

125 FERC ¶ 61,366  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Dynegy Power Marketing, Inc.	Docket Nos. ER07-323-000
Dynegy Midwest Generation, Inc.	ER07-323-002
	ER08-356-000
	ER08-356-002

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued December 29, 2008)

1. On December 2, 2008, Dynegy Power Marketing, Inc. (Dynegy Power Marketing) and Dynegy Midwest Generation, Inc. (Dynegy Midwest) (collectively, Dynegy) filed a settlement agreement (Settlement)<sup>1</sup> to resolve all issues pending in the above-captioned dockets, which concern the rates charged by Dynegy Power Marketing for ancillary services provided to the Ameren Illinois Utilities<sup>2</sup> during 2007 and 2008.<sup>3</sup>
2. At paragraph 17 of the Settlement, Constellation and Illinois Municipal give notice of the withdrawal of their October 25, 2007 requests for rehearing submitted in

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<sup>1</sup> The Settling Parties include: Dynegy Power Marketing, Inc., Dynegy Midwest Generation, Inc., Ameren Services Company on behalf of its public utility operating companies in the State of Illinois, Constellation Energy Commodities Group, Inc., (Constellation) the Illinois Municipal Electric Agency (Illinois Municipal), Southwestern Electric Cooperative, Inc. (Southwestern), J. Aron & Company (J. Aron), and Prairie Power, Inc. (Prairie Power and, together with Constellation, Illinois Municipal, Southwestern, and J. Aron, the Customer Group).

<sup>2</sup> For the purposes of the Settlement, the Ameren public utility operating companies in the state of Illinois include Central Illinois Light Company d/b/a Ameren CILCO, Central Illinois Public Service Company d/b/a AmerenCIPS, and Illinois Power Company d/b/a Ameren IP (collectively, the Ameren Illinois Utilities).

<sup>3</sup> See *Dynegy Power Marketing, Inc.*, 124 FERC ¶ 61,262 (2008) (establishing settlement judge procedures).

Docket No. ER07-323-002 and Southwestern gives notice of the withdrawal of its June 5, 2008 request for rehearing submitted in Docket No. ER08-356-002. In addition, the members of the Customer Group withdraw their protests to Dynegy's 2007 request for waiver of section 3(b) of its market-based rate tariff and Dynegy's 2008 request for waiver of section 3(b) of its market-based rate tariff. The withdrawals of the rehearing requests and protests become effective on the date that Dynegy Power Marketing pays a one-time "blackbox" amount to each member of the Customer Group without further action by the Commission or the Settling Parties.

3. Paragraph 19 of the Settlement provides that Dynegy and Ameren Services Company shall extend Dynegy's agreement to provide certain ancillary services to the Ameren Illinois Utilities at market-based rates for the period commencing January 1, 2008 and ending on the earlier of December 31, 2008 or the start date of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) ancillary services market (Dynegy 2008 Contract), and that Dynegy shall continue to provide regulation service to the Ameren Illinois Utilities at the quantities and rates set forth in the Dynegy 2008 Contract (which includes both a Capacity Charge and an Energy Charge) from January 1, 2009 through the earlier of (i) March 31, 2009 or (ii) the start date of the Midwest ISO ancillary services market.

4. Paragraph 20 of the Settlement states that the Customer Group agrees not to protest or otherwise oppose the filing required to extend the Dynegy 2008 Contract from January 1, 2009 through the earlier of (i) March 31, 2009 or (ii) the start date of the Midwest ISO ancillary services market. It also provides that neither the Customer Group nor Dynegy will protest or otherwise oppose any extension of the Ameren Affiliates<sup>4</sup> 2008 contracts or the extension of other ancillary services contracts executed pursuant to Ameren's 2008 Request for Proposals from January 1, 2009 through the earlier of (i) March 31, 2009 or (ii) the start date of the Midwest ISO ancillary services market.

5. The Settling Parties request that the Commission rule on this Settlement by December 30, 2008.

6. On December 12, 2008, Commission Trial Staff filed initial comments supporting the Settlement. No other comments were filed in response to the Settlement. The presiding administrative law judge certified the Settlement to the Commission as uncontested on December 16, 2008.<sup>5</sup>

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<sup>4</sup> The Settlement states that the "Ameren Affiliates" are Ameren Energy Marketing Company and Ameren Energy Inc.

<sup>5</sup> *Dynegy Power Marketing, Inc.*, 125 FERC ¶ 63,027 (2008).

7. Paragraph 25 of the Settlement provides that:

The just and reasonable standard governs all future changes to this Agreement by the Parties and the Commission. Nothing in this Agreement is intended to impose the ‘public interest’ standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956), and *Federal Power Comm’n v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) (the ‘Mobile-Sierra’ doctrine) on either of the Parties or the Commission or to prevent the Commission from acting on its own motion with respect to this proceeding.

8. The subject 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. The Commission retains the right to investigate the rates, terms and conditions 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 (2006).

9. This order terminates Dockets Nos. ER07-323-000, ER07-323-002, ER08-356-000, and ER08-356-002.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.