

124 FERC ¶ 61,179  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

August 22, 2008

In Reply Refer To:

Wisconsin Power & Light Company, *et al.*  
Docket No. ER06-1517-000  
Docket No. ER06-1518-000  
Docket No. EL07-14-000

Morgan, Lewis & Bockius, LLP  
Attn: Michael C. Griffen, Esq.  
Attorney for Wisconsin Power and Light Company  
111 Pennsylvania Avenue, N.W.  
Washington, DC 20004

Dear Mr. Griffen:

1. On February 8, 2008, you filed a Settlement Agreement (Settlement) on behalf of Wisconsin Power and Light Company (WPL), Wisconsin Public Power, Inc. (WPPI), the Municipal Wholesale Power Group (MWPG), Great Lakes Utilities (GLU), Adams Columbia Electric Cooperative (ACEC), Central Wisconsin Electric Cooperative (CWEC), Rock Energy Cooperative (REC), and the Fox River Valley Power Coalition (Fox River) (collectively, the Settling Parties). The Settlement resolves all of the issues set for hearing in these proceedings related to WPL's proposed changes to its wholesale electric tariffs, including whether to allow WPL to recover its cost-of-service through new formula rates rather than stated rates.<sup>1</sup>

2. On February 28, 2008, Commission Trial Staff filed comments supporting the Settlement. On March 14, 2008, the Presiding Administrative Law Judge certified the Settlement to the Commission as uncontested.<sup>2</sup>

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<sup>1</sup> *Wisconsin Power & Light Co.*, 117 FERC ¶ 61,322 (2006).

<sup>2</sup> *Wisconsin Power & Light Co.*, 122 FERC ¶ 63,009 (2008).

3. Under the Settlement, the standard of review for changes to rates, terms, and conditions of service established through the Settlement proposed by a Settling Party or non-party shall be the just and reasonable standard of review. However, the Settlement also provides that the following exceptions shall be subject to the public interest standard under the *Mobile-Sierra* doctrine:<sup>3</sup> (1) certain provisions of Section 3 relating to the rate design of demand and energy charges; (2) certain provisions of Section 4 relating to on-peak and off-peak multipliers; and (3) the provisions described as “fixed” in Section 8, relating to the capital structure and return on equity.

4. The Settlement is fair and reasonable and in the public interest and is hereby approved. The Commission’s approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

5. As noted above, certain provisions of the Settlement bind non-parties to the *Mobile-Sierra* public interest standard. In light of *Maine Pub. Util. Comm’n v. FERC*, 520 F.3d 464, 477-78 (D.C. Cir. 2008), the Commission may not accept the standard of review as currently written. As such, the Settlement is approved conditioned on the Settling Parties revising the standard of review applicable to non-settling third parties. An acceptable substitute provision applicable to non-settling third parties would be the “most stringent standard permissible under applicable law.”

6. The tariff sheets contained in the Settlement are in compliance with Order No. 614 and are made effective as set forth in the Settlement. *See Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000).

7. This letter order terminates Docket Nos. ER06-1517-000, ER06-1518-000, and EL07-14-000.

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

Kimberly D. Bose,  
Secretary.

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<sup>3</sup> *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *FPC v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (*Mobile-Sierra*).

