

152 FERC ¶ 61,009  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

July 1, 2015

In Reply Refer To:  
Tennessee Gas Pipeline Company, L.L.C.  
Docket No. RP15-990-000

Tennessee Gas Pipeline Company, L.L.C.  
Attention: H. Milton Palmer, Jr.  
1001 Louisiana Street  
Suite 1000  
Houston, TX 77002

Dear Mr. Palmer:

1. On May 15, 2015, Tennessee Gas Pipeline Company, L.L.C. (Tennessee) filed an offer of Settlement in lieu of a Natural Gas Act (NGA) general section 4 rate case filing, pursuant to the Commission's regulations<sup>1</sup> and procedures set forth for approval of a settlement filed outside the context of an existing Commission proceeding.<sup>2</sup> As discussed below, the Commission finds the instant offer of Settlement to be uncontested, that it complies with Tennessee's previous settlement filing obligations, and that it appears to be fair, reasonable, and in the public interest. Accordingly, the Commission approves the instant Settlement to be effective November 1, 2015, according to its terms.
2. Tennessee states that its currently effective rates were implemented pursuant to a Settlement that resolved its last NGA section 4 rate case, approved by the Commission in Docket No. RP11-1566-000 (2011 Settlement).<sup>3</sup> Tennessee states that Article XVI (E) of the 2011 Settlement required it to file an NGA section 4 general rate case to be effective no later than November 1, 2015. Tennessee states that in late 2014, it entered into pre-

---

<sup>1</sup> 18 C.F.R. § 385.207(a)(5).

<sup>2</sup> *Dominion Transmission, Inc.*, 111 FERC ¶ 61,285 (2005) (*Dominion*).

<sup>3</sup> *Tennessee Gas Pipeline Co., L.L.C.*, 137 FERC ¶ 61,182 (2011) (2011 Settlement).

settlement discussions with its shippers and interested state commissions. Tennessee asserts that these discussions led to a conclusion that more time was needed to fully resolve the issues in time for Tennessee to implement the general NGA rate case by the November 1, 2015 date required by the 2011 Settlement.<sup>4</sup> Accordingly, on February 19, 2015, Tennessee filed a motion: (i) to shorten the maximum suspension period to three months in any new rate case filing made pursuant to the 2011 Settlement, providing Tennessee until July 1, 2015 to make a general rate case. Subsequently, this motion was accepted by the Commission.<sup>5</sup>

3. Tennessee states that it has filed the instant Settlement in lieu of the NGA general section 4 rate case required by the 2011 Settlement. Tennessee states that the instant Settlement would eliminate the need for Tennessee to file a general NGA section 4 rate case in accordance with Article XVI(E) of the 2011 Settlement, and provide for more immediate rate relief for Tennessee's shippers. For example, Tennessee states that the instant Settlement would initiate new rates, to be effective November 1, 2015, which provide an immediate three percent reduction from Tennessee's currently effective rates, as well as at least one further two percent reduction as of November 1, 2018. Tennessee also asserts that the instant Settlement maintains several elements from the 2011 Settlement, including the Pipeline Safety and Greenhouse Gas Cost Adjustment Mechanism, the Fuel Adjustment Mechanism, and a mechanism for rate adjustments associated with spin-downs or spin-offs.

4. Tennessee requests that the instant Settlement become effective on the later of (i) November 1, 2015 or (ii) the first day of the month following the date on which an order approving the Settlement with or without modification(s) and/or condition(s) is issued by the Commission.

5. The principal terms of the Settlement are summarized below.

6. Articles I and II provide the purpose, scope and background of the Settlement. The Settlement resolves all issues with respect to the matters discussed therein, and satisfies Tennessee's obligation to file a NGA section 4 general rate case pursuant to the 2011 Settlement.

---

<sup>4</sup> Pursuant to Article XVI (E) of the 2011 Settlement, Tennessee was required to file an NGA Section 4 general rate case to be effective no later than November 1, 2015 which, allowing for a full five-month suspension period, required Tennessee to file its rate case on or before May 1, 2015.

<sup>5</sup> *Tennessee Gas Pipeline Co. L.L.C.*, 150 FERC ¶ 61,166 (2015).

