Inc.; the City of Fallon, Nevada; Colorado River Commission; Las Vegas Power Company, LLC; Los Angeles Department of Water and Power; Newmont USA Limited; the Southern California Public Power Authority; Truckee Donner Public Utility District; Liberty Utilities (CalPeco Electric) LLC; and Ormat Nevada, Inc. and ORNI 47 LLC (Ormat).

<sup>2</sup> *NV Energy, Inc.*, 149 FERC ¶ 63,012 (2014).

2. On September 19, 2014, NV Energy filed a Motion for Interim Rate Relief and Request for Expedited Action. On September 24, 2014, the Chief Judge granted the motion.

3. The Settlement addresses NV Energy's single-system transmission rates made possible by the completion of the One Nevada Transmission Line Project and certain non-rate terms and conditions concerning Barrick Mines, Colorado River Commission, and Ormat.<sup>3</sup>

4. Pursuant to the Settlement,

[t]he standard of review for any proposed changes sought by any Settling Party to the terms of this Settlement shall be the "public interest" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Services Corp.*, 350 U.S. 332 (1956), *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and *Morgan Stanley Capital Group Inc. v. Pub. Util. Dist. No. 1*, 554 U.S. 527 (2008), and the standard of review for any changes proposed by a non-Settling Party or the Commission acting *sua sponte* shall be the ordinary just and reasonable standard of review, not the public interest standard of review, *see Devon Power LLC*, 134 FERC ¶ 61,208 at P 10 (2011); provided, however, that nothing in this Settlement shall affect the rights of NV Energy, any other Settling Party, the Commission, or any other entity to seek future changes in the rates, terms, and/or conditions of the OATT under Sections 205 or 206 of the Federal Power Act; nor is this Settlement intended to create a standard of review other than the just and reasonable standard for any such future rate changes.<sup>4</sup>

5. In its comments, Trial Staff expresses support for the Settlement, provided that the depreciation schedules for Nevada Power and Sierra Pacific provided in NV Energy's original filing in Docket No. ER13-1605-000 be included as part of the Settlement. Trial Staff asserts that specifying the depreciation rates is necessary to corroborate or establish accrued depreciation and net plant balances for physical assets the next time NV Energy

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<sup>3</sup> On January 17, 2014, several of the Settling Parties submitted an Offer of Partial Settlement, resolving certain issues set for hearing concerning Schedules 4 and 9 of the NV Energy Open Access Transmission Tariff (OATT). On March 24, 2014, the Commission approved the Offer of Partial Settlement. *NV Energy, Inc.*, 146 FERC ¶ 61,221 (2014).

<sup>4</sup> Settlement at § 5.1.

makes a rate filing or the rates are challenged by an affected party.<sup>5</sup> According to Trial Staff, the Commission has previously conditioned approval of settlements on the designation of specific depreciation rates.<sup>6</sup>

6. In its reply comments, NV Energy asserts that Trial Staff's request is inconsistent with the nature of a black box settlement, inconsistent with the Commission's chosen method of regulating depreciation, and beyond the scope of the current proceeding. NV Energy argues that the precedent Trial Staff cites as support for its request is not on point.<sup>7</sup> NV Energy claims that, to the contrary, the Commission regularly accepts black box settlements of transmission rates without requiring the settling parties to specify depreciation rates and has rejected requests by Trial Staff to insert depreciation issues into settlements after the fact.<sup>8</sup> NV Energy further contends that Trial Staff's request is inconsistent with the Commission's chosen method of regulating depreciation, and, to the extent that Trial Staff is concerned about NV Energy's subsequent rate cases, the concern is beyond the scope of the proceeding.<sup>9</sup> Finally, NV Energy notes that the Commission and customers will have ample data to assess and verify the company's rate base and depreciation expense calculations in a future rate case because public utilities are required to report their plant balances and depreciation amounts on an annual basis in FERC Form No. 1.<sup>10</sup>

7. We are not persuaded by Trial Staff to condition our approval on the inclusion of the depreciation rates in the Settlement. The Settlement constitutes a black box settlement of transmission rates and does not reflect an agreement among the Settling Parties concerning any underlying cost components or derivation of the agreed-upon rates. Further, as NV Energy notes, the Nevada Power and Sierra Pacific plant balances and depreciation amounts are publically available in its annual FERC Form No. 1

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<sup>5</sup> Trial Staff Comments at 10.

<sup>6</sup> *Id.* at 11 (citing *Amer. Elec. Power Serv. Corp.*, 120 FERC ¶ 61,205 (2007); *Caprock Pipeline Co.*, 50 FERC ¶ 61,246 (1990)).

<sup>7</sup> NV Energy Comments at 4.

<sup>8</sup> *Id.* at 3 (citing *Southwest Power Pool, Inc.*, 148 FERC ¶ 61,014 (2014); *N.Y. Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,017 (2013); *Florida Power & Light Co.*, 138 FERC ¶ 61,063, at PP 4, 8 (2012); *Tampa Elec. Co.*, 141 FERC ¶ 61,015, at P 15 (2012); *The Empire Dist. Elec. Co.*, 137 FERC ¶ 61,106, at PP 6, 12-13 (2011)).

<sup>9</sup> *Id.* at 3-4, 5.

<sup>10</sup> *Id.* at 5.

filings.<sup>11</sup> We find that the Commission's accounting, reporting, and recordkeeping requirements will be sufficient to determine NV Energy's book depreciation rates along with the amount of depreciation expense recorded by NV Energy in subsequent periods. If NV Energy fails to comply with these requirements,<sup>12</sup> the Commission may, upon its own motion or upon complaint, institute a proceeding pursuant to section 206 of the Federal Power Act regarding such concerns.<sup>13</sup>

8. The Settlement resolves all issues in dispute in these proceedings. The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

9. Refunds shall be made pursuant to the Settlement.<sup>14</sup>

10. This letter order terminates Docket Nos. ER13-1605-000, ER13-1605-005, and ER13-1607-000.

By the direction of the Commission. Commissioner Honorable is not participating.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>11</sup> *Id.*

<sup>12</sup> 18 C.F.R. pts. 101, 125, and 141 (2014).

<sup>13</sup> 16 U.S.C. § 824e (2012).

<sup>14</sup> NV Energy should file its refund report in eTariff using the following coding: Type of Filing Code 1130 – Refund Report.