

140 FERC ¶ 61,196  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony T. Clark.

Docket No. ER12-2273-000

Public Service Company of Colorado

ORDER ACCEPTING AND SUSPENDING REVISED TARIFF SHEETS AND  
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued September 17, 2012)

1. In this order we accept revised tariff sheets to the Xcel Energy Operating Companies' Joint Open Access Transmission Tariff (Joint OATT). The revised tariff sheets add a new Attachment U to the Joint OATT, which provides for standardized terms and conditions for interconnections between the transmission facilities of Northern States Power Company, a Minnesota corporation (NSPM) and Northern States Power Company, a Wisconsin corporation (NSPW) (collectively, the NSP Companies), and the facilities of load-serving entities connected to NSPM and NSPW. As discussed below, we accept the revised tariff sheets for filing and suspend them, to become effective September 18, 2012, subject to refund.<sup>1</sup> We also establish hearing and settlement judge procedures.

**I. Background and Xcel's Filing**

2. On July 19, 2012, Xcel Energy Services, Inc. (Xcel), on behalf of its affiliated operating companies NSPM and NSPW, filed a proposed new Attachment U (Form of

---

<sup>1</sup> Public Service Company of Colorado, FERC FPA Electric Tariff, Transmission Tariffs, [TABLE OF CONTENTS, 0.1.0](#) and [U, Form of Svc Agmt for Trans to Load Intercon Svc, 0.0.0](#). Xcel notes that the Public Service Company of Colorado, another operating company affiliate of Xcel, has been designated as the responsible entity for submitting revisions to Xcel's Joint OATT pursuant to the Commission's eTariff rules. Xcel Transmittal Letter at 1, n.1.

Service Agreement for Transmission to Load Interconnection Service) (hereafter, *pro forma* T-L Agreement) to the Xcel Joint OATT. Xcel states that proposed Attachment U provides for standardized terms and conditions for interconnection between the transmission facilities of the NSP Companies and the facilities of load-serving electric wholesale customers of the NSP Companies.<sup>2</sup>

3. The NSP Companies are transmission-owning members of the Midwest Independent Transmission System Operator, Inc. (MISO), and provide the majority of their wholesale transmission services pursuant to MISO's Open Access Transmission, Energy and Operating Reserve Markets Tariff. As Xcel explains in its application, however, the NSP Companies also provide grandfathered transmission services and bundled wholesale energy services to certain municipal utilities and municipal power agencies connected with the NSP Companies' systems, pursuant to individual rate schedules on file with the Commission.<sup>3</sup>

4. Xcel states that a number of the NSP Companies' grandfathered wholesale power sales or transmission and interconnection services agreements may expire or be terminated over the next several years, precipitating a potential need for replacement with some form of interconnection services agreement.<sup>4</sup> Xcel is proposing to standardize the terms and conditions for such services, to the extent possible, through the *pro forma* T-L Agreement. Xcel states that the terms of the proposed *pro forma* T-L Agreement are based on the Large Generator Interconnection Agreement (LGIA) included in the Xcel Joint OATT, along with terms and conditions in other of the NSP Companies' Transmission-to-Transmission Interconnection Agreements, as filed with the Commission.<sup>5</sup>

5. In its transmittal letter, Xcel also notes that the Commission's audit staff has noted certain inconsistencies in the terms of the NSP Companies' existing Municipal

---

<sup>2</sup> Xcel states that Attachment U will not apply to load serving interconnections on the Public Service Company of Colorado and Southwestern Public Service Company systems at this time, but anticipates filing a similar *pro forma* agreement for those systems at a future date. *Id.* at 1, n.3.

<sup>3</sup> *Id.* at 2.

<sup>4</sup> *Id.* at 3-4.

<sup>5</sup> *Id.* at 2-3, 5.

Interconnection and Interchange Agreements (I&I Agreements),<sup>6</sup> referencing a recent Commission audit of the NSP Companies' compliance with certain reporting and accounting rules.<sup>7</sup> In addition, Xcel states that the Audit Report indicated that the NSP Companies could improve their procedures for timely filing of wholesale contracts and cancellations. Xcel states that the *pro forma* T-L Agreement is part of the NSP Companies' response to the Audit Report, as the NSP Companies have indicated in their quarterly compliance filings to that report.

