

156 FERC ¶ 61,188
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Tuscarora Gas Transmission Company

Docket Nos. RP16-299-000
RP16-1137-000
(Not consolidated)

ORDER APPROVING UNCONTESTED SETTLEMENT
AND TARIFF FILING

(Issued September 22, 2016)

1. On January 21, 2016, the Commission instituted an investigation pursuant to section 5 of the Natural Gas Act (NGA) into the justness and reasonableness of the existing rates of Tuscarora Gas Transmission Company (Tuscarora).¹ The January 21 Order also established hearing procedures related to the investigation and required Tuscarora to file a cost and revenue study within seventy-five days of the issuance of the order.

I. Background and Filings

2. On July 15, 2016, pursuant to Rule 602 of the Commission's Rules of Practice and Procedure,² Tuscarora filed a settlement purporting to resolve all issues in the Docket No. RP16-299 proceeding (Settlement). Tuscarora states that the Settlement is supported or not opposed by all active participants to the proceeding, and that it is not aware of any party opposing it.³ On August 1, 2016, the Presiding Judge certified the Settlement in RP16-299-000 to the Commission as uncontested.⁴

¹ *Tuscarora Gas Transmission Co.*, 154 FERC ¶ 61,030 (2016) (January 21 Order), *order denying reh'g and granting clarification*, 154 FERC ¶ 61,273 (2016).

² 18 C.F.R. § 385.602 (2016).

³ Appendix A to the filing lists the following entities as either supporting or not opposing the Settlement: American Forest & Paper Association; Exelon Corporation;

(continued...)

3. On August 1, 2016, Tuscarora submitted tariff records⁵ in Docket No. RP16-1137-000 setting forth revisions to sections 4.1 and 4.3 of its tariff to effectuate the Settlement's Phase I rates. Tuscarora requests that the Commission accept the proposed tariff records to become effective on August 1, 2016. A description of pertinent portions of the Settlement and the related tariff filing follows:

II. Settlement

4. Article I of the Settlement describes the pertinent filings and events leading up to the Settlement. Article III provides definitions for settling parties and contesting parties to the Settlement.

5. Article IV provides that the effective date of the Settlement is the earlier of 1) the first day of the month following the period for initial and reply comments associated with the filing of an uncontested settlement with the Commission, provided no comments opposing or materially challenging the Settlement are filed with the Commission; 2) the first day of the month following a Commission order approving the Settlement without modification; or 3) the first day of the month following a Commission order approving the Settlement with modification(s) or condition(s), subject to the relevant rights of the parties detailed in the Settlement.

6. Article V provides that Tuscarora must file a section 4 general rate case no later than six years after the effective date of the Settlement. There is no restriction on Tuscarora, or any other party, filing at any earlier point in time.

7. Article VI provides that the rates under the Settlement are broken up into two phases. Phase I rates go into effect on the effective date of the Settlement, remain in effect for three years from such date, and are set forth in sections 4.1 and 4.3 of Tuscarora's proposed tariff. The Phase I maximum reservation rate is reduced from \$10.0375 per Dth/month to \$8.3615 per Dth/month. Unless superseded by a subsequent rate filing, Phase II rates go into effect three years after the effective date of the Settlement and are also set forth in sections 4.1 and 4.3 of Tuscarora's proposed tariff.

Process Gas Consumers Group; Public Citizen, Inc.; Public Utilities Commission of Nevada; Reno Industrial Gas Users; Sierra Pacific Power Company d/b/a NV Energy; Shell Energy North America (US) L.P.; Southwest Gas Corporation; Tenaska Marketing Ventures; and United States Gypsum Company.

⁴ *Tuscarora Gas Transmission Co.*, 156 FERC ¶ 63,021 (2016).

⁵ Tuscarora Gas Transmission Company, FERC NGA Gas Tariff, Tuscarora Tariffs, [4.1 - Statement of Rates, FT and LFS Rates, 7.0.0](#) and [4.3 - Statement of Rates, IT Rates, 8.0.0](#).

The Phase II maximum reservation rate will be further reduced to \$7.7532 per Dth/month and will remain in effect for three years, until the date of Tuscarora's mandatory rate filing, unless superseded by a subsequent rate filing. Both the Phase I and Phase II Settlement rates include Tuscarora's reservation and delivery rates, but do not include Tuscarora's annual charge adjustment.

8. Article VII provides that the annual depreciation rate shall be 1.30 percent for all mainline transmission and intangible facilities, 2.771 percent for 2006 and prior compressor equipment, and 3.380 percent for post-2006 compressor equipment. Additionally, Tuscarora shall reflect negative salvage at an annual rate of 0.18 percent of transmission plant. All other depreciation rates shall be set forth as in Appendix C.

9. Article VIII requires that Tuscarora submit an NGA section 4 filing containing live tariff sections to implement the Phase I Settlement rates within seven days of the effective date of the Settlement. It further requires that unless the Phase I rates have been superseded by new rates, Tuscarora shall make a tariff filing to implement the Phase II rates at least thirty days before the date three years following the effective date of the Settlement.

10. Article IX provides that Tuscarora will withdraw its petition for review in the United States Court of Appeals for the District of Columbia Circuit, Case No. 16-1160, within five days after a final Commission order approving the Settlement.

11. Article XII provides that:

This Settlement may be amended only by unanimous written agreement of Tuscarora and Settling Parties. In the absence of such mutual agreement, it is intended that, once approved by the Commission, the standard of review for any proposed modifications to the provisions of this Settlement by the Commission acting *sua sponte*, third parties or any Contesting Party will be the just and reasonable standard. The standard of review for any modification proposed by Tuscarora or any Settling Parties shall be the "public interest" standard.

III. Tariff Filing

12. The tariff records filed by Tuscarora on August 1, 2016 set forth revisions to sections 4.1 and 4.3 of its tariff to effectuate the Settlement's Phase I rates. As noted above, the Settlement provides that Tuscarora shall make a subsequent tariff filing to implement the Phase II rates at least thirty days before the date three years following the effective date of the Settlement (unless the Phase I rates are superseded by a new rate filing). Tuscarora requests that the Commission accept the proposed tariff records to become effective on August 1, 2016.

13. Public notice of the filing of tariff records in Docket No. RP16-1137-000 was issued on August 2, 2016. Comments were due as provided in section 154.210 of the Commission's regulations (18 C.F.R. § 154.210 (2016)). Pursuant to Rule 214 (18 C.F.R. § 385.214 (2016)), all timely filed motions to intervene and any unopposed motion to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt the proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

IV. Discussion

14. The Commission finds that the Settlement appears to be fair and reasonable and in the public interest, and therefore, the Commission approves the Settlement pursuant to Rule 602(g), 18 C.F.R. § 385.602(g) (2016). The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

15. The Commission also finds that the tariff records proposed in Docket No. RP16-1137-000 are just and reasonable and consistent with the Settlement. Accordingly the Commission accepts the tariff records referenced in footnote 5 effective August 1, 2016, as proposed.

16. This order terminates Docket No. RP16-299-000.

The Commission orders:

(A) The Settlement is approved, as discussed in the body of this order.

(B) The tariff records filed on August 1, 2016 in Docket No. RP16-1137-000 and referenced in footnote 5 are accepted, effective August 1, 2016, as proposed.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.