

154 FERC ¶ 61,208  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

March 17, 2016

In Reply Refer To:  
Columbia Gas Transmission, LLC  
Docket No. RP16-314-000

Columbia Gas Transmission, LLC  
5151 San Felipe, Suite 2500  
Houston, TX 77056

Attention: Georgia Carter  
Senior Vice President and Deputy General Counsel

Dear Ms. Carter:

1. On December 18, 2015, Columbia Gas Transmission, LLC (Columbia Gas) filed an uncontested Stipulation and Agreement of Settlement and related materials (the Modernization II Settlement or Settlement), pursuant to Rules 207(a)(5) and 602 of the Commission's regulations.<sup>1</sup> According to Columbia Gas, the Settlement continues a rate mechanism that was designed to enable Columbia Gas to recover costs associated with a multi-year modernization program focused on replacing, rehabilitating and/or rebuilding critical pipeline infrastructure and ensuring the safety and reliability of the Columbia Gas transmission system. Columbia Gas requests Commission approval of the Settlement as soon as possible and preferably no later than March 31, 2016 to allow the settling parties to begin receiving the benefits of the Settlement without delay.<sup>2</sup>

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<sup>1</sup> 18 C.F.R. §§ 385.207(a)(5), 385.602 (2015). Columbia Gas requested a procedural schedule, pursuant to Rule 602(f), requiring submission of comments within 20 days from the date of the filing and reply comments, if needed, within 30 days from the date of filing.

<sup>2</sup> The December 18, 2015 filing also included a transmittal letter, Appendices A through E, and three exhibits. According to Columbia Gas, Appendix A reflects

(continued ...)

2. Numerous parties filed comments supporting the Settlement, and while a few parties voiced limited concerns, no party filed comments contesting or opposing the Settlement. Therefore, as discussed below, the Commission approves the Modernization II Settlement as uncontested and fair and reasonable and in the public interest, to be effective as provided for in section 11.3 of the Settlement.

3. Columbia Gas states that the Modernization II Settlement preserves and extends the core elements of a 2012 settlement between Columbia Gas and its shippers that addressed previous modernization issues on the Columbia Gas system (Modernization I Settlement).<sup>3</sup> Columbia Gas states that, among other things, the Modernization II Settlement preserves the Modernization I Settlement's \$60 million base rate reduction and extends for a second term the Capital Cost-Recovery Mechanism (CCRM) that allows Columbia Gas to make annual limited filings under section 4 of the Natural Gas Act (NGA) to charge an additive capital demand rate in order to recover the revenue requirement related to certain eligible projects.<sup>4</sup>

4. Columbia Gas further states that it is in the midst of a long-term modernization effort, through which it is making substantial capital investments to modernize its interstate gas transmission system infrastructure and enhance the system's reliability, safety and regulatory compliance. Columbia Gas states that this modernization effort was initiated in response to shipper expectations for increased firm service reliability and to respond to new regulatory and policy initiatives that address the need for pipeline safety and integrity management programs. Columbia Gas states that the instant Settlement represents a collaborative resolution between Columbia Gas and the vast

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approximately 97% of the Columbia Gas firm shipper base (by percentage of firm capacity holdings) that either support or do not oppose the Settlement.

<sup>3</sup> *Columbia Gas Transmission, LLC*, 142 FERC ¶ 61,062 (2013) (Modernization I Order).

<sup>4</sup> Columbia Gas states that the facilities eligible for recovery under the Modernization II Settlement, referred to as "Eligible Facilities," are described in Appendix E which contains a new Eligible Facilities Plan (EFP II). The facilities eligible for recovery under the Modernization I Settlement are listed in the EFP I, which was attached as Appendix E to the Modernization I Settlement.

majority of its shippers representing diverse interests and addressing numerous complex issues arising out of recent and anticipated changes in pipeline safety and environmental requirements, ongoing efforts of Columbia Gas to enhance pipeline safety and reliability of service and the age of the Columbia Gas system. The principle terms of the Settlement are summarized below.

5. Article I provides background information concerning the efforts of Columbia Gas to modernize its system, explaining that the CCRM established in the Modernization I Settlement allows Columbia Gas to make annual limited filings under section 4 of the NGA to charge an additive capital demand rate (CCRM Rate) in order to recover the revenue requirement related to certain eligible projects. Further, Article I provides that the Modernization II Settlement preserves the core elements of the Modernization I Settlement, including the CCRM and the prior \$60 million base rate reduction. Article I states that the Modernization II Settlement provides substantial benefits to Columbia Gas and/or its customers, which include: (a) additional reductions to base rates; (b) resetting of base rates; (c) a one-time settlement payment of \$5 million (described in Article II); (d) a revenue sharing mechanism; (e) a moratorium on changes to certain base rates (as provided in Article V); (f) a reduction in the pre-tax return allowed under the CCRM; and (g) the specification that certain storage projects listed in EFP II will be included as Eligible Facilities and permit Columbia Gas to undertake construction of additional Eligible Facility projects in 2016-2017, with cost recovery on those projects deferred until 2019.

