

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Sierra Pacific Resources Operating Companies Docket No. ER03-1328-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued July 8, 2004)

1. On May 17, 2004, Sierra Pacific Resources Operating Companies, Sierra Pacific Power Company and Nevada Power Company (together, SPR) filed an offer of settlement. On June 7, 2004, the Commission's Trial Staff submitted a comment in support of the settlement. No other comments were filed. On June 14, 2004, the Presiding Administrative Law Judge certified the settlement to the Commission as an uncontested offer of settlement.
2. The subject settlement is in the public interest and is hereby approved. In addition, the rate schedules submitted as part of the settlement are in compliance with Order No. 614 (FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000)) and are accepted for filing as designated. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.
3. Within thirty (30) days from the date of this letter, any refunds due under the Settlement Agreement shall be paid, together with interest as required by 18 C.F.R. § 35.19a. Within fifteen (15) days after making such refunds, the SPR shall file with this Commission a compliance report showing monthly billing determinants, revenue receipt dates, revenues under the prior, present, and settlement rates, the monthly revenue refund, and the monthly interest computed, together with a summary of such information for the total refund period. SPR shall furnish copies of the report to the affected wholesale customers and to each state commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

4. This letter terminates Docket No. ER03-1328-000. A new subdocket will be assigned in Docket No. ER03-1328 upon receipt of the required compliance refund report.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

(S E A L)

Linda Mitry,
Acting Secretary.

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KELLY, Commissioner, dissenting in part:

For the reasons I have set forth in Wisconsin Power & Light Co., 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

Therefore, I dissent from this order to the extent that it approves a settlement whereby the parties specify that “[t]he standard of review for any modifications not agreed to by all Parties, including any modifications resulting from the Commission acting *sua sponte*, shall be the ‘public interest’ standard under the *Mobile Sierra* doctrine.”

Suedeen G. Kelly