6. Xcel states that Attachment U will allow the NSP Companies to offer standardized terms and conditions for interconnection service to more than 25 wholesale customers whose currently effective wholesale agreements are or will be terminated over the next few years. As one example, Xcel notes that the City of Medford, Wisconsin terminated its Wholesale Service Agreement with NSPW effective December 31, 2011, and is currently taking interconnection services pursuant to a temporary interconnection agreement.<sup>8</sup> In addition, Xcel states that nine other municipal wholesale customers of NSPW have issued notices of termination, effective December 31, 2012.<sup>9</sup> Xcel notes that despite termination of their power purchase agreements, these customers will remain connected to the NSP Companies' system and will require that a replacement interconnection agreement be put in place promptly. The NSP Companies intend to use the proposed *pro forma* T-L Agreement for these former bundled wholesale customers, as well as to replace expiring I&I Agreements, as discussed above.

7. Xcel states that it shared a draft *pro forma* T-L Agreement with affected customers prior to making the instant filing, and made a number of changes to its original proposal in response to feedback from those customers.<sup>10</sup> Xcel asserts that the proposed terms and conditions of the *pro forma* T-L Agreement are just and reasonable, and can be applied to most of the load-serving entities needing interconnection services. Xcel further maintains

---

<sup>6</sup> Through I&I Agreements, Northern States has historically provided wholesale power sales and transmission-to-load interconnection services in a single agreement.

<sup>7</sup> *Id.* at 3 (citing to Docket No. FA10-8-000, Audit of Fuel Adjustment Clause of Northern States Power-Minnesota and Northern States Power-Wisconsin (April 22, 2011) (Audit Report)).

<sup>8</sup> *Id.* at 4 (citing *Xcel Energy Services, Inc.*, Docket Nos. ER12-671-000, ER12-714-000 (Feb. 13, 2012) (delegated letter order)).

<sup>9</sup> *Id.* at 4.

<sup>10</sup> *Id.* at 5.

that use of a *pro forma* T-L Agreement will ensure that customers receive non-discriminatory services and are treated on a fair and consistent basis. In addition, Xcel argues that the *pro forma* T-L Agreement will allow for a more efficient process in entering into new interconnection agreements, which it believes is critical due to the volume of expiring or terminating agreements. Xcel notes, however, that it will make reasonable efforts to address unique circumstances and file a non-conforming agreement where necessary.

8. Xcel asks for an effective date of August 1, 2012 for the revised tariff sheets (thirteen days after filing). Xcel argues that good cause exists for waiver of the Commission's 60-day prior notice requirement, as it is needed to allow customers whose wholesale service agreement will expire on Dec. 31, 2012 to transition to the new interconnection service and to allow for any necessary pre-testing and construction associated with that transition.

## **II. Notice of Filing and Responsive Pleadings**

9. Notice of the filing was published in the Federal Register, 77 Fed. Reg. 44,607 (2012), with interventions and comments due on or before August 9, 2012. Timely motions to intervene and protests were filed by Missouri River Energy Services, Inc. (Missouri River),<sup>11</sup> Municipal Intervenors,<sup>12</sup> Minnesota Municipal Power Agency (MMPA),<sup>13</sup> and Midwest Municipal Transmission Group (MMTG).<sup>14</sup>

---

<sup>11</sup> Missouri River is a municipal joint action agency comprised of 61 member municipal utilities located in Iowa, Minnesota, North Dakota, and South Dakota. Missouri River moves to intervene on behalf of itself and five members: Hillsboro Municipal Utilities, Marshall Municipal Utilities, Saint James Public Utility, Melrose Public Utilities, and Sauk Centre Public Utilities, each of which is interconnected with the NSP Companies pursuant to existing interconnection or other grandfathered agreements.

<sup>12</sup> Municipal Intervenors are a group of nine Wisconsin cities and one Michigan city who are currently wholesale customers of NSPW but which have issued notices of termination of their bundled requirements contracts.

