

153 FERC ¶ 61,170
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

November 13, 2015

In Reply Refer To:
National Fuel Gas Supply
Corporation
Docket No. RP15-1310-000

National Fuel Gas Supply Corporation
6363 Main Street
Williamsville, NY 14221

Attention: Alice A. Curtiss, Deputy General Counsel

Dear Ms. Curtiss:

1. On September 29, 2015, pursuant to Rule 207(a)(5),¹ National Fuel Gas Supply Corporation (National Fuel) filed an uncontested “Supplemental Stipulation and Agreement” (Settlement) and associated *pro forma* tariff records, proposed to become effective November 1, 2015. National Fuel filed the Settlement in lieu of a Natural Gas Act (NGA) section 4 general rate case.² As discussed below, the Commission approves the Settlement as fair and reasonable and in the public interest.

2. In the Settlement, National Fuel proposes to provide for an immediate two percent reduction in its currently effective base reservation, capacity, demand and deliverability rates, effective November 1, 2015. National Fuel proposes to make an additional two percent reduction effective on November 1, 2016 for a cumulative reduction of four percent. National Fuel is also proposing to implement a new “Pipeline Safety and Greenhouse Gas Cost Adjustment Mechanism” for the recovery of costs associated with

¹ 18 C.F.R. § 385.207(a)(5) (2015).

² The settlement of National Fuel’s last general section 4 rate case (2012 Settlement) required National Fuel to file an NGA section 4 rate case no later than January 1, 2016. *National Fuel Gas Supply Corp.*, 140 FERC ¶ 61,114 (2012).

new legislation and regulatory requirements issued after August 14, 2015. National Fuel has also agreed to update and share an earlier storage study (September 2012 study) regarding winter season firm injection rights, including data through the 2015-2016 winter season, and discuss that study and potential related tariff revisions with interested parties. National Fuel agrees that it will not file a new NGA general section 4 rate case before September 30, 2017, nor will it file to replace the Pipeline Safety and Greenhouse Gas Cost Adjustment Mechanism with a modernization cost tracker mechanism pursuant to the Commission's policy statement in Docket No. PL15-1-000³ until that date. The "comeback" date by which National Fuel is required to file an NGA general section 4 rate case is revised to be on or before December 31, 2019.

3. National Fuel states that the instant Settlement is the result of comprehensive negotiations between National Fuel, its shippers and interested state commissions and consumer advocates. National Fuel submits that the Settlement achieves the goals of providing a prompt, efficient means of reaching a settlement and allowing the benefits of lower rates for shippers sooner, without the costly expense of a general rate case, discovery and lengthy litigation. The principle terms of the Settlement are summarized below.

4. Article I requires National Fuel to implement the rate reductions set forth in the *pro forma* tariff records in Appendix A that reflect a two percent reduction in National Fuel's current reservation, capacity, demand and deliverability rates, effective November 1, 2015. In addition, Article I provides that National Fuel must also implement an additional two percent reduction effective November 1, 2016.

5. Article II deletes and replaces Article V of the 2012 Settlement with a new rate moratorium and comeback provision which provides that National Fuel must file an NGA general section 4 rate case no later than December 31, 2019 and no sooner than September 30, 2017. In addition, no party may seek a change in any provision of the Settlement pursuant to NGA section 5 until September 30, 2017.

6. Article III addresses National Fuel's infrastructure surcharge mechanisms. Section A, which pertains to the Pipeline Safety and Greenhouse Gas Cost Adjustment Mechanism, provides that on the first of the month following the expiration of the 30-day statutory period for seeking rehearing of an order approving the Settlement, National Fuel shall file the *pro forma* tariff mechanism attached to the Settlement as Appendix C to be effective 30 days following the filing of actual tariff records. Section B provides that

³ *Cost Recovery Mechanisms for Modernization of Natural Gas Facilities*, 151 FERC ¶ 61,047, *clarification denied*, 152 FERC ¶ 61,046 (2015) (*Modernization Cost Policy Statement*).

National Fuel may file revised tariff records to replace the Pipeline Safety and Greenhouse Gas Cost Adjustment Mechanism with a cost recovery mechanism in accordance with the Commission's *Modernization Cost Policy Statement*, but National Fuel may not do so prior to September 30, 2017.

7. Article IV requires National Fuel to review and update the September 2012 study of potential winter season firm injection rights, including data through the 2015-2016 winter season. National Fuel is required to share the report with interested shippers no later than May 1, 2016 and to schedule a conference call no later than June 1, 2016 to review the report and discuss potential related tariff revisions. This Article provides that the moratorium and comeback provision in Article II will not prevent National Fuel from making a filing to propose changes in winter storage injection rates and to make associated tariff revisions pursuant to section 4 of the NGA nor does it prevent a party to this Settlement from filing to propose changes pursuant to NGA section 5.

8. Article V provides that all issues associated with the National Fuel expansion projects listed in Appendix D are preserved for the next general rate case. Article V also provides that in certificate proceedings for proposed incrementally priced expansion projects National Fuel will: (a) propose initial rates based upon an 11.3 percent return on equity; and (b) disclose the actual capital structure and debt cost used for cost-revenue comparison and for computation of AFUDC for such projects. Parties reserve the right to protest the capital structure or debt cost disclosed in the certificate proceedings.

9. Article VI provides that the Settlement provisions are non-severable and part of a negotiated resolution and if the Settlement is contested or materially modified it will be deemed withdrawn.

10. Article VII provides that if the Settlement is contested, modified or conditionally approved, it will be null and void and may not be used in any way to prejudice National Fuel's or any participant's position.

11. Public notice of the filing was issued on October 1, 2015. Interventions and protests were due as provided by section 154.210 of the Commission's regulations.⁴ 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.⁵ 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. Several parties filed comments in support of the Settlement.

⁴ 18 C.F.R. § 154.210 (2015).

⁵ 18 C.F.R. § 154.214 (2015).

12. The Commission finds that the Settlement appears to be fair and reasonable and in the public interest, and therefore, the Commission approves the Settlement pursuant to Rule 602(g).⁶ The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶ 18 C.F.R. § 385.602(g) (2015).