

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

AmerGen Energy Company, LLC

Docket No. ER05-1050-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued June 28, 2006)

1. On April 25, 2006 AmerGen Energy Company, LLC (AmerGen) filed an Offer of Settlement (settlement) that resolves issues pending between, AmerGen, Illinois Power Company d/b/a American IP (American IP), and the Midwest Independent Transmission System Operator, Inc. (MISO) in the captioned proceedings, which concern the approval of a proposed Rate Schedule FERC No. 2, which would authorize AmerGen to recover from MISO an annual revenue requirement for the reactive power fixed capacity component and Lost Opportunity Costs that are not recovered through the fixed capacity component.
2. On May 15, 2006 the Commission Trial Staff submitted comments in support of the settlement. No other comments were filed. The presiding judge certified the settlement to the Commission as uncontested on June 5, 2006.<sup>1</sup>
3. The subject settlement is 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.
4. The tariff designations submitted with the settlement, however, are not in compliance with *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000). Accordingly, AmerGen is directed to file corrected designations in compliance with Order No. 614 within thirty (30) days from the date of this order.
5. AmerGen will make refunds and adjustments as provided in the settlement and file a refund report with the Commission within thirty (30) days of such refunds.

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<sup>1</sup> *AmerGen Energy Co.*, 115 FERC ¶ 63,058 (2006)

6. This order closes Docket No. ER05-1050-000. A new subdocket will be assigned in Docket No. ER05-1050 upon receipt of the required compliance filing.

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

( S E A L )

Magalie R. Salas,  
Secretary.

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KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously 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 disagree with this order to the extent it accepts for filing a settlement with an explanatory statement that provides, in relevant part, that the standard of review for any modification resulting from the Commission acting *sua sponte* shall be the “public interest” standard under the *Mobile-Sierra* doctrine.

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Sudeen G. Kelly