

150 FERC ¶ 61,009
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

January 9, 2015

In Reply Refer To:
Delmarva Power & Light Company
Docket Nos. ER09-1158-000
ER09-1158-001
ER05-515-008
ER05-515-009

Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

Attn: Gary A. Morgans, Esq.
Attorney for Delmarva Power & Light Company

Dear Mr. Morgans:

1. On August 25, 2014, you filed, in the above-referenced proceeding, a joint Settlement Agreement (Settlement) among Delmarva Power & Light Company (Delmarva), the Delaware Municipal Electric Corporation, Inc. (DEMEC) and the Delaware Public Service Commission (Delaware Commission) (jointly, the Settling Parties). On September 15, 2014, Commission Trial Staff filed comments in support of the Settlement. No other comments were filed. On October 17, 2014, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.¹

2. The Settlement addresses Delmarva's formula rate for transmission service, which is included as Attachment H-3D of the PJM Interconnection, L.L.C. Open Access Transmission Tariff (OATT), and the formula rate's accompanying implementation protocols.² In particular, the Settlement provides for a \$225,000 reduction in the annual

¹ *Delmarva Power & Light Co.*, 149 FERC ¶ 63,009 (2014).

² The Settling Parties explain that, pursuant to Delmarva's formula rate and the accompanying implementation protocols, Delmarva must submit annual updates that calculate its transmission revenue requirement under the formula rate. *See* PJM, Intra-

(continued ...)

transmission revenue requirement provided in Delmarva's 2015 annual update, which is a black-box settlement of the transmission revenue requirements set forth in Delmarva's 2011, 2012, 2013 annual updates.³ The Settlement also includes a one-time payment of \$258,000 in recognition of the expenses DEMEC incurred in bringing formal challenges to the Commission for the 2011, 2012, and 2013 annual updates, and this amount will not be recovered through Delmarva's formula rate or otherwise paid by its customers.⁴ In addition, the Settlement specifies certain ratemaking and accounting treatments that parties will not challenge or Delmarva must follow in future annual updates, noting that nothing else in the Settlement affects any party's rights to challenge any costs included in an annual update beginning with the 2014 annual update.⁵ The Settlement also contains provisions concerning future annual updates, including communications and the resolution of disputes.⁶

3. The Settlement provides that:

The Settlement may only be amended by the agreement in writing of all the Settling Parties and such changes shall be subject to the just and reasonable standard review. The standard of review for any modifications to the Settlement sought by any Settling Party, other than by mutual agreement of all Settling Parties, will be the public interest standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956), *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), *Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County*, 554 U.S. 527 (2008), and *NRG Power Marketing, LLC v. Maine Public Utilities Commission*, 558 U.S. 165 (2010). The standard of review for changes proposed by a non-settling

PJM Tariffs, OATT, Attachments H-3D & H-3E (Formula Rate & Implementation Protocols).

³ Settlement Aug. 25, 2014 Transmittal Letter, Ex. 1 (Settlement Agreement), at pt. II § 2.1.

⁴ Settlement Aug. 25, 2014 Transmittal Letter, Ex. 1 (Settlement Agreement), at pt. II § 2.2.

⁵ Settlement Aug. 25, 2014 Transmittal Letter, Ex. 1 (Settlement Agreement), at pt. II §§ 2.3, 2.4, 2.6; *see also id.* § 2.9.

⁶ Settlement Aug. 25, 2014 Transmittal Letter, Ex. 1 (Settlement Agreement), at pt. II §§ 2.8, 2.9.

third party, or by the Commission acting *sua sponte*, shall be the just and reasonable standard. *See Devon Power LLC*, 126 FERC ¶ 61,027 (2009), citing *Maine Pub. Util. Comm'n v. FERC*, 520 F.3d 464 (D.C. Cir. 2008).⁷

4. 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.

5. This letter terminates Docket Nos. ER09-1158-000, ER09-1158-001, ER05-515-008, and ER05-515-009.

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

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁷ Settlement Aug. 25, 2014 Transmittal Letter, Ex. 1 (Settlement Agreement), at pt. III § 3.6.