6. Article II provides for a settlement payment and addresses the amount and terms of the payment. Appendix B represents an illustrative allocation of the \$5 million settlement payment described in Article I. According to Columbia Gas, however, it is required to update Appendix B to reflect each party's most recent maximum daily quantity history in advance of the settlement payment.

7. Article III provides for the resetting of the base rates and for base rate reductions. It describes when Columbia Gas will reset its base transportation rates and the terms related to the resetting of these rates. Article III also provides for, among other things, the termination of the rights and obligations regarding Post Retirement Benefits Other Than Pensions (PBOPs), which will require Columbia Gas to: (a) reduce its currently effective transportation base rates to implement an annual revenue reduction in the Columbia Gas cost of service, as provided in Appendices C and D to the Settlement; (b) reduce the base rates by an amount equal to approximately \$12.2 million annually; and (c) refund any such payments to its ratepayers if the PBOP obligations and certain

trusts are terminated and Columbia Gas receives any assets. Article III further provides that the CCRM Rate associated with the Eligible Facilities expenditures under this Settlement will not be part of the base rate that constitutes the refund floor and that all cost and revenue components of the rates of Columbia Gas, with the exception of depreciation and negative salvage rates, will be considered to be “black-box” in nature.<sup>5</sup> Finally, Article III provides that the subject base rate reductions will be implemented by Columbia Gas filing the *pro forma* tariff records as effective tariff records within 30 days of a final order and requesting waiver to make them effective retroactive to January 1, 2016.<sup>6</sup>

8. Article IV puts certain limitations on Columbia Gas with respect to depreciation and negative salvage rates and the establishment of an Asset Retirement Obligation mechanism and requires Columbia Gas, during the term of the Settlement, to maintain a transmission depreciation rate of 1.5 percent, a storage depreciation rate of 2.19 percent, and a negative salvage rate of 0.0 percent.

9. Article V establishes a moratorium on any changes to the Settlement base rates through January 31, 2022. Accordingly, Article V provides, with certain exceptions, that no new NGA section 4 or 5 rate changes may become effective prior to February 1, 2022. Article VI provides that absent certain contingencies, Columbia Gas will file a general NGA section 4(e) rate application to be effective, following a 30-day notice and maximum statutory suspension period, no later than February 1, 2022. However, Article VI provides that the settling parties may agree to a limited extension of the CCRM and the rate application effective date, subject to Commission approval and Article VII contains provisions related to the amendment and extension of the CCRM.

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<sup>5</sup> Columbia Gas states that Appendix C reflects the derivation of the base rate reductions, which will take effect as of January 1, 2016, as reflected in the *pro forma* tariff record included in Appendix D.

<sup>6</sup> Article III requires Columbia Gas to update its tariff to reflect the resetting of base rates and the \$7.5 million base rate reduction at least 30 days prior to the February 1, 2019 effective date. For the base rate reductions effective on January 1, 2016, Columbia is required to refund, in the next monthly billing cycle that is at least 15 days after the final order approving the Stipulation, the difference between the currently effective base rates and the Settlement Base Rates for the time period beginning January 1, 2016 through the date these Settlement Base Rates become effective.

10. Article VIII contains additional terms relating to: (a) the moratorium on changes to the Columbia Gas master list of interconnections and proposing any market-based rates for new storage expansion; (b) the requirement that Columbia Gas adjust its base rates and the CCRM rate if the U.S. Federal Corporate Income Tax Rate changes; (c) the extension of the Operational Transactions Rate Adjustment mechanism; (d) the requirement that Columbia Gas identify the operational capacity developed during the course of the EFP I and II implementation and that Columbia Gas will maintain such operational capacity for system flexibility and reliability; (e) the agreement, with certain exceptions, that Columbia Gas will not file for any new trackers while the CCRM is in effect; and (f) Columbia Gas allowing for, to the extent possible, greater shipper flexibility by allowing shippers to nominate secondary delivery points under firm agreements and making primary point change requests and reserving the parties NGA section 7(c) rights and certain contractual arrangements between releasing and replacement shippers. Article VIII also delineates the annual information Columbia Gas will provide during the second term of the CCRM, describes the method of payment, the applicability of the CCRM and the CCRM Rate and the continuation of the terms of the Modernization I Settlement. This Article provides for the legal responsibilities that Columbia retains and specifies that the Settlement has no precedential value.

11. Article IX addresses the treatment of the contesting parties and Article X provides for the tariff changes that Columbia Gas must make in order to implement this Settlement. Article XI provides that the Settlement is a carefully crafted and delicate compromise among many parties with diverse and conflicting interests and that as an integrated package any condition or modification has the potential to upset the compromise. This article provides that the provisions are not severable and may only be waived by unanimous agreement of the parties. Article XI also contains terms relating to the effective and termination date of the Settlement and providing for the continuation of certain provisions.

12. Finally, Article XII provides for the reservation of certain rights. Article XII also provides that the standard of review for any changes to the terms of the Settlement during its term shall be the just and reasonable standard and not the public interest standard.

