

165 FERC ¶ 61,075
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

November 1, 2018

In Reply Refer To:
DesertLink, LLC
Docket No. ER17-135-005

Engleman Fallon, PLLC
1717 K Street,
Suite 900
Washington, DC 20006

Attention: Michael R. Engleman

Dear Mr. Engleman:

1. On April 18, 2018, you filed an Offer of Settlement (Settlement) in the above referenced proceeding on behalf of DesertLink, LLC (DesertLink). DesertLink states that the Settlement resolves all issues that the Commission set for hearing and settlement judge procedures.¹
2. On May 8, 2018, Commission Trial Staff filed initial comments in support of the Settlement, but noted some concerns with DesertLink's formula rate template. On May 17, 2018, DesertLink submitted reply comments proposing edits to the formula rate template to address the concerns that Trial Staff raised. On May 24, 2018, the Settlement Judge certified the Settlement to the Commission as uncontested.²
3. Section 5.7 of the Settlement provides that:

The standard of review shall be the "public interest" standard set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956); *Fed. Power Comm'n v. Sierra Pac. Power Co.*, 350 U.S. 348 (1956); *Morgan Stanley Capital Grp. Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty.*, 554 U.S. 527 (2008); and *NRG Power Mktg., LLC v. Maine Pub. Utils. Comm'n*, 558 U.S. 165 (2010). The standard of review for any

¹ *DesertLink, LLC*, 161 FERC ¶ 61,126 (2017) (October 2017 Order).

² *DesertLink, LLC*, 163 FERC ¶ 63,014 (2018).

changes proposed by a non-party, or the Commission acting *sua sponte*, or with respect to the rates set forth in this Settlement following the moratorium, shall be the just and reasonable standard of review. *Devon Power LLC*, 134 FERC ¶ 61,208 at P 10 (2011), *reh'g denied*, 137 FERC ¶ 61,073 (2011), *review dismissed in part and denied in part sub nom. New England Power Generators Ass'n v. FERC*, 707 F.3d 364 (D.C. Cir. 2012).

4. The Settlement resolves all issues in this proceeding. The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

5. We direct DesertLink to file revised tariff records in eTariff format,³ within 30 days of the date of this order, that do the following to ensure the requisite electronic tariff databases reflect the Commission's action in this order: (1) correct the typographical error in Appendix III, Note N; (2) change Appendix III, Note O per Trial Staff's proposed addition; and (3) delete the second sentence of Note A in Attachment 10 to Appendix III along with the asterisks in Lines 1 and 2 per Trial Staff's request and as agreed to by DesertLink in its reply comments.

6. This letter order terminates Docket Nos. ER17-135-001, ER17-135-002, and ER17-135-005.⁴

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

³ See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

⁴ We note that section 3.6 of the Settlement provides that, through the Settlement and a separately filed motion for vacatur, DesertLink withdrew its request, which the Commission had granted in the October 2017 Order, for replicate rate treatment for DesertLink's yet-to-be-formed subsidiaries and affiliates in the California Independent System Operator Corporation region. In a concurrently issued order, we deny the motion for vacatur. *DesertLink, LLC*, 165 FERC ¶ 61,076 (2018). In a separate order, we also dismiss as moot the requests for rehearing in this proceeding that are pending in Docket No. ER17-135-004. *DesertLink, LLC*, 165 FERC ¶ 61,074 (2018).

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Nathaniel J. Davis, Sr.,
Deputy Secretary.

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