

184 FERC ¶ 61,149  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

September 7, 2023

In Reply Refer To:  
Northern Natural Gas Company  
Docket Nos. RP22-1033-005  
RP22-1033-000

Northern Natural Gas Company  
1111 South 103rd Street  
Omaha, NE 68124-1000

Attention: Kirk Lavengood  
Vice President, General Counsel & Regulatory Affairs

Dear Mr. Lavengood:

1. On June 23, 2023, Northern Natural Gas Company (Northern) filed a stipulation and agreement (Settlement) pursuant to Rule 602 of the Commission's Rules of Practice and Procedure.<sup>1</sup> Initial comments in support of the Settlement were filed by Commission Trial Staff and the Canadian Association of Petroleum Producers; Northern filed reply comments. No parties oppose the Settlement. On July 25, 2023, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.<sup>2</sup> As discussed below, we approve the Settlement as proposed.

2. On July 1, 2022, Northern filed a general rate case pursuant to section 4 of the Natural Gas Act (NGA)<sup>3</sup> and Part 154 of the Commission's regulations.<sup>4</sup> Parties protested various aspects of the Northern rate filing. On July 29, 2022, the Commission issued an order

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<sup>1</sup> 18 C.F.R. § 385.602(g)(3) (2022).

<sup>2</sup> *N. Nat. Gas Co.*, 184 FERC ¶ 63,005 (2023).

<sup>3</sup> 15 U.S.C. § 717c.

<sup>4</sup> 18 C.F.R. § 154.301, 154.315 (2022).

accepting and suspending Northern's tariff records to be effective January 1, 2023, subject to refund and the outcome of a hearing.<sup>5</sup>

3. On December 22, 2022, in Docket No. RP22-1033-003, Northern moved to place its interim settlement rates into effect as of January 1, 2023. On January 25, 2023, the Commission accepted the interim settlement rates, subject to refund.<sup>6</sup>

4. Article VIII of the Settlement establishes a rate moratorium on NGA section 4 and section 5 filings until July 1, 2024.<sup>7</sup> Article XIII states that Northern will file to implement the tariff records in Appendix E to the Settlement immediately upon issuance of a final order.<sup>8</sup>

5. Article XV of the Settlement provides the applicable standard of review for any proposed modifications to the Settlement, which states that:

...[T]he standard of review to be applied by the Commission in considering any change to any then effective provision of this Settlement shall be the "public interest" standard for review set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*<sup>9</sup> and *Federal Power Comm'n v. Sierra Pac. Power Co.*<sup>10</sup> (the "Mobile-Sierra doctrine"), except that the standard of review for any change to this Settlement proposed by a non-party to this Settlement, a Contesting Party or the Commission acting *sua sponte*, shall be the ordinary "just and reasonable" standard (and not the "most stringent" or "public interest" standard). Nothing in the Settlement is meant to

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<sup>5</sup> *N. Nat. Gas Co.*, 180 FERC ¶ 61,066 (2022).

<sup>6</sup> *N. Nat. Gas Co.*, 182 FERC ¶ 61,032 (2023).

<sup>7</sup> Settlement, art. VIII.

<sup>8</sup> *See id.*, art. XIII. The criteria for a "final order" are articulated in Article XIV. The tariff pages in Appendix E to the settlement agreement provide the negotiated effective dates for each service or rate. *See id.*

<sup>9</sup> *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956).

<sup>10</sup> *FPC v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956).

limit [the Commission's] authority to approve uncontested settlements under 18 C.F.R. § 385.602(g)(3) (2023).<sup>[11]</sup>

6. We find that the uncontested Settlement appears to be fair and reasonable and in the public interest. The Settlement is supported or not opposed by all parties to the proceeding and appears to resolve all issues in this proceeding. Therefore, we approve the Settlement as proposed and direct Northern to file actual tariff records, consistent with the terms of the Settlement.<sup>12</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. Commissioner Danly is concurring with a separate statement attached.

Kimberly D. Bose,  
Secretary.

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<sup>11</sup> Settlement, art. XV.

<sup>12</sup> The tariff records should be filed in eTariff format as required by Order No. 714. *Elec. Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008), *clarified*, Order No. 714-A, 147 FERC ¶ 61,115 (2014).

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Northern Natural Gas Company

Docket Nos. RP22-1033-005  
RP22-1033-000

(Issued September 7, 2023)

DANLY, Commissioner, *concurring*:

I agree with the Commission’s decision to approve Northern Natural Gas Company’s Stipulation and Agreement of Settlement (Settlement).<sup>1</sup> As I said in my separate statement in *Kinetica Deepwater Express, LLC*, I suggest to anyone participating in the natural gas industry that it might be prudent to be clearer in your settlement agreements as to whether you are actually a party to that agreement.<sup>2</sup> Though I understand that the use of an attachment listing parties supporting or not opposing a settlement is common in the industry,<sup>3</sup> situations will almost certainly arise in which an entity’s status as party or non-party to a settlement will be dispositive. This will be even more important should the issue be presented to a body less indifferent to fundamentals of contract law than this Commission.

For these reasons, I respectfully concur.

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James P. Danly  
Commissioner

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<sup>1</sup> See *N. Nat. Gas Co.*, 184 FERC ¶ 61,147 (2023).

<sup>2</sup> *Kinetica Deepwater Express, LLC*, 175 FERC ¶ 61,048 (2021) (Danly, Comm’r, concurring in part & dissenting in part at P 10 n.12).

<sup>3</sup> See Settlement at Apps. A & B. I note that this settlement contains two separate lists: (1) “Settling Parties in Support of Settlement” in Appendix A; and (2) “Settling Parties that Do Not Oppose Settlement” in Appendix B. Settlement at Apps. A & B.