7. Article III defines the effective date of the Settlement as November 1, 2015, or the first day of the month following the date on which an order approving the settlement, without modifications and/or conditions, is issued. It provides procedures for withdrawal from the Settlement if the Commission modifies or attaches conditions to it. It also provides procedures to be followed in the event of withdrawal, or in the event it is contested, and explains that the Settlement remains privileged if it is withdrawn.

8. Article IV establishes the settlement rates and the respective dates when the settlement rates will take effect. Pursuant to the settlement the settlement rates are to be effective November 1, 2015, and will provide an immediate three percent reduction from Tennessee's currently effective rates. The settlement also provides for subsequent rate reductions of an additional two percent as of November 1, 2018, and if certain conditions are met, two additional one percent rate reductions on November 1, 2020 and November 1, 2022.

9. Article V provides for two potential cost and revenue studies to be filed on November 1, 2021 and 2024, and the Statements and Schedules to be included in the cost-revenue studies, following the expiration of a Rate Moratorium as defined in Article XIV, provided that Tennessee has not filed an NGA section 4 general rate case and no NGA section 5 rate proceeding has been initiated prior to those dates. Article VI sets out the parties' agreement with respect to all potential rate refunds.

10. Article VII provides that the settlement rates have been established on a "black box" basis. For purposes of determining cost of service levels in Tennessee's certificate applications and for calculating allowances for funds used during construction (AFUDC) for new facilities, Tennessee shall continue to abide by the provisions in Article VII (D) of the 2011 Settlement.<sup>6</sup>

11. Article VIII establishes that Tennessee shall eliminate any regulatory asset and liability balances as of November 1, 2015 related to FAS 106 or FAS 109. It further establishes that Tennessee shall continue to maintain an external irrevocable voluntary employees' beneficiary association (VEBA) Trust. Tennessee shall also establish a

---

<sup>6</sup> Article VII (D) of the 2011 Settlement provides that Tennessee shall utilize the same pre-tax return as that established in its 1996 rate Settlement. *Tennessee Gas Pipeline Co.*, 77 FERC ¶ 61,083 (1996), *reh'g denied*, 78 FERC ¶ 61,069 (1997), *remanded*, *NorAm Gas Transmission Co. v. FERC*, 148 F.3d 1158 (D.C. Cir. 1998), *Tennessee Gas Pipeline Co.*, 94 FERC ¶ 61,117 (2001), *amended*, 133 FERC ¶ 61,134 (2010) (1996 Settlement).

regulatory asset and/or liability to record changes in income tax rates that may occur during the term of the Settlement.

12. Article IX establishes that Tennessee's mechanism for recovery of Pipeline Safety and Greenhouse Gas Costs remains in place and establishes that Tennessee may file a replacement mechanism to take effect at the expiration of the Rate Moratorium.

13. Article X establishes that Tennessee shall maintain its existing Fuel Adjustment Mechanism in its tariff, but that nothing shall prevent Tennessee from proposing changes to its Fuel Adjustment Mechanism that are required as the result of final Commission action in certificate proceedings or from filing information as the Commission may require in other fuel related proceedings.

14. Article XI provides that if Tennessee implements a spin-down or spin-off constituting \$10 million or more of net plant in any single application or \$30 million or more of net plant in the aggregate, then Tennessee shall file a limited NGA section 4 filing to adjust the Settlement rates in effect at the time of the spin-down or spin-off to reflect the cost of service effect of the removal of depreciation, the return on equity, and related income taxes associated with the spun-down or spun off facilities. Tennessee is also obligated to adjust the Settlement rates to reflect the net cost of service effect of additional *ad valorem* taxes associated with the Replacement Facilities and Abandoned Line associated with the proposed Abandonment and Capacity Restoration Project in Docket No. CP15-88-000.

15. Article XII establishes that Tennessee shall not file to implement a storage cycling requirement nor any new cost recovery mechanism such as a hurricane or storm event cost recovery tracker to be effective prior to the end of the Rate Moratorium. This Article also establishes the timing of various filings Tennessee will make to implement the Settlement rates.

16. Article XIII, Paragraph A, defines a supporting or non-opposing party as any party that is not a contesting party. Paragraph B defines actions taken by a party that would cause that party to become a contesting party, the rates which apply to any contesting party and circumstances related to severance of a contested party. Article XIV, Paragraph A, establishes a Rate Moratorium on general NGA sections 4 and 5 filings until November 1, 2019 for Tennessee and supporting or non-opposing parties. It also establishes that the term of the Settlement shall commence on the effective date of the Settlement and shall expire on the later of (a) the end of the Rate Moratorium or (b) the effective date of a rate change pursuant to an NGA section 4 or 5 proceeding.

