

157 FERC ¶ 61,205
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 15, 2016

In Reply Refer To:
ANR Pipeline Company
Docket No. RP16-440-000

ANR Pipeline Company
c/o Hogan Lovells
555 Thirteenth Street, NW
Washington, DC 20004

Attention: Stefan M. Krantz, Esquire
Attorney for ANR Pipeline Company

Dear Mr. Krantz:

1. On January 29, 2016, ANR Pipeline Company (ANR) submitted a general rate case filing under section 4 of the Natural Gas Act (NGA).¹ In an order issued February 29, 2016, the Commission accepted and suspended ANR's proposed tariff records to be effective August 1, 2016, subject to refund and conditions, and the outcome of a hearing.²

2. On September 16, 2016, ANR filed a Stipulation and Agreement of Settlement (Settlement) pursuant to Rule 602 of the Commission's Rules of Practice and Procedure. Comments in support of the Settlement were filed by: Northern States Power Company, a Minnesota corporation, Northern States Power Company, a Wisconsin corporation, and Southwestern Public Service Company, the Upper Midwest Distributor Group,³

¹ 15 U.S.C. § 717c (2012).

² *ANR Pipeline Co.*, 154 FERC ¶ 61,146. (2016).

³ The Upper Midwest Distributor Group is comprised of: Alliant Energy Corporate Services, Inc., City Gas Company, Wisconsin Electric Power Company, Wisconsin Gas LLC, Wisconsin Public Service Corporation, The Peoples Gas Light and Coke Company, North Shore Gas Company, Michigan Gas Utilities Corporation, and

Antero Resources Corporation, and Commission Trial Staff. Gulfport Energy Corporation submitted comments stating that it did not oppose the Settlement. No comments opposing the Settlement were filed.

3. The Settlement comprehensively resolves all issues set for hearing. On October 21, 2016, the Presiding Administrative Law Judge certified the uncontested Settlement to the Commission.⁴ The following summarizes the elements of the Settlement.

4. Article I outlines the procedural history of this proceeding.

5. Article II describes the scope of the Settlement. It explains that the Settlement Rates in Article VI.A (Settlement Rates) and the depreciation rates in Article VIII are “black box” rates.

6. Article III defines Settling Party and Contesting Party for purposes of the Settlement. It discusses how ANR is to charge a Contesting Party, the procedures concerning maximum recourse rates for Contesting Parties, and consequences to Contesting Parties.

7. Article IV describes when the Settlement becomes effective and sets forth the rights of the parties if the Commission approves the Settlement with modification and/or condition, and the effective dates depending upon those rulings. Article IV also explains the effect of a valid withdrawal of the Settlement or valid rejection thereof.

8. Article V describes the Moratorium period and mandatory filing requirements. The Moratorium extends to the later of (a) August 1, 2019, or (b) the date on which ANR has spent a total of \$837 million in capital additions, as described in Article IX of the Settlement. Article V also states that the Moratorium shall end no later than July 31, 2022. Moreover, Article V prohibits ANR from filing an NGA section 4 general rate case, and prohibits any Settling Parties from initiating or supporting any effort under NGA section 5, if the rate change or modification would become effective prior to August 1, 2019. Article V requires ANR to file a general rate case pursuant to section 4 of the NGA with rates to be effective no later than August 1, 2022. Article V states that ANR may make certain types of limited section 4 filings during the Moratorium, but it may not make a filing to establish any cost recovery mechanism pursuant to the Commission’s *Policy Statement on Cost Recovery Mechanisms for the Modernization of Natural Gas Facilities*.

Madison Gas and Electric Company.

⁴ ANR Pipeline Co., 157 FERC ¶ 63,013 (2016).

9. Article VI describes the Settlement Rates, which consist of Management-Adjusted Rates and Storage Settlement Rates. It also explains that, if the Settlement is validly rejected or withdrawn, ANR has the right to charge each former Settling Party to the extent the party paid a lower rate by virtue of the Management-Adjusted Rates, but any such charge will be subject to refund.

10. Article VII explains that the Settlement Rates maintain the current incremental rates for certain services on the Cold Springs 1 Storage Project (Docket No. CP06-640-000).

11. Article VIII describes the depreciation rates and negative salvage percentages that ANR will apply for periods effective August 1, 2016, and after the Moratorium ends.

12. Article IX states that ANR commits to making capital expenditures of at least \$837 million over a three-year period, ending December 31, 2018, for Reliability and Modernization Projects. Article IX mandates that ANR must meet with its customers annually to discuss the planned capital expenditures.

13. Article X identifies seven expansion facilities that will be accorded rolled-in rate treatment. Article X also provides that ANR may permanently roll-in the fuel and lost and unaccounted for quantities associated with its Sulphur Springs Expansion Project (Docket No. CP14-514-000) into its system-wide fuel mechanism.

14. Article XI provides that ANR must make a certain tariff filing under section 4 of the NGA.

15. Article XII discusses ANR's refund obligation arising out of funds collected pursuant to ANR's 1997 settlement in Docket No. RP94-43-000 (1997 Settlement) and a Commission policy statement for Post-Employment/Post-Retirement Benefits Other than Pensions.

16. Article XIII explains that ANR must discuss with any interested shipper mutually agreeable modifications to certain service agreements to mitigate the effects of any rate increase resulting from the instant Settlement.

17. Article XIV states that the 1997 Settlement is superseded by the instant Settlement once such Settlement becomes effective.

18. Article XV contains miscellaneous provisions. Among other things, Article XV sets forth the standard of review:

To the extent that the Commission considers any changes to the terms of the Settlement before August 1, 2019, the standard of review for any proposed modifications to the provisions of the Settlement by the Commission acting *sua sponte*, the Settling Parties and ANR acting

unanimously, or third parties, will be the just and reasonable standard. Otherwise, prior to August 1, 2019, the standard for review for any proposed modifications to the provisions of the Settlement at the request of either ANR or one (1) or more, but less than all, Settling Parties and ANR will be the “public interest” standard for review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956), and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the “*Mobile-Sierra doctrine*”). See also *Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County*, 554 U.S. 527 (2008); *NRG Power Marketing, LLC v. Maine Public Util. Comm’n*, 558 U.S. 165 (2010). The “public interest” standard shall also apply to modifications to the Settlement proposed by ANR before the end of the Moratorium to the extent that the Moratorium extends beyond August 1, 2019. Nothing in the Settlement is meant to limit the Commission’s authority to approve uncontested settlements under 18 C.F.R. § 385.602(g)(3) (2016).

19. Article XVI discusses the effect of the Commission’s approval of the Settlement.
20. The Settlement resolves all issues set for hearing in Docket No. RP16-440-000. The Commission finds that ANR’s uncontested Settlement appears to be fair, 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.
21. The Commission directs ANR to file revised tariff records in eTariff format⁵ consistent with the Settlement, within 30 days of this order, to reflect the Commission’s action in this order.

By direction of the Commission.

Kimberly D. Bose,
Secretary.

⁵ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).