

153 FERC ¶ 61,279
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 4, 2015

In Reply Refer To:
Florida Gas Transmission
Company, LLC
Docket Nos. RP15-101-000
RP15-101-001
RP15-101-004

Florida Gas Transmission Company, LLC
1300 Main Street
Houston, TX 77002

Attention: Michael T. Langston, Vice President
Chief Regulatory Officer

Dear Mr. Langston:

1. On September 11, 2015, Florida Gas Transmission Company, LLC (FGT) filed a Stipulation and Agreement of Settlement (Settlement) and associated *pro forma* tariff records to resolve or provide procedures for the resolution of all issues in the captioned proceedings. As discussed below, the Commission approves the uncontested Settlement finding that it appears to be fair and reasonable and in the public interest.

2. On October 31, 2014, FGT filed tariff records pursuant to section 4 of the Natural Gas Act (NGA) to implement a general rate increase. FGT also proposed a number of revisions to the terms and conditions under which it provides transportation service, including changes both to its General Terms and Conditions (GT&C) and to certain rate schedules. On November 28, 2014, the Commission accepted the tariff records and suspended them to be effective on May 1, 2015, subject to refund and conditions, the outcome of a hearing on the rate issues and a technical conference on the non-rate tariff proposals.¹ On February 5, 2015, the Commission staff convened a technical conference. On June 23, 2015, the Commission issued an order addressing the

¹ *Florida Gas Transmission Co., LLC*, 149 FERC ¶ 61,188 (2014).

issues discussed at the technical conference and adding certain issues to the hearing.² Subsequent to extensive negotiations among the parties to the instant proceeding FGT filed its Settlement on September 11, 2015. The Presiding Administrative Law Judge certified the Settlement to the Commission on October 27, 2015 as unopposed and stated that the Settlement reflects a fair and reasonable negotiated resolution of all issues in these proceedings.³

3. Certain salient features of the Settlement are summarized below.

4. Articles I and II address the background of the proceeding and the scope of the Settlement. Article III to the Settlement establishes the Settlement rates. The rates are reflected on Appendices B-1 (Period I Settlement Rates) and B-2 (Period II Settlement Rates). The rates in Appendix B-1 become effective on the Effective Date of the Settlement and will be in effect for 36 months. Prior to the end of Period I, FGT shall file to reduce the rates for certain services as shown on Appendix B-2, with the Period II Settlement rates becoming effective 36 months after the Effective Date and remaining in effect until they are superseded by the effectiveness of rates in FGT's next NGA general section 4 rate filing.

5. Article III also addresses issues associated with the roll-in of Rate Schedule FTS-2 into Rate Schedule FTS-1. Section 3 establishes a fixed 10 cent reservation surcharge applicable to the maximum reservation base tariff rate for Rate Schedule FTS-2 service for 66 months. Section 6 provides that FGT may not rely on the rates under the Settlement to meet the requirements of Docket No. PL15-1, the Commission's *Policy Statement on Cost Recovery Mechanisms for Modernization of Natural Gas Facilities*⁴ that FGT's existing rates are just and reasonable.

² *Florida Gas Transmission Co., LLC*, 151 FERC ¶ 61,254 (2015) (Order on Technical Conference). Florida Cities, a group comprised of JEA, the Orlando Utilities Commission, Lakeland Electric, the City of Tallahassee, the City of Gainesville d/b/a Gainesville Regional Utilities and Florida Gas Utility, a Florida inter-local agency whose membership consists of more than twenty municipally-owned electric and/or gas utilities, including the Florida Municipal Power Agency and Seminole Electric Cooperative, Inc. (Seminole), filed requests for rehearing of the Order on Technical Conference in Docket No. RP15-101-004. Pursuant to Article II, section 2 of the instant Settlement, these requests for rehearing will be withdrawn by the respective parties within 30 days of the effective date of the Settlement.

³ *Florida Gas Transmission Co., LLC*, 153 FERC ¶ 63,008 (2015).

⁴ 151 FERC ¶ 61,047 (2015).

6. Article IV provides for the resolution of a variety of fuel related issues on the FGT system and requires FGT to work with its shippers to prepare language to establish a separate electric power cost tracker to be effective by July 1, 2018. Article V establishes FGT's onshore transmission plant depreciation rates. Section 4 requires FGT to account separately for the negative salvage funds. Section 5 states that FGT must include a study in its next NGA general section 4 rate filing if it proposes to collect negative salvage expenses.

