

165 FERC ¶ 61,110  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;  
Cheryl A. LaFleur and Richard Glick.

Millennium Pipeline Company, L.L.C.

Docket Nos. RP19-65-000  
RP19-66-000

ORDER ON RATE REDUCTION FILING AND FERC FORM NO. 501-G

(Issued November 15, 2018)

1. On October 11, 2018, in Docket No. RP19-66-000, Millennium Pipeline Company, L.L.C. (Millennium) filed revised tariff records<sup>1</sup> pursuant to section 4 of the Natural Gas Act (NGA) to implement a rate reduction consistent with section 154.404 of the Commission's regulations.<sup>2</sup> The Commission accepts Millennium's revised tariff records effective December 1, 2018, as proposed.

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<sup>1</sup> See Appendix.

<sup>2</sup> 18 C.F.R. § 154.404(a) (2018), which provides:

*Purpose.* The limited rate filing permitted by this section is intended to permit:

(1) a natural gas company subject to the federal corporate income tax to reduce its maximum rates to reflect the decrease in the federal corporate income tax rate pursuant to the Tax Cuts and Jobs Act of 2017, and

(2) a natural gas company organized as a pass-through entity either (i) to eliminate any income tax allowance and accumulated deferred income taxes reflected in its current rates or (ii) to reduce its maximum rates to reflect the decrease in the federal income tax rates applicable to partners pursuant to the Tax Cuts and Jobs Act of 2017.

## **Background and Proposal**

2. On July 18, 2018, the Commission issued Order No. 849,<sup>3</sup> a final rule adopting procedures for determining which jurisdictional natural gas pipelines may be collecting unjust and unreasonable rates in light of: (1) the income tax reductions provided by the Tax Cuts and Jobs Act<sup>4</sup>; and (2) the Commission's Revised Policy Statement<sup>5</sup> and Opinion No. 511-C<sup>6</sup> establishing a policy that master limited partnerships (MLPs) may not recover an income tax allowance in response to the decision of the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in *United Airlines*.<sup>7</sup> Order No. 849 required, pursuant to sections 10 and 14(a) of the NGA, that all interstate natural gas companies, with cost-based stated rates, that filed a 2017 FERC Form No. 2 or 2-A, must file a FERC Form No. 501-G informational filing.<sup>8</sup> The FERC Form No. 501-G is designed to collect financial information to evaluate the impact of the Tax Cuts and Jobs Act and *United Airlines* Issuances on interstate natural gas pipelines' revenue requirements. Using the data in the pipelines' 2017 FERC Form Nos. 2 and 2-A, the form estimates: (1) the percentage reduction in the pipeline's cost of service resulting from the Tax Cuts and Jobs Act and the Revised Policy Statement; and (2) the pipeline's current return on equity (ROE) before and after the reduction in corporate income taxes and the elimination of income tax allowances for MLP pipelines.

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<sup>3</sup> *Interstate and Intrastate Natural Gas Pipelines; Rate Changes Relating to Federal Income Tax Rate*, Order No. 849, 83 Fed. Reg. 36,672 (July 30, 2018), FERC Stats. & Regs. ¶ 31,404 (2018) (cross-referenced at 164 FERC ¶ 61,031) (Order No. 849).

<sup>4</sup> An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, Pub. L. No. 115-97, 131 Stat. 2054 (2017) (Tax Cuts and Jobs Act).

<sup>5</sup> *Inquiry Regarding the Commission's Policy for Recovery of Income Tax Costs*, Revised Policy Statement, 83 FR 12,362 (Mar. 21, 2018), FERC Stats & Regs. ¶ 35,060 (2018), *order on reh'g*, 164 FERC ¶ 61,030 (2018).

<sup>6</sup> *SFPP, L.P.*, Opinion No. 511-C, 162 FERC ¶ 61,228, at P 9 (2018).

<sup>7</sup> *United Airlines, Inc. v. FERC*, 827 F.3d 122 (D.C. Cir. 2016). For purposes of this order, the Revised Policy Statement, *United Airlines*, and Opinion No. 511-C will collectively be referred to as "*United Airlines* Issuances."

<sup>8</sup> The One-time Report on Rate Effect of the Tax Cuts and Jobs Act is referred to interchangeably as "One-time Report" or "FERC Form No. 501-G."

3. Order No. 849 also provided several options each interstate natural gas pipeline may choose from to address the changes to the pipeline's revenue requirement as a result of the income tax reductions, including a limited NGA section 4 rate reduction filing. Order No. 849 adopted section 154.404 of the Commission's regulations, authorizing natural gas pipelines to submit limited NGA section 4 filings to reduce their rates to reflect the Tax Cuts and Jobs Act and the *United Airlines* Issuances, without making any other rate changes. Section 154.404 permits pass-through pipelines, including MLPs, to either eliminate their tax allowances or reduce their rates to reflect the reduced income tax expenses provided by the Tax Cuts and Jobs Act. In order to provide an additional incentive for pipelines to make a limited NGA section 4 rate reduction filing, Order No. 849 included a guarantee that the Commission will not, for a three-year moratorium period, initiate an NGA section 5 rate investigation of a pipeline that makes such a filing, if that filing reduces the pipeline's ROE to 12 percent or less.<sup>9</sup>

