

133 FERC ¶ 61,001  
FEDERAL ENERGY REGULATORY COMMISSION  
Washington, D.C. 20426

October 1, 2010

In Reply Refer To:  
Belle Fourche Pipeline Company  
Docket Nos. IS09-92-000,  
and IS09-93-000  
(Not Consolidated)

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Dear Counsel:

1. On August 25, 2010, Belle Fourche Pipeline Company and Bridger Pipeline LLC (collectively “the Pipelines”), and Enserco Energy Inc. (“Enserco”) (each individually a “Party” and collectively the “Parties”) filed an Offer of Settlement in the above-referenced proceedings for approval pursuant to Rule 602, 18 C.F.R. § 385.602 (2010), including as Attachments A and B respectively, to the Settlement Agreement a conditional notice of withdrawal of protests pursuant to Rule 216 and 18 C.F.R. § 343.3(d) (2010) and a confidential attachment setting forth additional information regarding consideration. If approved, the Offer of Settlement will resolve the protests in the above-captioned proceedings as between the Pipelines and Enserco, and any investigation in such docket will be terminated. Enserco’s protests in the proceedings alleged that it had been unreasonably delayed or denied truck-unloading interconnections to the Pipelines. On August 8, 2010, the Deputy Chief Administrative Law Judge certified the Offer of Settlement to the Commission.

2. Section I. The Parties. This section enumerates and describes the Parties to the Settlement Agreement.

3. Section II. Background and Summary. This section provides the procedural history of the above-captioned proceedings.

4. Section III.A. Satisfaction of Protests. This section provides that, based upon the covenants and consideration set forth in the Settlement Agreement and pursuant to 18 C.F.R. § 343.3(d), the protests are satisfied by the Settlement Agreement. The consideration set forth in Section III.D. of the Settlement Agreement shall be Enserco's full, exclusive, and complete compensation as to and extinguishes all claims through the Effective Date that Enserco may have with respect to the subject matter of its protests in Docket Nos. IS09-92-000 and IS09-93-000. The Effective Date is the date upon which a Commission order approving the Settlement Agreement without modification or condition becomes final and no longer subject to appeal.

5. Section III.B. Notice of Withdrawal of Protests. This section states that the Parties incorporate as Attachment A to the Settlement Agreement a Conditional Notice of Withdrawal of Protests (Notice), giving notice of the withdrawal of Enserco's protests in the captioned proceedings, which will become effective on the Effective Date.

6. Section III.C. Commission Action on the Settlement Agreement. Subpart (1) of this section requests that the Commission approve the Settlement Agreement without condition or modification as fair, reasonable, and in the public interest and states that if the FERC rejects this Settlement Agreement or approves it subject to condition or modification, the Settlement Agreement and Notice shall be void and of no legal effect. Subpart (2) provides that the Parties may, but have no obligation to, request rehearing of any such Commission order on the Settlement Agreement or petition a court to review any order rejecting, conditioning or modifying the Settlement Agreement or any portion thereof. Further, pursuant to this section of the Settlement Agreement, the Parties reserve the right to agree to modify the Settlement Agreement and to submit the modified Settlement Agreement to the Commission for its approval.

7. Section III.D. Consideration. Subpart (1) of this section provides that the Pipelines and Enserco agree to enter into certain commercial agreements. Subpart (2) of this section provides that the Pipelines will undertake commercially reasonable measures to increase the maximum volume permissible at certain Enserco-owned facilities. Subpart (3) of this section provides that the Pipelines agree to provide electronic notice of all tariff changes and other generally-applicable FERC filings on the same day as they are filed with FERC to any subscriber who submits a request for such notice and provides and email address. Subpart (4) of this section provides that the Pipelines agree to accept any pipelines that may be assigned or otherwise transferred to them by Eighty-Eight Oil

LLC<sup>1</sup> and, on a best-efforts basis, to file tariffs at the Commission for such pipelines within 90 days after the Effective Date of the Settlement Agreement and, for subsequently assigned pipelines, 90 days after such assignment or transfer. Further, the Pipelines will provide Enserco immediate notice specifying the nature of the delay if circumstances prevent compliance by the target date. Subpart (5) of this section provides that Enserco agrees to waive its rights to challenge certain prior and/or existing rates and practices of the Pipelines. Subpart (6) of this section provides that certain additional information regarding consideration under the Settlement Agreement is contained in the confidential Attachment B. The Settlement Agreement provides that all of the above consideration is an integral part of the Settlement Agreement.

8. Section III.E. Confidentiality. This section provides that confidentiality will be maintained for all Enserco movements, in accordance with the Interstate Commerce Act (ICA) and regulations and orders of the Commission. Further, confidentiality of the Settlement Agreement shall be maintained by Enserco, the Pipelines, Eighty-Eight Oil, and their respective parents, affiliates and subsidiaries, for a period of five years from the Effective Date of the Settlement Agreement.

9. Section IV. Reservations and Stipulations. This section includes the concluding reservations and stipulations. The Parties agree that the Settlement Agreement represents a fair, reasonable negotiated settlement that is subject to FERC jurisdiction and is in the public interest. The provisions of the Settlement Agreement relate only to the matters specifically referred to therein, and no Party waives any claim or right that it might otherwise have to matters not expressly provided for in the Settlement Agreement.

10. The Parties acknowledge and agree that the Settlement Agreement does not endorse and/or accept any particular application of Commission policies and does not resolve or establish FERC precedent. Further, the Parties acknowledge and agree that the Settlement Agreement does not endorse and/or accept any particular position taken by any of the Parties in the captioned proceedings.

11. The Parties acknowledge and agree that there are no other agreements—express or implied, in writing or oral—affecting the terms of the Settlement Agreement other than those reflected in the Settlement Agreement and that no amendments to the Settlement Agreement will be effective unless reduced to writing and signed by the duly authorized representatives of the Parties or their lawful successors and filed with the Commission. The Settlement Agreement is binding on each Party's successors, assigns, and affiliates.

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<sup>1</sup> Eighty-Eight Oil LLC (Eighty-Eight Oil) is a crude oil marketer and a shipper of crude oil on one or more pipeline segments of the Pipelines. Eighty-Eight Oil is an affiliate of the Pipelines.

The Settlement Agreement will be governed by federal law, to the extent applicable, and otherwise in accordance with the laws of the State of Wyoming. The Settlement Agreement may be executed in separate and identical counterparts which will all constitute one agreement.

12. Section V. Execution. This section provides that each of the individuals signing the Settlement Agreement represents that he or she has the actual authority to bind his or her respective company.

13. The Commission finds that the Offer of Settlement, and the mutual exchange of consideration provided thereunder, appears to be a fair and reasonable resolution of the disputes between the Pipelines and Enserco and is in the public interest. Neither the Settlement Agreement nor the Commission's approval of the Settlement Agreement constitutes approval of, or precedent regarding, any principle or issue in these proceedings.

14. The Commission approves the Settlement Agreement without condition or modification and grants the conditional notice attached as Attachment A to the Settlement Agreement, subject to the Settlement Agreement becoming effective under its terms. If Belle Fourche and Bridger have made their baseline electric tariff filing pursuant to Order No. 714, and did not file the Settlement in the eTariff format required by Order No. 714, they are required to make a compliance filing in eTariff format to ensure that their electronic tariff provisions reflect the Commission action in this order.<sup>2</sup> Such a compliance filing also is necessary if the Settlement was filed in eTariff format with actual tariff records (as opposed to pro forma records).

15. This letter order terminates Docket Nos. IS09-92-000 and IS09-93-000.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>2</sup> See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 96 (2008).