

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

February 6, 2007

In Reply Refer To:  
Pine Needle LNG Company, LLC  
Docket No. RP06-336-000

Pine Needle LNG Company, LLC  
c/o Pine Needle Operating Company  
P.O. Box 1396  
Houston, TX 77056

Attn.: Scott C. Turkington  
Director, Rates & Regulatory

Reference: Stipulation and Agreement

Dear Mr. Turkington:

1. On December 21, 2006, Pine Needle LNG Company, LLC (Pine Needle) filed a Stipulation and Agreement (Settlement) pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602 (2006). The Settlement resolves all of the issues relating to Pine Needle's rate case filing in the above-docketed proceeding.

2. On May 31, 2006, the Commission issued an Order Accepting and Suspending Tariff Sheet Subject to Refund and Establishing a Hearing (May 31, 2006 Order) in the subject Docket No. RP06-336-000.<sup>1</sup> The May 31, 2006 Order addressed a May 1, 2006 Pine Needle filing for a rate increase pursuant to section 4 of the Natural Gas Act (NGA), made in accordance with the terms of a settlement agreement approved by the Commission on March 14, 2003.<sup>2</sup>

3. The following is a summary of the major provisions of the Settlement.

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<sup>1</sup> *Pine Needle LNG Company, LLC*, 115 FERC ¶ 61,275 (2006).

<sup>2</sup> *Pine Needle LNG Company, LLC*, 102 FERC ¶ 61,291 (2003).

- a. Pine Needle's rates (Settlement Rates) will be based on a \$16,816,622 overall cost of service. This reflects a \$74,492,316 overall rate base and a 13.96% overall pre-tax rate of return, as well as various functionally-separated depreciation and negative salvage rates. The Settlement Rates will be based on the cost classification, cost allocation and rate design methodologies reflected in Pine Needle's May 1, 2006 filing.
  - b. The Settlement Rates will remain in effect for a maximum of 42 months, at which point Pine Needle is obligated to file an NGA Section 4 rate case, unless it has done so prior to that time.
  - c. No NGA Section 5 complaint or other pleading concerning Pine Needle's base rates for LNG storage services may be filed during the Settlement Rates' effective period by the Intervenors or in any such proceeding initiated by any other party.
  - d. Article V of the Settlement provides that:

To the extent that the Commission, after approval of this Agreement, considers any change to any then-effective provision(s) of this Agreement, the parties believe that the standard of review for any such proposed change shall be the "public interest" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956) and *FPC v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).<sup>3</sup>
  - e. The Settlement represents a negotiated agreement of the issues in this proceeding. Pine Needle, the Commission, its Staff, the Intervenors, or any other party or person shall not be deemed to have approved, accepted, agreed, or otherwise consented to any principle or theory underlying any matter in this proceeding.
4. A shortened comment period was established, with initial comments to be filed on or before December 29, 2006, and reply comments to be filed on or before

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<sup>3</sup> As a general matter, parties may bind the Commission to a public interest standard. *Northeast Utilities Service Co. v. FERC*, 993 F.2d 937, 960-62 (1st Cir. 1993). Under limited circumstances, such as when the agreement has broad applicability, the Commission has the discretion to decline to be so bound. *Maine Public Utilities Commission v. FERC*, 454 F.3d 278, 286-87 (D.C. Cir. 2006). In this case, we find that the public interest standard should apply.

January 2, 2007. No adverse comments or protests were filed. On January 12, 2007, the Presiding Administrative Law Judge issued the certification of the uncontested settlement.<sup>4</sup>

5. The Settlement is fair and reasonable and in the public interest, and is hereby approved.
6. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.
7. This letter order terminates Docket No. RP06-336-000.

By direction of the Commission. Commissioner Kelly not participating.  
Commissioner Wellinghoff dissenting in part with a separate statement attached.

Magalie R. Salas,  
Secretary.

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<sup>4</sup> *Pine Needle LNG Company, LLC*, 118 FERC ¶ 63,007 (2007). An erratum to the Presiding Judge's certification, certifying and incorporating initial comments filed by the North Carolina Public Utilities Commission on December 22, 2006, was issued on January 18, 2007. *Pine Needle LNG Company, LLC*, 118 FERC ¶ 63,013 (2007).

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Pine Needle LNG Company, LLC

Docket No. RP06-336-000

(Issued February 6, 2007)

WELLINGHOFF, Commissioner, dissenting in part:

The parties in this case have asked the Commission to apply the “public interest” standard of review when it considers future changes to the instant settlement that may be sought by the Commission acting *sua sponte*.

Because the facts of this case do not satisfy the standards that I identified in *Entergy Services, Inc.*,<sup>1</sup> I believe that it is inappropriate for the Commission to grant the parties’ request and agree to apply the “public interest” standard to future changes to the settlement sought by a non-party or the Commission acting *sua sponte*. In addition, for the reasons that I identified in *Southwestern Public Service Co.*,<sup>2</sup> I disagree with the Commission’s characterization in this order of the case law on the applicability of the “public interest” standard.

For this reason, I respectfully dissent in part.

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Jon Wellinghoff  
Commissioner

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<sup>1</sup> 117 FERC ¶ 61,055 (2006).

<sup>2</sup> 117 FERC ¶ 61,149 (2006).