4. On October 11, 2018, in Docket No. RP19-65-000, Millennium filed FERC Form No. 501-G and an Addendum consistent with the reporting requirements of Order No. 849. Millennium's FERC Form No. 501-G shows that its indicated cost-of-service reduction is 8.8 percent, or approximately \$15.2 million, and that its Total Estimated ROE would be 14.6 percent, after adjustment to reflect the Tax Cuts and Jobs Act and *United Airlines* Issuances. In its Addendum, Millennium calculates a 10.3 percent, or approximately \$17.9 million, reduction to its indicated cost of service, and a Total Estimated ROE of 14.2 percent, after adjustment to reflect the Tax Cuts and Jobs Act and *United Airlines* Issuances. Millennium notes that it selected "yes" as the answer to the question of whether Millennium is a tax paying entity in its Addendum but answered "no" to this question in its FERC Form No. 501-G.<sup>10</sup>

5. On October 11, 2018, in Docket No. RP19-66-000, Millennium filed a limited NGA section 4 rate reduction pursuant to section 154.404 of the Commission's regulations. Millennium states that it utilized the version of the FERC Form No. 501-G provided in its Addendum to calculate the rate reduction used in the limited NGA section 4 filing. Millennium states that the 10.3 percent indicated cost-of-service reduction in the Addendum is higher than the indicated cost-of-service reduction of 8.8 percent in its FERC Form No. 501-G. Therefore, Millennium proposes to reduce its currently effective rates by 10.3 percent, effective December 1, 2018.<sup>11</sup>

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<sup>9</sup> Order No. 849, FERC Stats. & Regs. ¶ 31,404 at PP 199-200.

<sup>10</sup> Millennium Rate Reduction Filing at 4.

<sup>11</sup> *Id.* at 4-6.

6. Millennium also argues that the Commission should accept its proposed rate reduction and take no further action concerning its rates. Millennium explains that approximately 90 percent of the reservation charge revenues it receives under its firm service agreements come from negotiated rates, all of which are lower than its current maximum recourse rates. Millennium further argues that the remaining 10 percent of its firm reservation charge revenues are from service agreements providing for discounted rates, all of which will remain lower than the recourse rates following the rate reduction. Therefore, Millennium argues, Commission action intended to further reduce Millennium's rates under NGA section 5 would not benefit its shippers.<sup>12</sup>

### **Notice of Filing, Interventions, and Protests**

7. Public notice of Millennium's FERC Form No. 501-G filing in Docket No. RP19-65-000 was issued on October 15, 2018. Public notice of Millennium's limited NGA section 4 filing in Docket No. RP19-66-000 was also issued on October 15, 2018. Interventions and protests were due as provided in section 154.210 of the Commission's regulations.<sup>13</sup> Pursuant to Rule 214,<sup>14</sup> all timely filed motions to intervene and any unopposed motions to intervene filed out-of-time before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. No protests or adverse comments were filed.

### **Discussion**

8. The Commission finds that Millennium's proposal to reduce its rates by 10.3 percent is consistent with section 154.404 of the Commission's regulations and provides a net benefit to Millennium's customers. Accordingly, the Commission accepts Millennium's tariff records referenced in the Appendix to be effective December 1, 2018.

9. The Commission notes that Millennium's FERC Form No. 501-G reflects a Total Estimated Return on Equity of 14.6 percent,<sup>15</sup> after adjustment to reflect the Tax Cuts and Jobs Act and *United Airlines* Issuances. As such, Millennium is not eligible for the three-year moratorium period established in Order No. 849. Therefore, although the Commission is accepting Millennium's rate reduction filing, the Commission is not

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<sup>12</sup> *Id.* at 3, 6.

<sup>13</sup> 18 C.F.R. § 154.210 (2018).

<sup>14</sup> 18 C.F.R. § 385.214 (2018).

<sup>15</sup> Millennium FERC Form No. 501-G, page 3, line 26, column (E).

precluded from establishing a hearing under NGA section 5 to investigate whether a further rate reduction is justified in Docket No. RP19-65-000.

The Commission orders:

Millennium's revised tariff records are accepted, effective December 1, 2018.

By the Commission. Commissioner McIntyre is not voting on this order.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

Appendix

Millennium Pipeline Company, L.L.C.  
FERC NGA Gas Tariff  
Millennium Tariffs  
*Tariff Records Accepted Effective December 1, 2018*

[Currently Effective Rates, Section 1. FT-1 Rates, 5.0.0](#)

[Currently Effective Rates, Section 2. FT-2 Rates, 6.0.0](#)

[Currently Effective Rates, Section 3. BH-1 Rates, 5.0.0](#)

[Currently Effective Rates, Section 4. HT-1 Rates, 5.0.0](#)

[Currently Effective Rates, Section 5. IT-1 Rates, 5.0.0](#)

[Currently Effective Rates, Section 6. PALS Rates, 1.0.0](#)