



# FEDERAL ENERGY REGULATORY COMMISSION

NEWS

January 15, 2009

Docket Nos. RP04-274-000, RP04-274-007 and RP04-274-009

News Media Contact

Barbara A. Connors - 202.502.8680

## **FERC Rejects Contested Kern River Settlement, Rules on Return on Equity**

The Federal Energy Regulatory Commission (FERC) today rejected a contested Kern River Gas Transmission settlement, finding that the 12.50 percent return on equity (ROE) in the settlement rates was excessive and would result in unjust and unreasonable rates. FERC determined that Kern River's ROE should be 11.55 percent.

"The reason for including master limited partnerships in setting a proxy group is to assure an adequate sample for determining a pipeline's ROE and to obtain consistent regulatory results," FERC Chairman Joseph T. Kelliher said, noting that today's order is the first ROE finding under the Commission's 2008 Policy Statement. "The Commission's role is to balance the interests of investors while protecting the ratepayer from excessive rates, and we have done so with this order."

In October 2006 (Opinion No. 486), FERC determined Kern River should have an 11.20 percent ROE in its rates charged for interstate natural gas transportation service, rather than the 9.34 percent ROE recommended by an administrative law judge. In that Opinion FERC also ruled that two corporations should have been excluded from the proxy group upon which the ALJ relied to calculate the ROE. On rehearing, in an April 2008 ruling (Opinion No. 486-A), FERC ordered a paper hearing on the issue of the composition of the proxy group to be used in developing a Discounted Cash Flow analysis and determining related issues of risk.

Today's order addresses the paper hearing on ROE established in Opinion No. 486-A, denies a request for rehearing, and rejects a contested settlement filed by Kern River. FERC held that it could not approve Kern River's contested rate settlement as just and reasonable because the ROE embedded in the settlement rates was too high, and therefore the resulting rates were unjust and unreasonable. Instead, based on the record established in the paper hearing, FERC found that Kern River's ROE should be set at 11.55 percent. This allowed ROE is set at the median of a proxy group that includes, for the first time in a pipeline rate proceeding, both master limited partnerships and corporations. Based on its analysis, FERC determined that the ROEs of the five firms selected for the proxy group yield a range of reasonable returns of 8.80 percent to 13 percent, with a median ROE of 11.55 percent. This result is consistent with FERC's April 2008 Policy Statement, *Composition of Proxy Groups for Determining Gas and Oil Pipeline Return on Equity*.

FERC directed Kern River to cancel its interim rates filed with the settlement and made effective Oct. 1, 2008, and to make a revised compliance filing 45 days after today's order issues, using a 11.55 percent ROE. Comments are due 75 days after this order issues and reply comments are due within 90 days. FERC also directed Kern River to recapture the interim refunds at the earliest practical date, as required by the settlement.

(30)

R-09-6

