

103 FERC ¶ 61,232
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 23, 2003

In Reply Refer To:

Docket Nos. RP02-356-000, RP02-356-001
and RP02-356-002

Canyon Creek Compression Company
Attention: Bruce Newsome
Vice President of Rates
747 East 22nd Street
Lombard, IL 60148

Dear Mr. Newsome:

1. On March 21, 2003 Canyon Creek Compression Company (Canyon) filed an uncontested Stipulation and Agreement (Settlement). The Settlement provides for a comprehensive resolution of all issues in Canyon's general rate proceeding pending in the captioned docket. The only intervenor, BP America Production Co. and BP Energy Co. (BP) supports the settlement. Commission Trial Staff filed initial comments on April 4, 2003 and does not oppose the settlement. Initial Comments in support of the settlement were filed by Canyon Creek on April 7, 2003. On April 14, 2003, the Settlement Judge certified the settlement to the Commission as uncontested.

Background

2. Canyon filed its general rate case herein on May 31, 2002. The rates in this filing were suspended until December 1, 2002, pursuant to a Commission order issued on June 27, 2002 (Suspension Order).¹

3. Canyon's filing included both a primary and an alternate case. Under the primary case, Canyon proposed a cost-of-service tracking mechanism. In the alternate case, Canyon proposed higher rates, but no cost-of-service tracking mechanism. In the Suspension Order, the Commission accepted the tariff sheets reflecting Canyon's primary case, subject to a technical conference.

¹Canyon Creek Compression Co., 99 FERC ¶ 61,351 (2002).

4. The technical conference procedure established in the Suspension Order was for the purpose of exploring certain issues raised in a protest filed by BP. Conferences pursuant to the Suspension Order took place on September 10 and October 8, 2002. Initial and reply comments regarding issues in the technical conferences were filed by BP and Canyon. On November 22, 2002, the Commission issued a further order in this proceeding (Hearing Order).² In the Hearing Order, the Commission accepted the tracking mechanism, but set cost-of-service issues for hearing. The hearing was held in abeyance, however, pending settlement procedures involving a settlement judge.

5. Canyon's revised rates, including the cost-of-service tracking mechanism, went into effect on December 1, 2002, subject to refund, consistent with the Suspension Order and the Hearing Order.

6. On December 23, 2002, BP sought rehearing of the Hearing Order, on issues related to the tracking mechanism. On January 22, 2003, the Commission issued an order granting rehearing for purposes of further consideration.

7. As a result of settlement discussions with BP, Canyon developed and submitted the Settlement which, upon approval by the Commission, will resolve all issues in Docket No. RP02-356-000 and provide for reduced rates and refunds to Canyon's customers.

The Offer of Settlement

8. Article I of the Settlement sets out the procedural background to the proceeding. If approved, the Settlement will resolve all issues in the captioned dockets.

9. Article II governs rates and refunds as follows.

(a) Section 2.1 of the Settlement provides that the Settlement rates in Appendix A will be effective December 1, 2002. The cost of service underlying the Settlement rates is set out in Appendix B to the Settlement.

(b) Section 2.2 of the Settlement states that the Settlement rates are subject to semi-annual adjustments under the cost-of-service tracking mechanism, with the first adjustments to be effective June 1, 2003. Tracking filings must comply with Article III of the Settlement.

² Canyon Creek Compression Co., 101 FERC ¶ 61,233 (2002).

(c) Section 2.3 of the Settlement addresses the calculation of refunds, based on the difference between rates determined under the Settlement and the rates actually charged by Canyon, plus applicable interest. Canyon is to make refunds within 30 days after the Settlement becomes effective and is to file and serve a Refund Report within 30 days after refunds are made.

10. Article III of the Settlement (Tracking Adjustments) governs application of the tracking mechanism.

(a) Canyon will reflect in any tracking filing the following factors and principles, which underlie the Settlement rates: (i) subject to Section 3.3 of the Settlement, the depreciation rate shall be 3.1 percent; (ii) Canyon shall not reflect any allowance for negative salvage; (iii) a hypothetical capital structure of 50 percent debt/50 percent equity shall be used, with a 6.80 percent cost rate for debt and a return on equity of 10.99 percent; (iv) Canyon will utilize the statutory corporate Federal income tax rate (currently 34 percent) in the derivation of its cost of service; (v) Canyon will utilize the statutory state income tax rate for the State of Wyoming (currently zero) in deriving the cost of service; (vi) Canyon shall not reflect any amortization of environmental clean-up costs, but may reflect actual costs prudently incurred for environmental clean-up; (vii) Canyon may reflect a five-year amortization of prudent rate case expenses actually incurred, excluding any costs related to employees of Canyon or Canyon's affiliates, subsidiaries or related companies; (viii) Canyon's working capital allowance shall not include an operator advance component, and any cash working capital allowance in future tracking filings must be supported by a lead-lag study as required by Section 154.63 of the Commission's Regulations; and (ix) Canyon is to reduce rate base by the principal amount of the unamortized excess deferred income tax balance.

(b) Section 3.2 of the Settlement addresses the rights of intervenors in tracking filing proceedings and Canyon's obligation to provide adequate support for such filings.

(c) Section 3.3 of the Settlement addresses circumstances under which the depreciation rate may be at issue in Canyon's tracking filing proceedings. Those circumstances relate to: the shut down of or the reduction in operations at the Carter Creek processing plant, with the volumes previously processed there being transferred to the Whitney Canyon processing plant; a substantial new supply source, other than the Carter Creek plant, beginning to flow on Canyon; and Canyon's facilities becoming fully depreciated.

11. Article IV of the Settlement (Excess Deferred Taxes) deals with the passback of deferred excess income taxes and continues the method adopted in Canyon's prior settlement.

12. Article V of the Settlement (Operation of Canyon) discusses an agreement to enter into good faith negotiations as to the terms and conditions under which the operator of the Whitney Canyon processing plant (or an affiliate or third party) would take over operation of Canyon's facilities. This Article also provides that if operation of Canyon's facilities is assumed by another entity, duplicative charges for operation may not be included in Canyon's tracking mechanism.

13. Article VI of the Settlement discusses the effect of the Settlement in resolving all issues in the case and the withdrawal of the pending rehearing request.

14. Article VII of the Settlement governs conditions precedent to the Settlement's effectiveness.

15. Article VIII of the Settlement describes the privileged nature of the Settlement.

16. Article IX of the Settlement defines the term of the Settlement.

Discussion

17. The Commission finds that the Offer of Settlement is fair and reasonable and in the public interest. The Settlement resolves all issues in this proceeding, and the Commission therefore approves the settlement pursuant to §385.602(g)(3) of the Commission's Rules and Regulations. 18 C.F.R. § 385.602(g)(3). Canyon shall pay required refunds 30 days after the settlement becomes effective. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue involved in this proceeding.

18. This letter order terminates Docket Nos. RP02-356-000, RP02-356-001, and RP02-356-002.

By direction of the Commission.

Magalie R. Salas,
Secretary.

cc: All Parties