

156 FERC ¶ 61,069
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

July 27, 2016

In Reply Refer To:
Xcel Energy Southwest Transmission
Company, LLC
Docket Nos. ER14-2751-000
ER14-2751-001

Jones Day
51 Louisiana Avenue, NW
Washington, DC 20001

Attention: Kenneth B. Driver
Attorney for Xcel Energy Southwest Transmission Company, LLC

Dear Mr. Driver:

1. On October 28, 2015, you submitted an offer of settlement (Settlement Agreement), on behalf of Xcel Energy Southwest Transmission Company, LLC (XEST), in the above-captioned proceedings. The Settlement Agreement resolves all issues that the Commission set for hearing and settlement judge procedures.¹
2. On November 17, 2015, Commission Trial Staff filed comments not opposing the certification of the Settlement Agreement, but recommending that the Commission review the manner in which the return on equity issue is resolved and also examine the scope of the term “Settling Party” in determining whether to accept the Settlement Agreement as filed. On November 27, 2015, XEST filed reply comments. On December 7, 2015, the Settlement Judge certified the Settlement Agreement to the Commission as uncontested.²

¹ *Xcel Energy Sw. Transmission Co., LLC*, 149 FERC ¶ 61,182 (2014) (November Order).

² *Xcel Energy Sw. Transmission Co., LLC*, 153 FERC ¶ 63,019 (2015).

3. The Settlement Agreement resolves all the issues set for hearing in the above-captioned proceedings. The Settlement Agreement provides that the Settling Parties agree on XEST's base return on equity. Article 10 establishes the standard of review for any changes to the Settlement Agreement as follows:

The standard of review for any change to this Settlement Agreement proposed by a Settling Party shall be the "public interest" application of the just and reasonable standard 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), as clarified in *Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County, Washington*, 554 U.S. 527 (2008) and *NRG Power Marketing v. Maine Pub. Utilities Commission*, 558 U.S. 165 (2010).

Once this Settlement Agreement has become effective pursuant to the provisions of Article 6, the standard of review for any change to this Settlement Agreement sought by the Commission acting *sua sponte* or at the request of a non-Settling Party or a non-party to the Affected Dockets shall be the just and reasonable standard of review (rather than the "public interest" standard), as clarified in *Morgan Stanley Capital Group Inc. v. Public Utility District No. 1 of Snohomish County, Washington*, 554 U.S. 527 (2008).

4. XEST also submitted Appendices 2 and 3 to the Settlement Agreement, which contain certain changes and corrections to the XEST formula rate template, agreed to by the Settling Parties. XEST has also attempted through the Settlement Agreement to resolve certain pending compliance issues ordered by the Commission in the November Order.³

5. The Commission finds that, although the Settlement appears to be a reasonable resolution of the issues, certain compliance-related elements of the formula rate template contained in the Appendices require further clarification and correction as specified below.

³ November Order, 149 FERC ¶ 61,182 at PP 92-117. On January 8, 2015, XEST submitted a compliance filing in Docket No. ER14-2751-001 in response to the Commission's directives.

6. XEST's proposed Attachment 8 remains unclear in several respects. Specifically, the amounts in lines 12 and 13 in Table 3, column (b) are not consistent in units. Line 27, column F also does not contain a formula for the Interest and Principal, and it is not apparent how the calculation works. Line 27, columns D and E have the word "principal" misspelled. In addition, from the equation in note 10 for the Commitment, Ratings and Fees column, it is not clear how XEST will keep from double recovering the Revolving Credit Commitment Fee. We direct XEST to correct these issues while leaving the contents of Table 5 of Attachment 8 intact.

7. In addition, XEST's proposed Attachment 3 project-specific true-up calculation remains unclear. Specifically, it is not clear what the Adjusted Net Revenue Requirement in column G represents. Note 2 specifies that the inputs into column G are taken from Attachment 1, line 15, column 16. The footnotes should explain from which periods the inputs in Attachment 3 are being derived. Accordingly, we direct XEST to clarify Attachment 3 and provide revisions to remove the ambiguities described above. As a result of this directive, we also will require XEST to make any necessary edits to Attachment 1, note F to clarify the rate year used in Attachment 1, column 16.

8. Attachment 2 contains reference errors and typos that still need to be corrected. Specifically, line 1 references Attachment H, line 37, column 5, but does not indicate that this value is taken from page 2 of Attachment H. Further, lines 3 through 5 reference note X of Attachment H. However, this implies that the calculation of the components of the capital structure is based on beginning and end of year balances, when, in fact, they are determined by 13-month average balances. Therefore, the references to note X should be changed to reference note R. Finally, line 6 incorrectly references the sum of lines 27 through 29, when it should reference the sum of lines 3 through 5. We direct XEST to correct these errors.

9. Attachment 4 includes a worksheet for calculating the rate base adjustment for unfunded reserves. Note G has been revised to explain: "[t]he Formula Rate shall include credit to rate base for each unfunded reserve. An unfunded reserve is a reserve where an escrow, trust, or restricted account has not been established for a fund whose balance is collected from customers through cost accruals to accounts that are recovered under the Formula Rate." While this explanation appears reasonable, the heading and purpose of Attachment 4, page 2, column F, which states "Enter the percentage paid for by customers, 1 less the percent associated with an offsetting liability on the balance sheet," are unclear. If the purpose of this column is to ensure that only the portion of the unfunded reserve contributed from the customers is a reduction to rate base, we direct XEST to add a note clarifying that this is the case. If it is not, we direct XEST to clarify the purpose of Attachment 4, page 2, column F, and how it is consistent with the explanation in Note G.

10. Finally, Attachment 4, page 1, column (e) references the Form 1 at 214.x.c. However, 214.x.c. is the date on which the land is expected to be used in utility service. Instead, the reference should be to 214.x.d. We direct XEST to correct this error.

11. Subject to XEST's filing the above-referenced corrections to the formula rate template within 30 days of this order, the Commission finds the Settlement Agreement appears to be fair and reasonable and in the public interest, and it is hereby approved. The Commission's approval of this Settlement Agreement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

By direction of the Commission.

Kimberly D. Bose,
Secretary.