

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

November 30, 2005

In Reply Refer To:
Paiute Pipeline Company
Docket Nos. RP05-163-000
RP05-163-001
RP05-163-002

Paiute Pipeline Company
P.O. Box 94197
Las Vegas, NV 89193-4197

Attention: Edward C. McMurtrie
Vice President/General Manager

Reference: Uncontested Offer of Settlement

Dear Mr. McMurtrie:

1. On October 21, 2005, Paiute Pipeline Company (Paiute) filed pursuant to Rule 602 of the Commission's Rules of Practice and Procedure,¹ an Offer of Settlement (Settlement), intended to resolve all issues in the above-referenced proceeding. The Commission will approve the Settlement without modification.
2. Sierra Pacific Power Company and Commission Trial Staff filed initial comments in support of the Settlement on October 27 and October 31, 2005, respectively. On November 2, 2005, the Presiding Administrative Law Judge certified the Settlement to the Commission as uncontested.²

¹ 18 C.F.R. § 385.602 (2005).

² *Paiute Pipeline Co.*, 113 FERC ¶ 63,018 (2005).

3. The major features of the Settlement are described in the following paragraphs.
4. Article I describes the procedural background of the proceeding and states that the Settlement is the product of negotiations among the participants and constitutes a resolution of all of the issues in the rate case.
5. Article II provides for a reduction of approximately \$4,160,794 in the originally proposed annual revenue requirement, with a stipulated jurisdictional annual cost of service, exclusive of applicable surcharge amounts, of \$29,200,000. Article II also sets forth the allocation of the annual cost of service among Paiute's firm transportation (FT-1), interruptible transportation (IT-1), and firm and interruptible LNG storage services (LGS-1 and LGS-2). Article II further sets forth the agreed-upon FT-1, IT-1, LGS-1, and LGS-2 settlement rates and billing determinants. The settlement rates incorporate a pre-tax rate of return of 12.29 percent.
6. Article II establishes a maximum base tariff rate for IT-1 service of \$0.3053 per Dth, which represents the 100 percent load factor equivalent of the settlement base tariff rates for FT-1 service. It also provides that, subject to conditions and limitations, Paiute will charge a discounted base IT-1 rate of 15 cents per Dth. The 15 cents per Dth discounted rate will not be available to shippers who turn back capacity through contract termination or reduction, or who release capacity to such shippers. Article II states that the objective of the exceptions to the system-wide 15 cents per Dth discounted IT-1 rate is to relieve Paiute of any obligation to provide a discounted IT-1 rate to a shipper who turns back firm transportation capacity to Paiute, or to shippers whose actions may have the effect of circumventing such objective. Article II further states that Paiute may provide other IT-1 discounts on an individual basis under to the Commission's rate discounting policy.
7. Article II stipulates that the allocation of the cost of service reflects the allocation of the purchase price of the formerly leased LNG facilities that was set forth in the joint settlement agreement in Docket Nos. CP04-343, *et al.*, which was accepted by the Commission's order authorizing the acquisition of those facilities.
8. Article II also provides for revisions to section 4.2(e) of Paiute's General Terms and Conditions, which governs the procedures by which Paiute establishes and notifies its customers of the percentages for Gas Used by Paiute (i.e., fuel, lost and unaccounted for gas, etc.) that is to be reimbursed in kind to Paiute under Rate Schedules FT-1 and IT-1. Article II provides that the revisions to section 4.2(e) shall be made effective on the first day of the second month following the month in which the Settlement becomes effective.
9. Article III provides for Paiute to file appropriate revised tariff sheets to effectuate the agreed-upon changes and to make refunds, including interest.

10. Article IV establishes depreciation and negative salvage rates commencing on the applicable effective dates of the base tariff rates established by the Settlement.
11. Article V contains a provision relating to Paiute's accounting for post-retirement benefits other than pensions in accordance with the provisions of the Statement of Financial Accounting Standards No. 106 and the Commission's policy statement in Docket No. PL93-1-000.
12. Article VI relates to certain federal income tax matters.
13. Article VII states that the provisions of the Settlement are not severable and otherwise provides for the effectiveness of the Settlement
14. Article VIII sets forth certain reservations concerning the Settlement.
15. Article IX provides that the Settlement, once effectuated, shall remain in effect until the rates are changed by a general change in Paiute's jurisdictional rates (other than certain rate adjustments for annual charges and other adjustments and surcharges permitted by the Commission with no surviving provisions). Article IX also provides that Paiute will not submit a general rate change filing (other than the aforementioned rate adjustments) prior to June 29, 2007, and not later than February 27, 2009.
16. Article X provides that this proceeding shall be deemed terminated upon the acceptance by the Commission of Paiute's report of refunds made in accordance with the Settlement.
17. The Commission finds that the Settlement appears to be fair, reasonable, and in the public interest. Accordingly, the Commission approves the Settlement without modification. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. Moreover, the Commission's approval of the discount here does not preclude parties from raising any discount adjustment arguments in the next rate case.

By direction of the Commission. Commissioner Kelly concurring with a separate statement attached.

Magalie R. Salas,
Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Pauite Pipeline Company

Docket Nos. RP05-163-000
RP05-163-001
RP05-163-002

(Issued November 30, 2005)

KELLY, Commissioner, *concurring*:

The parties to this settlement provide in their Explanatory Statement that “any future modification of the Settlement will be governed by the *Mobile-Sierra* public interest standard.” I believe that approval of this settlement is appropriate to the extent that the Commission would preserve its ability to take NGA section 5 action under the just and reasonable standard of review when acting *sua sponte* or on behalf of a non-party.¹

Sudeen G. Kelly

¹ See, e.g., *Columbia Gas Transmission Corp.*, 79 FERC ¶ 61,044 (1997).