13. Public notice of the filing was issued on December 30, 2015 with interventions and protests due on January 6, 2016. Pursuant to Rule 214, all timely filed motions to intervene and any unopposed motions to intervene out-of-time filed before the date of this order are granted.<sup>7</sup> Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. As noted above, no protests or adverse comments were filed. Several parties filed comments in support of

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<sup>7</sup> 18 C.F.R. § 154.214 (2015).

the Settlement. The North Carolina Utilities Commission (NCUC), Indicated Shippers,<sup>8</sup> and Statoil Natural Gas LLC (Statoil) each raised a concern in their comments, although they do not contest or oppose the Settlement. Columbia Gas filed Reply Comments.

14. The NCUC states that Columbia Gas did not include the NCUC in any meetings leading up to the negotiation and drafting of the Settlement as required by the Modernization Cost Recovery Policy Statement. Therefore, the NCUC is concerned that any approval of the Modernization II Settlement could be misinterpreted as a relaxation of the policy that interested parties should be included. Accordingly, the NCUC requests that the Commission make clear that any approval of the Modernization II Settlement should not be considered a relaxation of its policy that state commissions be afforded meaningful participation in the information exchanges and settlement and tariff negotiations that occur prior to filing for approval of a modernization cost tracker.

15. In response Columbia Gas states that regulated local distribution customers (LDCs), including an LDC subject to the jurisdiction of NCUC, participated in the settlement negotiations leading up to the Settlement. Columbia Gas further asserts that once a tentative agreement of the Settlement terms was reached, it invited the NCUC, other state commissions and all non-active customers to participate in a webcast held on December 3, 2015, to discuss the Settlement. Columbia Gas asserts that it also communicated with the NCUC and other state commissions that expressed an interest in meeting with Columbia Gas prior to the filing of the Settlement. Columbia states that it understands the concerns of the NCUC and will address its concerns in future negotiation of issues such as system modernization. Finally, Columbia Gas notes that the NCUC did not oppose the Settlement.

16. The Indicated Shippers and Statoil raise concerns about the recovery of costs related to the storage improvements. Statoil contends the cost recovery mechanism is a departure from the Commission's cost causation policies and that the Settlement does not satisfy the standards in the Modernization Policy Statement. The Indicated Shippers are concerned that, by including certain storage projects in its EFP II, Columbia Gas could recover operations and maintenance (O&M) costs through the CCRM. Nevertheless, the parties do not oppose the terms of the Modernization II Settlement but want to make it clear that their support of the Modernization II Settlement should not be viewed as

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<sup>8</sup> The Indicated Shippers are Anadarko Energy Services Company; Chevron U.S.A. Inc.; ConocoPhillips Company; Cross Timbers Energy Services Company; Delta Energy Services, LLC; Direct Energy Business Marketing, LLC; Interstate Gas Supply, Inc.; Noble Energy, Inc.; Shell Energy North America (U.S.), Inc. and SWEPI LP. Separately, each of the Indicated Shippers filed a timely motion to intervene in this proceeding.

support for the allocation of storage modernization costs to firm transportation customers nor as an endorsement of the claims of Columbia Gas that the Modernization II Settlement conforms with the principles in the Commission's Modernization Policy Statement.

17. In response, Columbia Gas states that settlements have no precedential value and because no party, including the Indicated Shipper, Statoil and the NCUC, has opposed the Modernization II Settlement, the Commission should review it as an uncontested settlement and accept it, without condition or modification, as fair and reasonable and in the public interest. With regard to the Indicated Shippers' specific concern regarding O&M costs being recovered through the CCRM, Columbia Gas states it will not recover O&M costs through that mechanism. Columbia Gas points out that section 7.3 of the Modernization II Settlement expressly excludes O&M costs from eligible recovery via the CCRM.<sup>9</sup>

18. The Modernization II Settlement appears to be modeled after the Modernization I Settlement, extending the term of the CCRM for three additional years, and provides numerous benefits to the Columbia Gas customers. Numerous parties representing a diverse cross-section of customers of Columbia Gas filed comments supporting or not opposing the Settlement and no party contested or opposed the Settlement. Thus, the Settlement is deemed to be uncontested. Accordingly, concerns raised by the parties as to whether the proposed extension of the CCRM is in strict compliance with the Modernization Cost Policy Statement are immaterial to our evaluation of the Settlement because as Columbia Gas points out, settlements have no precedential value. The Commission finds that the instant Settlement appears to be fair and reasonable and in the public interest, and we, therefore, approve the Settlement pursuant to Rule 602(g).<sup>10</sup> The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

By direction of the Commission.

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<sup>9</sup> Columbia Gas explains that section 7.13(ii) of the Settlement provides that, in each annual CCRM filing, for all amounts proposed for inclusion in the CCRM, Columbia Gas must specify the applicable account under the Commission's Uniform System of Accounts. Columbia must include in the CCRM all appropriate capital costs and exclude from the CCRM storage O&M costs, along with all other O&M costs. Columbia Gas points out that in its annual CCRM filings, parties have the right to challenge the eligibility of costs Columbia proposes to include in the CCRM Rate, including whether such costs should be excluded as O&M costs.

<sup>10</sup> 18 C.F.R. § 385.602(g) (2015).

Nathaniel J. Davis, Sr.,  
Deputy Secretary.