7. Article VI addresses a variety of Regulatory Accounting matters including amortization of existing regulatory assets, cessation of FGT's contributions to its Voluntary Employees' Beneficiary Association trust account for post-retirement benefit costs, and FGT's implementation of full inter-period tax normalization. Importantly, this provision provides that FGT shall continue to amortize its Levelization Adjustment and Early In-Service Regulatory Assets (LRA) so that at the end of the test period in FGT's next rate case the balance of the LRA may not exceed \$220 million with the Early In-Service Regulatory Asset having been fully amortized.

8. Article VII provides that all surviving terms and/or provisions contained in past FGT stipulations and agreements in any proceedings will terminate on the Effective Date and will no longer continue in force. Article VIII provides that if FGT proposes to make additional tariff changes it will share any such changes with its shippers at least 60 days before it plans to file these revisions. Shippers will have the opportunity to provide feedback and comments to FGT on the proposed tariff changes. FGT retains the right to determine whether it will incorporate any of the recommended changes prior to filing the tariff revisions with the Commission.

9. Article IX summarizes a number of tariff changes that FGT made to comply with the Order on Technical Conference⁵ or as a part of this Settlement. This provision provides that within six months of the Settlement's Effective Date, FGT will meet with interested customers to discuss mutually agreeable changes to the pooling structure, segmentation, and flow day diversion on the FGT system. If FGT and its interested customers are unable to reach an agreement on these issues within a year after the Effective Date, any of these customers may file an NGA section 5 complaint concerning these issues with the Commission.

10. Article XI, a so-called "comeback" provision, provides that FGT will file a new NGA general section 4 rate case on the fifth anniversary of the Effective Date.

⁵ Order on Technical Conference, 151 FERC ¶ 61,254 (2015).

11. Article XII, a rate filing moratorium provision, states that FGT may not file a new NGA general section 4 case before the fifth anniversary of the Effective Date. This provision prohibits with certain noted exceptions, the Settling Parties from instituting or supporting a NGA section 5 complaint against FGT during the term of this Settlement.

12. Article XIII defines the terms Settling Party and Contesting Party and delineates their rights and obligations. Article XIV defines the Effective Date of the Settlement as the first day of the month following the date on which a Commission order approving the Settlement becomes final. Such an order becomes final as of the date when the right to request rehearing expires, when no party has filed for rehearing, or the date when the Commission issues an order on rehearing or when all requests for rehearing are deemed denied by operation of law. Article XV states that “[a] final Commission order approving the Settlement will constitute final approval of all necessary authorizations to effectuate the provisions of the Settlement.”

13. Article XVIII, section 6, provides the Settlement *Mobile-Sierra* standard of review language. Specifically, this provision states:

Once approved by the Commission, the standard of review for any proposed modifications to the provisions of the Settlement by the Commission acting *sua sponte*, the Settling Parties acting unanimously, or third parties will be the just and reasonable standard. The standard for review for any proposed modifications to the provisions of the Settlement at the request of one or more but less than all Settling Parties will be the “public interest” standard for review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.* [350 U.S. 332 (1956)] and *Federal Power Commission v. Sierra Pacific Power Co.* [350 U.S. 348 (1956)] (the “*Mobile-Sierra* doctrine”). [*See also Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County*, 128 S. Ct. 2733 (2008); *NRG Power Marketing, LLC v. Maine Public Util. Comm’n*, 130 S. Ct. 693 (2010)] Nothing in the Settlement is meant to limit the Commission’s authority to approve uncontested settlements under 18 C.F.R. § 385.602(g)(3).

14. Section 7 of Article XVIII provides that nothing in Article XII or section 5 of Article XVII of the Settlement precludes FGT, for the time period between the Effective Date and five year anniversary of the Effective Date, from filing pursuant to NGA sections 4 or 7 for incremental or other rates for new service associated with facilities or under rate schedules not covered by the Settlement. The Settlement does not preclude Parties from taking a position in such NGA section 4 or section 7 proceeding

filed by FGT, provided that such position does not advocate changes to the Settlement rates or any other terms of the Settlement.

15. Section 8 of Article XVIII provides that the Settlement rates will not impair or affect the effectiveness of the periodic nature of other adjustments to FGT's base rates including: (1) Annual Charge Adjustments; (2) fuel and lost and unaccounted for gas; (3) cash out filings; (4) system balancing filings; or (5) other similar periodic filings required by FGT's tariff or the Commission that have become, or that may become, effective during the term of the Settlement.

16. 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)(3).⁶ The Commission directs FGT to file tariff records in eTariff format⁷ to implement the Settlement. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

This letter order terminates the captioned dockets.

By direction of the Commission

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶ 18 C.F.R. § 385.602(g) (2015).

⁷ *Electronic Tariff Filings*, Order No 714, FERC Stats. & Regs, ¶ 31,276 (2008).