17. Article XIV, Paragraph B (1) and (2) state that:

Except as provided in Section 2 below, because the parties hereto are sophisticated participants in Commission rate

proceedings, the standard for review for any proposed change to Settled Matters, to be effective during the Rate Moratorium, shall be the ‘public interest’ standard for review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.* and *Federal Power Commission v. Sierra Pacific Power Co.*[[350 U.S. 348, 355 (1956)].

With respect to proposed changes to any Settled Matter sought by non-settling third parties or the Commission acting *sua sponte*, the standard of review shall be the just and reasonable standard.

18. Article XIV, Paragraph C lists, in detail, the actions which parties are prohibited from taking during the moratorium. Paragraph D lists actions parties are permitted to make during the moratorium period, including various rate-related filings which Tennessee is permitted to make. Article XV states that Tennessee shall convene a meeting with all customers to discuss cost allocation and rate design alternatives at least forty-five days prior to filing its next NGA section 4 general rate case.

19. Articles XVI through XVIII describe the stipulated conditions under which the Settlement was negotiated and under which it is to become effective.

20. Public notice of Tennessee’s petition was issued on May 8, 2015. Interventions and protests were due as provided by section 154.210 of the Commission’s regulations.<sup>7</sup> Pursuant to Rule 214, all timely filed motions to intervene and any unopposed motions to intervene out-of-time filed before the date of this order are granted.<sup>8</sup> The New Jersey Board of Public Utilities and the New Jersey Division of Rate Counsel filed an unopposed late motion to intervene, stating that they take no position on the merits of the Settlement. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No party filed adverse comments, and several parties filed comments in support of the Settlement.

21. The Commission has stated that when a pipeline has negotiated an agreement with its customers and others to change its rates or terms and conditions of service and the pipeline desires approval of the agreement before making an actual NGA section 4 tariff filing, the pipeline should simply file, pursuant to section 385.207,<sup>9</sup> a petition for

---

<sup>7</sup> 18 C.F.R. § 154.210 (2014).

<sup>8</sup> 18 C.F.R. § 154.214 (2014).

<sup>9</sup> 18 C.F.R. § 385.207(a)(5) (2014).

approval of the agreement. If the Commission approves the agreement, it will direct that the pipeline file, pursuant to NGA section 4(d) and section 154.203<sup>10</sup> of the Commission's regulations, actual tariff records implementing the agreement consistent with the terms of the agreement as approved by the Commission. The Commission will treat such a filing as a filing to comply with the Commission's order approving the agreement, and the Commission will place tariff records that properly implement the agreement, as approved, into effect on the date provided for in the agreement.<sup>11</sup>

22. The instant Settlement was filed in lieu of a rate case, relieving participants from litigation and administration costs of such a proceeding and, in addition, it resolves system-wide rate issues consistent with the Commission's guidance for settlements outside the context of an existing proceeding.<sup>12</sup> In particular, the Settlement will provide an immediate three percent reduction from Tennessee's currently effective rates. The settlement also provides for subsequent rate reductions as described above.

23. Accordingly, the Commission finds that the instant unopposed Settlement appears to be fair and reasonable and in the public interest, and therefore, the Commission approves the Settlement.<sup>13</sup> The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

---

<sup>10</sup> 18 C.F.R. § 385.203 (2014).

<sup>11</sup> *Dominion Transmission, Inc.*, 111 FERC ¶ 61,285 (2005).

<sup>12</sup> *Id.*

<sup>13</sup> 18 C.F.R. § 385.602(g)(3) (2014).

24. The Commission directs Tennessee to file actual tariff records that implement the Settlement consistent with the Settlement.<sup>14</sup>

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

---

<sup>14</sup> Article XII (B)(1) to the instant settlement states that as soon as practicable following receipt of a final Commission order approving the Settlement, but no earlier than sixty (60) days prior to November 1, 2015, Tennessee shall file with the Commission the Appendix A-1 Settlement Rates as shown in Appendix C to become effective on the Effective Date.