

152 FERC ¶ 61,242
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

September 29, 2015

In Reply Refer To:
Delta Air Lines, Inc.
Continental Airlines, Inc.
JetBlue Airways Corporation
United Airlines, Inc.
US Airways, Inc.

v.

Buckeye Pipe Line Company, L.P.
Docket Nos. OR12-28-000 and OR12-28-001

Buckeye Pipe Line Company, L.P.
Docket Nos. OR13-3-000 and OR13-3-001

American Airlines, Inc.

v.

Buckeye Pipe Line Company, L.P.
Docket No. OR14-41-000
(Not Consolidated)

Caldwell Boudreaux Lefler PLLC
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Houston, Texas 77027

Attention: Charles F. Caldwell, Esq.
Attorney for Buckeye Pipe Line Company, L.P.

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Attention: Richard F. Powers, Jr., Esq.
Attorney for American Airlines, Inc.; Delta Airlines, Inc.;
JetBlue Airways Corporation; United Airlines, Inc.; and
U.S. Airways, Inc.

Dear Counsel:

1. On June 19, 2015, you submitted an Offer of Settlement (Settlement) on behalf of Delta Air Lines, Inc.; JetBlue Airways Corporation; United Airlines, Inc.;¹ US Airways, Inc.; American Airlines, Inc. (collectively, “the Airlines”); and Buckeye Pipe Line Company, L.P. (Buckeye) (Buckeye, together with the Airlines, are referred to herein as “the Parties”), in the above-captioned proceedings. On July 9, 2015, Commission Staff filed initial comments on the Settlement. On July 20, 2015, Buckeye and the Airlines separately filed reply comments. On August 4, 2015, the settlement and presiding judges jointly certified the Settlement to the Commission as an uncontested offer of settlement.

2. Section I of the Settlement identifies the Parties to the Settlement.

3. Section II provides a brief background to the proceedings and a summary of the Settlement.

4. Section III provides that the Settlement satisfies all issues raised in the complaints filed in the identified proceedings. It outlines the terms and conditions of the Settlement. Those include the agreed upon rates for Buckeye’s jet fuel transportation service from Linden, New Jersey, to Newark Liberty International Airport, LaGuardia Airport, and John F. Kennedy International Airport (NYC Airports). It establishes a Volume Incentive Program, the details of which are provided in Attachment H to the Settlement. It also establishes a moratorium on changing and challenging the agreed-upon rates for three years. Lastly, it provides details on the Parties’ future conduct to promote understanding and possibly to extend the Settlement beyond the current settlement period.

5. Section III.C states that once approved, the standard of review for any modifications to the Settlement, whether by the Commission acting *sua sponte* or by the settling Parties acting unanimously, shall be the ordinary just and reasonable standard (not the “most stringent” or “public interest” standard). The standard of review for any modification of the Settlement at the request of one or more but less than all settling Parties shall be the most stringent standard permissible under applicable law.

¹ During the pendency of these matters, United Air Lines, Inc. merged with Continental Airlines, Inc., and the name of the entity was contemporaneously changed to United Airlines, Inc. On October 14, 2014, Judge Haubner granted a motion to substitute party in Docket No. OR13-3-001 whereby United Airlines, Inc. was substituted in place of Continental Airlines, Inc. and United Air Lines, Inc. for all purposes. On January 23, 2015, Judge Coffman issued a similar order in Docket No. OR12-28-001. All references herein to United Airlines, Inc. include Continental Airlines, Inc.

6. Section IV of the Settlement provides details on enhancing deliverability of jet fuel to John F. Kennedy International Airport. It also provides for improved planning and coordination to plan for future jet fuel transportation needs to the NYC Airports as the jet fuel customers' usage approaches the pipelines' capacity.
7. Finally, Section V provides miscellaneous reservations and stipulations typical in Settlements. Those include the stipulation that the Settlement will be governed by and construed in accordance with federal law to the extent applicable and otherwise in accordance with the laws of the State of Texas.
8. Insofar as the Settlement was not filed in the eTariff format required by Order No. 714, Buckeye is required to make a compliance filing within 30 days in eTariff format to reflect the Commission's action in this order. *See Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).
9. Upon consideration of the Settlement and the comments received, the Commission finds that the Settlement appears to be fair, reasonable, and in the public interest. The Commission grants the Joint Conditional Motion to Withdraw Complaints attached as Attachment A to the Settlement subject to the conditions stated in that motion. Accordingly, the Settlement is hereby approved without modification. Commission approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.
10. Docket Nos. OR12-28-000, OR12-28-001, OR13-3-000, OR13-3-001, and OR14-41-000 shall be terminated upon fulfillment of the conditions specified in the Settlement.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

cc: All Parties