



# FEDERAL ENERGY REGULATORY COMMISSION

NEWS

April 17, 2008

Docket Nos. PL07-2-000; RP04-274-006 and RP04-274-007; PR05-17-000, *et al.*; RP03-221-011; and CP01-69-009

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## FERC to Allow MLPs in Pipeline Rate of Return Proxy Groups

The Federal Energy Regulatory Commission (FERC) today adopted a new policy that will allow Master Limited Partnerships (MLPs) to be included in rate of return proxy groups for determining rates for services provided by interstate natural gas and oil pipelines.

FERC established procedures to apply the new policy, first proposed in July 2007, to several rate cases in which the composition of the proxy group is at issue.

“Trends in the natural gas industry mandated that we change our traditional approach of requiring that the proxy group be composed of corporations owning pipelines that constitute a high proportion of their business,” FERC Chairman Joseph T. Kelliher said. “Fewer gas pipeline corporations now meet that standard. And because no oil corporations are available for use in the oil pipeline proxy group, today’s policy statement will bring clarity to the process for determining the appropriate MLPs for that group of pipelines.”

After conducting an extensive analysis based on data and comments from the industry and from the public, FERC’s policy statement concludes:

- there should be no cap on the level of distributions included in the current Discounted Cash Flow (DCF) methodology;
- forecasts published by the Institutional Brokers Estimate System should remain the basis for the short-term growth in the DCF calculation;
- there should be an adjustment to the long-term growth rate used to calculate the equity cost of capital for an MLP; and
- there should be no modification to the current respective two-thirds and one-third weightings of the short- and long-term growth factors.

FERC will not explore other methods of determining a pipeline’s equity cost of capital at this time.

The Policy Statement will govern all gas and oil rate proceedings involving the establishment of a return on equity (ROE) that are currently pending before either the Commission itself or an administrative law judge. FERC applied the Policy Statement to four other rate cases in which the proxy group composition is an issue: Kern River Gas Transmission Company, Duke Energy Guadalupe Pipeline Inc., High Island Offshore System LLC and Petal Gas Storage.

In the rate case involving Kern River Gas (Docket Nos. RP04-274-006; and -007), FERC largely affirmed its earlier ruling in Opinion No. 486 but granted rehearing on Kern River’s ROE so appropriate MLPs can be included in the composition of the proxy group.





In October 2006, FERC determined Kern River should charge an 11.2 percent ROE for rates charged for interstate transportation rather than the 9.34 percent ROE recommended by an administrative law judge (ALJ). FERC further ruled that two corporations should have been excluded from the proxy group upon which the ALJ relied to calculate the rate of return.

In its ruling today, FERC set for paper hearing the issue of the composition of the proxy group, the DCF analyses of the proxy group firms, and related issues of risk. Initial briefs from participants, including supporting exhibits, affidavits, and/or prepared testimony, are due 60 days after this order issues. Reply briefs are due 90 days after the issuance of the order, and rebuttal briefs are due 105 days after the issuance of the order.

FERC will require Kern River to file revised tariff sheets and rates, including workpapers, within 30 days of the issuance of a final order following the paper hearing.

In the Duke Energy Guadalupe Pipeline case (Docket No. PR05-17-000, *et al.*), FERC will reopen the record for a paper hearing so parties can submit evidence to determine which specific MLPs and corporations should be included in Guadalupe's proxy group. The paper hearing also will help determine an appropriate ROE.

In the High Island Offshore (HIOS) (Docket No. PR03-221-011) and Petal Gas Storage (Docket No. CP01-69-009) cases, FERC responded to a federal court decision remanding issues in *Petal Gas Storage LLC v. FERC* involving the composition of the proxy groups. FERC referred both cases to a settlement judge.

FERC also noted changed circumstances since issuance of its respective orders and that, in the HIOS case, the rates no longer are in effect. FERC directed Chief Administrative Law Judge Curtis Wagner Jr. to appoint a settlement judge for each case. A progress report on each case must be filed with the Commission 30 days after each settlement judge is appointed, with status reports submitted every 60 days thereafter.

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