

172 FERC ¶ 61,287
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

September 28, 2020

In Reply Refer To:
Northern Natural Gas Company
Docket No. RP19-1353-009

Northern Natural Gas Company
1111 S. 103rd Street
Omaha, NE 68124

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

Dear Mr. Lavengood:

1. On June 19, 2020, Northern Natural Gas Company (Northern) submitted an uncontested settlement (Settlement) pursuant to Rule 602 of the Commission's Rules of Practice and Procedure,¹ resolving all issues with respect to Northern's October 11, 2018 FERC Form No. 501-G, submitted in Docket No. RP19-59-000, and July 1, 2019 Natural Gas Act (NGA) general section 4 rate case filing, submitted in Docket No. RP19-1353-000 (July 1, 2019 rate case). As discussed below, we approve the Settlement as proposed and direct Northern to file tariff records consistent with the terms of the Settlement to be effective January 1, 2020.
2. Northern's previous NGA general section 4 rate case resulted in a Commission-approved settlement.² On January 16, 2019, the Commission instituted an NGA section 5 investigation to examine whether Northern's rates remained just and reasonable in light of information received in response to Northern's FERC Form No. 501-G.³ The Commission accepted in part and suspended the tariff records filed with Northern's July 1, 2019 rate case to be effective January 1, 2020, subject to refund and the outcome

¹ 18 C.F.R. § 385.602(g)(3) (2020).

² *Northern Natural Gas Co.*, 111 FERC ¶ 61,444 (2005).

³ *Northern Natural Gas Co.*, 166 FERC ¶ 61,033 (2019).

of a hearing and a technical conference.⁴ On December 18, 2019, in light of the settlement negotiations, Northern filed interim rates to take effect January 1, 2020 (following the expiration of the suspension period), which were accepted subject to refund.⁵ On May 20, 2020, Northern filed to implement the Settlement rates as interim rates, effective May 1, 2020.⁶

3. The Settlement establishes revised rates, provides for capital and maintenance spending by Northern during the term of the Settlement and establishes a working group to address system operations issues.⁷ The Settlement provides for various tariff revisions, including provisions for firm deferred delivery service (FDD) and under-recovery retainage service, as well as the withdrawal of various proposals made in the July 1, 2019 rate case.⁸ The Settlement provides for the roll-in of market-based storage service established in Docket No. CP07-108 into Northern's FDD storage rates,⁹ and rolled-in rate treatment for certain capital projects completed prior to December 31, 2019.¹⁰ Northern states it will no longer make a distinction between cost based storage and the currently existing market-based storage for cost of service purposes in any future NGA section 4 or section 5 rate case. Article V establishes new depreciation and negative salvage rates, sets an offshore decommissioning allowance, and provides for transfer of offshore depreciation balances to onshore accounts and resolution of accumulated deferred income tax issues, upon receipt of Internal Revenue Service guidance.

4. Article VI establishes a moratorium on NGA section 4 or section 5 filings for changes to the rates or terms of the Settlement by any settling party until the later of June 30, 2022 or the date on which Northern has booked cumulative maintenance capital expenditures of at least \$525 million (beginning January 1, 2020). Section D of Article VI provides that by mutual written agreement, and filing with and acceptance by the

⁴ *Northern Natural Gas Co.*, 168 FERC ¶ 61,069 (2019) (suspension order); *see also Northern Natural Gas Co.*, 169 FERC ¶ 61,268 (2019) (order on technical conference). The Chief Judge consolidated the NGA section 5 and July 1, 2019 rate case proceedings on Sept. 12, 2019.

⁵ *Northern Natural Gas Co.*, 170 FERC ¶ 61,058 (2020).

⁶ *Northern Natural Gas Co.*, 171 FERC ¶ 63,031 (2020) (Chief Judge order).

⁷ Art. III, VII, VIII and X; *see also* Art. II(A) and (S).

⁸ Art. IX.

⁹ Art. III(B).

¹⁰ Art. IV(A).

Commission, the moratorium may be extended. Article VI provides that the moratorium will be suspended, and of no further effect, if a triggering event occurs, as described in greater detail in the Settlement, including: (i) a party making a filing in response to changes to the federal corporate income tax rate; (ii) Northern filing a rate case in response to paying less income tax for 2020 or 2021 than provided for in Attachment C; (iii) a party making a filing objecting to Northern spending materially less than specified amounts in maintenance capital; or (iv) any Participant (including a state commission that is a settling party) or the Commission initiating an NGA section 5 proceeding. Articles VII and VIII provide that, upon termination of the moratorium, Northern's obligations as to the maintenance capital plan and capital spending shall also terminate, as provided therein.

5. Article XVIII(D) of the Settlement states:

After the Effective Date[,] the standard for 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 [*Mobile-Sierra*], except that the standard of review for any change to this Settlement proposed by a non-party to the 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 this Settlement is meant to limit [the Commission's] authority to approve uncontested settlements under 18 C.F.R. § 385.602(g)(3)[.]¹¹

6. Initial comments were filed on July 9, 2020, and on July 13, 2020 Northern filed reply comments. The Settlement was certified as uncontested on July 21, 2020.¹²

7. 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 establishes a rate moratorium. Therefore, we approve the Settlement as proposed. We direct Northern to file actual tariff records consistent with the Settlement

¹¹ Art. XVIII(D) (citing *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) (*Mobile*); *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (*Sierra*)) (footnotes omitted).

¹² *Northern Natural Gas Co.*, 172 FERC ¶ 63,007 (2020) (ALJ certification).

in eTariff format as required by Order. No. 714.¹³ 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.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹³ *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008), *clarified*, Order No. 714-A, 147 FERC ¶ 61,115 (2014).