<sup>13</sup> MMPA is municipal power agency consisting of eleven member Minnesota distribution utilities, including the Cities of Buffalo and East Grand Forks, all of which are interconnected with Xcel.

<sup>14</sup> MMTG states that its members include over 77 transmission-dependent cities and governmental entities in Iowa, Minnesota and Illinois. MMTG intervenes on behalf

(continued...)

10. On August 13, 2012, MMTG filed a motion to file proposed modifications to Xcel's T-L Interconnection Agreement (MMTG Motion), along with suggested revisions to the proposed tariff sheets in redline form.<sup>15</sup> On August 24, 2012, Xcel filed an answer to the MMTG Motion, combined with a motion for leave to answer and answer to protests. On September 5, 2012, Municipal Intervenors filed an answer, and MMTG filed a reply, to Xcel's August 24<sup>th</sup> answer, along with motions for leave to file their respective answers.

11. MMPA and MMTG request clarification that the *pro forma* T-L Agreement will not affect existing agreements until those agreements are cancelled or modified pursuant to Commission requirements, and protest the filing as a violation of the *Mobile-Sierra* doctrine absent such a clarification.<sup>16</sup> MMPA also objects to Xcel's apparent intent to apply the *pro forma* T-L Agreement to two of MMPA's member cities, Buffalo and East Grand Forks, as they are currently served under an I&I Agreement between MMPA and Xcel. MMPA argues that requiring a change, from all eleven MMPA members being served under one agreement to having nine members served under the existing agreement while two are served under the *pro forma* T-L Agreement, is an unjust and unreasonable change in service.<sup>17</sup> MMPA also notes that termination of East Grand Forks' existing I&I Agreement would apparently also terminate an existing Transmission Facilities Agreement with East Grand Forks, and therefore requests that Xcel be directed to negotiate with East Grand Forks for continuation of the services no longer covered (i.e., the delivery of Western Area Power Authority power).<sup>18</sup>

12. MMPA notes that existing I&I Agreements are generally bilateral, individually negotiated agreements, and protests Xcel's proposal to substitute its unilaterally established terms and condition.<sup>19</sup> As one example, MMPA notes that Xcel has proposed requiring interconnection customers to carry \$20 million in excess liability insurance,

---

of itself, the Central Minnesota Municipal Power Agency, the City of Willmar, and the City of East Grand Forks.

<sup>15</sup> The proffered changes are consistent with the modifications proposed in MMTG's protest, and therefore are not separately discussed.

<sup>16</sup> MMPA Protest at 4-5, MMTG Protest at 8-15.

<sup>17</sup> MMPA Protest at 5.

<sup>18</sup> *Id.* at 6; *see also* MMTG Protest at 8-9.

<sup>19</sup> MMPA Protest at 5.

although MMPA and its members all have a statutory limit on tort liability, which could be waived if they comply with Xcel's proposed liability insurance requirement.<sup>20</sup> MMPA requests that the proposed tariff changes be referred to a settlement judge and set for hearing if not settled, and that the tariff changes be suspended until a settlement is reached.

13. In addition to its concerns with Xcel's possible intent to have the *pro forma* T-L Agreement supersede existing agreements, as noted above, MMTG maintains that it is unclear whether the agreement would cover transmission-to-distribution interconnections only, and how the *pro forma* T-L Agreement would affect existing agreements that cover interconnection services along with other services.<sup>21</sup> MMTG further argues that the *pro forma* T-L Agreement does not specifically provide for modification where needed to adjust to specific facts and circumstances, and therefore maintains that the *pro forma* T-L Agreement should either be rejected or modified as appropriate. MMTG identifies a number of provisions that it maintains require modification, including section 2.01, which states that the *pro forma* T-L Agreement automatically abrogates existing contracts, section 3.01, which requires an automatic ten year term, and section 3.02, which fails to provide for mutuality with respect to early termination fees.<sup>22</sup>

14. MMTG also objects to the terms under which Xcel can disconnect an interconnection customer under section 4.02, and maintains that any such disconnection should be done in accordance with Good Utility Practice, require consultation where possible, and be mutually applicable.<sup>23</sup> Similarly, MMTG maintains that sections 4.03, 4.04 and 4.05, which cover allocation of costs for interconnection facilities and network upgrades, *inter alia*, must provide for mutual benefits and must allow for customer participation.<sup>24</sup> In addition, MMTG argues that section 4.06 should be revised to give customers the option of owning the facilities if the customer pays the costs of the facility construction.

