

120 FERC ¶ 61,158
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

August 13, 2007

In Reply Refer To:
Consolidated Edison Energy Massachusetts, Inc.
Docket Nos. ER06-819-000
ER06-819-001
ER06-819-002

Consolidated Edison Energy Massachusetts, Inc.
4 Irving Place -- Room 1830
New York, N.Y. 10003

Attn: Brent L. Brandenburg, Esq.
Attorney for Consolidated Edison Energy Massachusetts, Inc. and
Consolidated Edison Energy, Inc.

Dear Mr. Brandenburg:

1. On May 14, 2007, you filed a Settlement Agreement (the Settlement) on behalf of Consolidated Edison Energy Massachusetts, Inc., Consolidated Edison Energy, Inc., ISO New England, Inc., Massachusetts Municipal Wholesale Electric Company, and Chicopee Municipal Lighting Plant and South Hadley Electric Light Department (collectively, the Settling Parties) to resolve all matters in Docket Nos. ER06-819-000, *et al.* The Settlement includes a revised Reliability Must Run (RMR) agreement that will take the place of the version that was most-recently filed in this proceeding.

2. On June 4, 2007, Trial Staff submitted comments supporting the Settlement. Also on that date, the Office of the Attorney General of Massachusetts filed comments stating that it had no objection to the Settlement. No other comments were filed. On July 13, 2007, the Settlement Judge certified the Settlement to the Commission as uncontested.¹

3. The Settlement is in the public interest and is hereby approved, effective as of the date of this order, as requested. Commission approval of the Settlement does not

¹ *Consolidated Edison Energy Massachusetts, Inc.*, 120 FERC ¶ 63,002 (2007) (certification of uncontested settlement).

constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Settlement indicates that proposed changes to the Settlement shall be subject to the “public interest” standard and that proposed changes to the revised RMR agreement shall be subject to the “just and reasonable” standard. Sections 10 and 11 of the Settlement. Thus, the Commission retains the right to investigate the rates, terms and conditions of the revised RMR agreement under the just and reasonable and not unduly discriminatory or preferential standard of section 206 of the Federal Power Act, 16 U.S.C. § 824e (2000).

4. The rate schedule submitted as part of the Settlement is properly designated² and is accepted for filing and made effective March 31, 2006,- as set forth in the Settlement.

5. CEEMI shall submit a refund report to the Commission pursuant to section II.5 of the Settlement within thirty days after the issuance of this order. The report shall show monthly billing determinants, revenue receipt dates, revenues under the prior, present and settlement rates, and the revenue refund, together with a summary of such information for the total refund period. CEEMI shall furnish copies of the report to the affected wholesale customers and to each state commission having jurisdiction over the wholesale customers’ service territories.

6. This order terminates the claims between the Settling Parties in Docket Nos. ER06-819-000, ER06-819-001 and ER06-819-002. A new subdocket will be designated upon receipt of the refund report.

By direction of the Commission. Commissioners Kelly and Wellinghoff
dissenting in part with separate statements
attached.

Kimberly D. Bose,
Secretary.

cc: All Parties

² See *Order No. 614, Designation of Electric Rate Schedule Sheets*, FERC Stats. & Regs. ¶ 31,096 (2000).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Consolidated Edison Energy Massachusetts, Inc.

Docket Nos. ER06-819-000
ER06-819-001
ER06-819-002

(Issued August 13, 2007)

KELLY, Commissioner, *dissenting in part*:

The parties to this settlement have requested that the Commission apply the *Mobile-Sierra* “public interest” standard of review to any future changes to the settlement agreement that may be proposed by a party, a non-party or the Commission acting *sua sponte*. As I explained in my separate statement in *Transcontinental Gas Pipe Line Corporation*,¹ in the absence of an affirmative showing by the parties and reasoned analysis by the Commission regarding the appropriateness of approving the “public interest” standard of review to the extent future changes are sought by a non-party or the Commission acting *sua sponte*, I do not believe the Commission should approve such a provision.

Accordingly, I respectfully dissent in part from this order.

Suede G. Kelly

¹ 117 FERC ¶ 61,232 (2006).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Consolidated Edison Energy
Massachusetts, Inc.

Docket Nos. ER06-819-000
ER06-819-001
ER06-819-002

(Issued August 13, 2007)

WELLINGHOFF, Commissioner, dissenting in part:

The parties in this case have asked the Commission to apply the “public interest” standard of review when it considers future changes to the Settlement that may be sought by any of the parties, a non-party, or the Commission acting *sua sponte*. By contrast, the parties state that the “just and reasonable” standard of review should apply when the Commission considers potential future changes to the Settlement Reliability Agreement that is appended to the Settlement.

Because the facts of this case do not satisfy the standards that I identified in *Entergy Services, Inc.*,¹ I believe that it is inappropriate for the Commission to grant the parties’ request and agree to apply the “public interest” standard to future changes to the Settlement sought by a non-party or the Commission acting *sua sponte*.

For this reason, I respectfully dissent in part.

Jon Wellinghoff
Commissioner

¹ 117 FERC ¶ 61,055 (2006).