

157 FERC ¶ 61,077  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

October 31, 2016

In Reply Refer To:  
Buckeye Pipe Line  
Company, L.P.  
Docket No. IS16-3-000

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Dear Counsel:

1. On July 21, 2016, Delta Air Lines, Inc., JetBlue Airways Corporation, United Airlines, Inc., UPS Fuel Services, Inc., and UPSCO (collectively, the Airlines), World Fuel Services, Inc. (World Fuel) and Buckeye Pipe Line Company, L.P. (Buckeye) (collectively, the Participants) filed a joint Offer of Settlement (Settlement) in the referenced proceeding for approval pursuant to Rule 602.<sup>1</sup> On August 10, 2016, Commission Trial Staff filed comments stating that it did not oppose the Settlement. No other comments were filed.

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<sup>1</sup> 18 C.F.R. § 385.602 (2016).

2. The Settlement resolves all issues set for hearing in this proceeding. The substantive provisions of the Settlement are as follows.
3. Section III, subpart A(1) provides the effective date as the date upon which the Commission issues an order approving the Settlement without modification or condition. Under Subpart A(2), the Settlement period will run from November 1, 2015 through October 31, 2018. Subpart A(3) provides that the consideration set forth in the Settlement shall be the Airlines' and World Fuel's full, exclusive, and complete compensation with regard to Buckeye's product loss allocation assessment (PLAA)<sup>2</sup> charge in effect during the Settlement period.
4. Section III.B incorporates into the Settlement a Joint Conditional Notice of Withdrawal of Protest, pursuant to 18 C.F.R. § 343.3(d), to be automatically effective upon the day on which all of the following conditions are met: (1) the tariff reducing Buckeye's current PLAA from 8.7 cents per barrel to 8.2 cents per barrel (Adjusted PLAA) has become effective not subject to suspension, investigation and/or a refund obligation; (2) the Settlement has become effective pursuant to its terms; and (3) written certification of Settlement payment has been made pursuant to this Settlement.
5. Section III.C provides for any modifications to the Settlement, whether by the Commission acting sua sponte, or by the Airlines, World Fuel and Buckeye acting unanimously, the standard of review will be the ordinary just and reasonable standard. The standard of review for any modification of the Settlement Agreement at the request of one or more but less than all settling Parties, not addressed explicitly in the Settlement, shall be the most stringent standard permissible under applicable law.
6. Section III.D contains numerous provisions, including the Settlement payments to be made by Buckeye to the Airlines and World Fuel, the Adjusted PLAA charge, and modification of the volume incentive program under the Docket No. OR12-28 settlement agreement if such program is extended beyond its original term. Under Section III.D(1), Buckeye will tender a Settlement payment to the Airlines and World Fuels, as set forth in Attachments B through F, which detail the individual Settlement payment amounts.
7. Pursuant to Section III.D(2), Buckeye will file a new tariff to reduce its current PLAA from 8.7 cents per barrel to 8.2 cents per barrel within three business days after the Settlement effective date.

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<sup>2</sup> The PLAA is a fixed per-barrel assessment that Buckeye applies to all long-haul (i.e., nontransfer) volumes that are transported on Buckeye's pipeline systems. The charge is similar to volumetric "loss allowances" that are frequently charged by other pipeline companies and is used to offset the costs incurred by Buckeye associated with: (i) product downgrades; (ii) the disposition of transmix; and (iii) system-wide volumetric losses.

8. Section III.D(4) provides for a moratorium against the Airlines and World Fuel challenging the Settlement PLAA during the Settlement period. Likewise, Buckeye agrees to refrain from increasing the Settlement PLAA during the Settlement period, though it reserves the right to decrease the PLAA during that time.

9. Sections III.D(7) and (8) outline the terms of information sharing provisions. In part, Buckeye agrees to provide summary-level cost, revenue, and volume data as it relates to the PLAA in a footnote to its FERC Form No. 6 for the calendar year ending December 31, 2018.

10. The Participants request that the Commission approve the uncontested Settlement as “fair, reasonable and in the public interest” and state that the Commission’s approval of the Settlement using any standard other than “fair, reasonable and in the public interest” would constitute a modification of the terms of the Settlement and potentially render the Settlement void and of no legal effect.

11. 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. Accordingly, the Settlement is hereby approved without condition or modification. Commission approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Commission notes the Airlines’ Joint Conditional Notice of Withdrawal of Protest and Motion to Intervene attached as Attachment A to the Settlement which, upon fulfillment of the conditions stated in that notice, shall terminate this proceeding.

12. Docket No. IS16-3-000 shall be terminated upon fulfillment of the conditions specified in the Settlement.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.