15. MMTG also argues that section 4.11 should be revised to give the customer the option to self-manage or to pay Xcel to handle meter data management on the customer's

---

<sup>20</sup> *Id.* at 5-6.

<sup>21</sup> MMTG Protest at 8-9, 10-12.

<sup>22</sup> *Id.* at 14-16.

<sup>23</sup> *Id.* at 17.

<sup>24</sup> *Id.* at 17-19.

behalf.<sup>25</sup> In addition, MMTG states that section 5.02 provides that the customer must notify Xcel of forced outages, but that this provision fails to require Xcel to similarly notify the customer of forced outages that could impact the customer.<sup>26</sup> MMTG also objects to section 9.03, which provides for automatic arbitration in the event of a billing dispute; section 10.01, which fails to include electronic communications as a means of fulfilling notice requirements; and to section 13.01's liability insurance requirements.<sup>27</sup>

16. MMTG requests that the Commission suspend the *pro forma* T-L Agreement for the maximum allowed period and set it for hearing and settlement judge procedures or alternative dispute resolution procedures.<sup>28</sup> Despite requesting the maximum suspension period, MMTG notes that it has no objection "to application of the proposed tariff to NSP-Wisconsin service or to any requesting wholesale customer."<sup>29</sup>

17. Municipal Intervenors do not object to adoption of a *pro forma* interconnection agreement for load-serving entities in theory, and support Xcel's proposed effective date of August 1, 2012. However, Municipal Intervenors raise a number of objections to specific provisions of the *pro forma* T-L Agreement as proposed, many similar to those raised by other intervenors, as discussed further below.

18. Municipal Intervenors object that Article IV of the *pro forma* T-L Agreement does not provide for reciprocity and mutuality with respect to ownership, construction and maintenance of interconnection facilities and network upgrades.<sup>30</sup> In addition, Municipal Intervenors argue that Article IV of the agreement fails to provide adequate transparency in reviewing cost allocation decisions, in part because it relies on Xcel's "Cost Allocation Policy" without incorporating that policy into the tariff sheets.<sup>31</sup> Municipal Intervenors also ask that section 4.07 be eliminated, because it gives the NSP Companies an impermissible level of discretion in determining whether to disconnect from the

---

<sup>25</sup> *Id.* at 21-22.

<sup>26</sup> *Id.* at 22.

<sup>27</sup> *Id.* at 22-24.

<sup>28</sup> *Id.* at 25.

<sup>29</sup> *Id.* at 10, n.6.

<sup>30</sup> Municipal Intervenors Protest at 5-6.

<sup>31</sup> *Id.* at 6-7.

interconnection customer, and argue that any such disconnection should be limited to emergencies and other situations covered in Article V.<sup>32</sup>

19. Municipal Intervenors also argue that the proposed insurance provisions in Article XIII, including the \$20 million excess liability policy requirement, are onerous. Finally, Municipal Intervenors maintain that the NSP Companies should be required to enter into comparable *pro forma* T-L Agreements with any load-serving organizations within the NSP Companies.<sup>33</sup>

20. Like MMTG, Missouri River argues that section 3.02 of the *pro forma* T-L Agreement fails to provide for reciprocal treatment with respect to early termination fees, which is contrary to section 2.4 of MISO's LGIA.<sup>34</sup> Missouri River also argues that section 4.04 should be revised, consistent with MISO's LGIA, to require transparent and customer-reviewable interconnection studies prior to any allocation of costs for network upgrades.<sup>35</sup>

