

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

Pine Needle LNG Company, LLC

Docket No. RP06-336-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEET  
SUBJECT TO REFUND AND ESTABLISHING A HEARING

(Issued May 31, 2006)

1. On May 1, 2006, Pine Needle LNG Company, LLC (Pine Needle) filed a revised tariff sheet<sup>1</sup> to reflect a Natural Gas Act (NGA) section 4 general rate increase, to be effective June 1, 2006. Pine Needle states that this filing is made pursuant to Article IV of the Stipulation and Agreement (settlement) under which Pine Needle agreed to file a general section 4 rate case no later than three years from May 1, 2003, the effective date of the settlement.<sup>2</sup> The proposed rates will result in an annual revenue increase of approximately \$2,467,522. Pine Needle proposes to increase: (1) its demand charge under Rate Schedule LNG-1 from \$0.1207 per Dt to \$0.1371 per Dt; and, (2) both the authorized excess vaporization charge under Rate Schedule LNG-1 and the commodity rate under Rate Schedule LNG-2 from \$4.88078 per Dt to \$5.47938 per Dt.
2. The Commission accepts and suspends the tariff sheet listed in footnote No. 1, to be effective November 1, 2006, subject to refund and the outcome of the hearing established herein.

**Background**

3. Pine Needle owns and operates a 4 Bcf liquefied natural gas (LNG) storage facility in Guilford County, North Carolina and provides storage services in interstate commerce pursuant to a Commission Order issued November 12, 1996.<sup>3</sup> Pine Needle placed its LNG storage facility into service on May 1, 1999 and currently serves customers in North

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<sup>1</sup> Eleventh Revised Sheet No. 4 to FERC Gas Tariff, Original Volume No. 1.

<sup>2</sup> See *Pine Needle LNG Company, LLC*, 102 FERC ¶ 61,291 (2003).

<sup>3</sup> See *Pine Needle LNG Company, LLC*, 77 FERC ¶ 61,229 (1996).

Carolina, Georgia and Alabama. The Pine Needle LNG facility is connected to the interstate pipeline grid at a single point of interconnection with Transcontinental Gas Pipe Line Corporation (Transco) at milepost 1356.95 on Transco's mainline system.<sup>4</sup> This interconnection is the single receipt point and single delivery point on the Pine Needle system. Pine Needle's customers arrange for transportation of gas on the Transco system to its LNG storage facility in the summer for liquefaction and backhaul service of vaporized LNG quantities during periods of peak winter demand. Pine Needle provides open access storage service pursuant to Rate Schedules LNG-1 (Firm Service) and LNG-2 (Interruptible Service).<sup>5</sup>

### **Details of the Filing**

4. Pine Needle explains that this rate case was filed pursuant to Article IV of a Commission-approved settlement filed in Docket No. RP02-407-000 which required Pine Needle to file a general section 4 rate case no later than three years from May 1, 2003, the effective date of the settlement.

5. Pine Needle states that the proposed revised rates are based on a cost-of-service of \$20,717,522 which reflects an increase of \$2,467,522 over Pine Needle's currently effective rates. The filed cost-of-service consists of: operation and maintenance expenses of \$2,592,637; depreciation and amortization expense of gas plant in-service of \$5,374,769; taxes other than income taxes of \$584,237; state and local income taxes of \$690,625; federal income tax expense of \$3,261,607; and a return allowance of \$8,213,647. Pine Needle asserts that the principal factors supporting the increase in the cost-of-service are an increase in rate of return and related taxes, an increase in depreciation expense and the establishment of negative salvage rates. Pine Needle is proposing an overall rate of return of 11.01 percent, which is based on a capital structure of 38.44 percent debt, 61.56 percent equity, with an equity rate of return of 13.60 percent and a debt cost of 6.86 percent. Pine Needle's proposed cost-of-service is based on a base year ended January 31, 2006 as adjusted for changes through the end of the test period ending October 31, 2006. Pine Needle proposes to increase its depreciation rates for storage from 2.50 percent to 4.50 percent, for transmission from 2.50 percent to 3.63 percent and for intangible plant from 2.50 percent to 4.03 percent. Pine Needle also proposes negative salvage rates of 0.53 percent for its storage facilities and 0.64 percent for its transmission facilities. Pine Needle states that the negative salvage rates are intended to accrue sufficient funds in an orderly and fair manner to cover the eventual cost of retirement of Pine Needle's facilities.