21. Like Municipal Intervenors, Missouri River objects to Xcel's proposed use of Xcel's "Cost Allocation Policy" in sections 4.04, 4.05, and 4.06 of the *pro forma* T-L Agreement, which is incorporated by reference rather than attached to the revised tariff sheets.<sup>36</sup> Missouri River also objects to the *pro forma* T-L Agreement's reference to "Interconnection Guidelines," arguing that the filed rate doctrine requires that any such policy or guidelines be filed as part of the tariff.<sup>37</sup>

22. Missouri River raises similar objections as MMTG and Municipal Intervenors with respect to the NSP Companies' discretion to disconnect from an interconnection customer in section 4.02 of the *pro forma* T-L Agreement, with no requirement to adhere to Good Utility Practice and contrary to the disconnection provisions of MISO's LGIA.<sup>38</sup> Missouri River also objects to the disconnection provisions of section 4.07, which

---

<sup>32</sup> *Id.* at 7-8.

<sup>33</sup> *Id.* at 8-10.

<sup>34</sup> Missouri River Protest at 12-13.

<sup>35</sup> *Id.* at 13-14.

<sup>36</sup> *Id.* at 7-9.

<sup>37</sup> *Id.* at 10.

<sup>38</sup> *Id.* at 11.

provides NSP complete discretion to disconnect for failure to provide NSP access when needed to perform inspections, maintenance, service and operational reviews.<sup>39</sup> Finally, Missouri River objects to the liability insurance requirements of section 13.01(d), and requests that it be revised to make an exception for certain customers prohibited by state statute from carrying more than a certain amount of liability insurance.<sup>40</sup>

### **Xcel's Answer and Intervenors' Responses**

23. Xcel submitted an answer to the MMTG Motion as well as to the timely-filed protests of Municipal Intervenors, MMPA, MMTG and Missouri River. In response to the protests, Xcel clarifies that the *pro forma* T-L Agreement would only be applied prospectively, and would not supersede currently effective agreements until those agreements are terminated or expire by their terms.<sup>41</sup> Xcel further clarifies that the *pro forma* T-L Agreement is intended to cover interconnection services only, and that any other required services will have to be covered in a separate agreement, but commits to working with affected customers to negotiate any arrangements needed for those services.<sup>42</sup> Xcel further notes that the *pro forma* T-L Agreement was intended and designed to cover the majority of interconnections with load-serving entities, but recognizes that certain specific situations may require filing of a non-conforming agreement.<sup>43</sup>

24. Xcel disagrees that it is inappropriate to reference its Cost Allocation Policy and Interconnection Guidelines without incorporating those documents into the Joint OATT, noting that the documents are highly technical and subject to change, and that updating its entire Joint OATT to reflect such changes would be administratively burdensome.<sup>44</sup> Xcel also explains that the proposed insurance requirements and non-reciprocal early termination fees are just and reasonable, based on the extent of risk the NSP Companies face in providing the interconnection services and based on the NSP Companies' non-reciprocal obligation to continue providing interconnection services unless and until a

---

<sup>39</sup> *Id.* at 12.

<sup>40</sup> *Id.* at 14-15.

<sup>41</sup> Xcel Answer at 6-7.

<sup>42</sup> *Id.* at 9.

<sup>43</sup> *Id.* at 10-11.

<sup>44</sup> *See id.* at 14-15.

customer can obtain transmission services elsewhere.<sup>45</sup> Finally, Xcel rejects the notion, suggested by Municipal Intervenors, that it should be required to execute the *pro forma* T-L Agreement with load-serving entities within the NSP Companies.<sup>46</sup>

25. However, Xcel agrees with protestors on a number of points and agrees to make conforming changes to the *pro forma* T-L Agreement on compliance, agreeing as follows: to incorporate a Good Utility Practice standard in section 4.02, to modify section 4.07 to make it reciprocal (with the exception of subsection (g)) and to include an obligation to notify, and to allow the customer to choose the entity providing Meter Data Management Agent services in section 4.11.<sup>47</sup>

26. With respect to the MMTG Motion, Xcel argues that it is an untimely supplemental protest, is procedurally deficient, and should be rejected.<sup>48</sup> Xcel maintains that the MMTG Motion does not help clarify the record and will not aid the Commission in the decision-making process, and instead confuses the record by requiring Xcel and the other parties to comment on MMTG's proposed version of the *pro forma* T-L Agreement. Finally, Xcel maintains that no additional process is necessary and that the Commission can make a decision regarding the proposed *pro forma* T-L Agreement through a "paper hearing" process.<sup>49</sup>

27. In their respective responses to Xcel's Answer, Municipal Intervenors and MMTG maintain that the current record is insufficient to decide the many disputed issues in this proceeding as part of a paper hearing, as Xcel has argued, and that the appropriate course is to set the proposed *pro forma* T-L Agreement for settlement and hearing proceedings. They also maintain that any acceptance of the *pro forma* T-L Agreement should include the revisions to which Xcel has agreed. Municipal Intervenors and MMTG also request that the Commission establish interim terms and conditions for service for expiring agreements, and suggest that the Commission order the NSP operating companies to continue to provide service under the terms of those expiring agreements until the settlement and hearing proceedings related to the new *pro forma* T-L Agreement is completed.

---

<sup>45</sup> *Id.* at 15-20.

<sup>46</sup> *See id.* at 24-26.

<sup>47</sup> *Id.* at 20-24.

<sup>48</sup> *Id.* at 2-3.

<sup>49</sup> *Id.* at 29.

### III. Discussion

#### A. Procedural Matters

28. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

29. We will deny the late-filed MMTG Motion and proposed changes to the *pro forma* T-L Agreement as an untimely supplemental protest.

30. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority. We will accept Xcel's answer to the protests, as well as the responses to Xcel's answer filed by MMTG and Municipal Intervenors, because they have provided information that assisted us in our decision-making process.

#### B. Commission Determination

31. Xcel's *pro forma* T-L Agreement raises issues of material fact that cannot be resolved based on the record before us, and that are more appropriately addressed in the hearing and settlement judge procedures ordered below.

32. Our preliminary analysis indicates that the *pro forma* T-L Agreement has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we will accept the *pro forma* T-L Agreement for filing, suspend it, make it effective September 18, 2012, subject to refund, and set it for hearing and settlement judge procedures.

33. We deny Xcel's request for waiver of the Commission's prior notice requirement, as Xcel has failed to show good cause for such waiver,<sup>50</sup> and note that Xcel has indicated that the earliest date that service may be taken under the *pro forma* T-L Agreement is after December 31, 2012. We reject MMTG's request for maximum suspension because MMTG has failed to show that Xcel's filing meets the standard we set out in *West Texas*,

---

<sup>50</sup> *Central Hudson Gas and Electric Corp.*, 60 FERC ¶ 61,106, order on reh'g, 61 FERC ¶ 61,089 (1992).

which requires that such a suspension is warranted when the filing involves a rate increase that the Commission preliminarily finds to be substantially excessive.<sup>51</sup>

34. While we are setting this matter for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.<sup>52</sup> If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.<sup>53</sup> The settlement judge shall report to the Chief Judge and the Commission within 30 days of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

The Commission Orders:

(A) Xcel's Form of Service Agreement for Transmission to Load Interconnection Services (*pro forma* T-L Agreement) is hereby accepted for filing and suspended, to become effective September 18, 2012, subject to refund, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of Xcel's *pro forma* T-L Agreement. However, the hearing will be held in abeyance to provide

---

<sup>51</sup> See *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982) (suspension for the maximum period of five months is appropriate where a rate increase is found, by the Commission's preliminary analysis, to be "substantially excessive.")

<sup>52</sup> 18 C.F.R. § 385.603 (2012).

<sup>53</sup> If the parties decide to request a specific judge, they may make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges and a summary of their background and experience ([www.ferc.gov](http://www.ferc.gov) – click on Office of Administrative Law Judges).

time for settlement judge procedures, as discussed in Ordering Paragraphs (C) and (D) below.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2012), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge in writing or by telephone within five (5) days of the date of this order.

(D) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(E) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.