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<sup>4</sup> Pine Needle is operated by Pine Needle Operating Company, a wholly owned subsidiary of Transco. Transco is owned by The Williams Companies (Williams).

<sup>5</sup> See *Pine Needle LNG Company, LLC*, 100 FERC ¶ 61,224 (2003).

### **Notice of Filing, Interventions and Protests**

6. Public notice of Pine Needle's filing was issued May 2, 2006, with interventions and protests due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2005)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2005)), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties

7. The Municipal Gas Authority of Georgia, North Carolina Utilities Commission, Public Service Company of North Carolina, Inc., and the Washington Gas Light Company filed timely motions to intervene. Piedmont Natural Gas Company, Inc., (Piedmont) filed a timely motion to intervene and protest to this proceeding which is discussed below.

8. Piedmont states that it is concerned about several aspects of Pine Needle's rate filing, stating that, if approved as proposed, it would result in a 13.6 percent increase in demand charges that Piedmont currently pays for its firm storage service (LNG-1) to Pine Needle. Specifically, Piedmont states that the proposed increase in depreciation rates for storage, transmission and intangible plant from 2.5 percent to 4.5 percent, 3.63 percent and 4.03 percent, respectively, as well as the introduction of negative salvage rates for storage and transmission appear neither just nor reasonable. Piedmont states that Pine Needle's proposed depreciation rates are significantly different from the current depreciation rate of 2.5 percent, which the Commission found to be just and reasonable in both CP96-52 and RP02-407. Piedmont claims that at, a minimum, these issues merit greater examination and requests that the Commission suspend the effectiveness of Pine Needle's filing for five months and set the proceeding for hearing.

### **Discussion**

9. The rates proposed in Pine Needle's section 4 filing have not been shown to be just and reasonable. The filing raises traditional rate issues that could be resolved either through settlement or an evidentiary hearing before an ALJ. These issues include, but are not limited to, the following: (1) appropriateness of the proposed cost allocation and rate design; (2) the level of the overall revenue requirement; (3) the level of depreciation and negative salvage rates; (4) the appropriateness of the proposed capital structure; and (5) the appropriateness of the proposed 13.60 percent equity rate of return.

### **Suspension**

10. Based upon a review of the filing, the Commission finds that the proposed tariff sheet has not been shown to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept the tariff sheet for filing and suspend its effectiveness for the period set forth below, subject to the conditions set forth in this order.

11. The Commission's policy regarding suspensions is that filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.<sup>6</sup> It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.<sup>7</sup> Such circumstances do not exist here. Therefore, the Commission will accept and suspend the proposed tariff sheet listed in footnote No. 1, to be effective November 1, 2006, subject to refund and the outcome of the hearing established herein.

The Commission orders:

(A) The tariff sheet listed in footnote No. 1 is accepted and suspended, to be effective November 1, 2006, upon motion by Pine Needle, subject to refund and the outcome of the hearing established herein.

(B) Pursuant to the Commission's authority under the Natural Gas Act, particularly sections 4, 5, 8, and 15, and the Commission's rules and regulations, a public hearing is to be held in Docket No. RP06-336-000 concerning Pine Needle's filing.

(C) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to 18 C.F.R. § 375.304 (2005), must convene a prehearing conference in this proceeding to be held within twenty (20) days after issuance of this order, in a hearing or conference room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. The prehearing conference shall be held for the purpose of establishment of a procedural schedule. The Presiding Administrative Law Judge is authorized to conduct further proceedings in accordance with this order and the rules of practice and procedure.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>6</sup> See *Great Lakes Gas Transmission Co.*, 12 FERC & 61,293 (1980) (five-month suspension).

<sup>7</sup> See *Valley Gas Transmission, Inc.*, 12 FERC & 61,197 (1980) (one-day suspension).