

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Services, Inc.

Docket No. ER03-861-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued May 27, 2004)

1. On February 24, 2004, Entergy Services, Inc., acting as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (Entergy) filed an offer of settlement on behalf of itself and the undersigned customers¹ that resolves all outstanding issues in these proceedings. On March 15, 2004, the Commission Trial Staff and the Arkansas Cities and Cooperative² submitted comments in support of the settlement. No other comments were received. On April 1, 2004, the settlement judge certified the settlement to the Commission as an uncontested settlement.

2. The subject settlement is in the public interest and is hereby approved. The rates submitted with the Settlement Agreement are accepted for filing. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

¹ The undersigned customers are comprised of City Water and Light Plant of the City of Jonesboro, Arkansas, City of Prescott, Arkansas, City of West Memphis, Arkansas, CLECO Power, LLC, Conway Corporation, East Texas Electric Cooperative, Inc., Sam Rayburn G&T Electric Cooperative, Inc., Tex-La Electric Cooperation of Texas, Inc., Farmers Electric Cooperative Corporation, Louisiana Generating, LLC, Lafayette Utilities Systems, Louisiana Energy and Power Authority, Municipal Energy Agency of Mississippi, Mississippi Delta Energy Agency, City of Yazoo City, Mississippi, City of Clarksdale, Mississippi, and South Mississippi Electric Power Association.

² Arkansas Cities and Cooperative consists of the City of North Little Rock, Arkansas; the Conway Corporation; the City of Prescott, Arkansas; the West Memphis Utilities Commission; and the Farmer's Electric Cooperative Corporation.

3. Within thirty (30) days from the date of the issuance of this order, any amounts collected in excess of the settlement rates shall be refunded together with interest computed under section 35.19a of the Commission's Regulations. Within fifteen (15) days after making such refunds, Entergy 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. Entergy 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 order terminates Docket No. ER03-861-000. A new subdocket will be assigned in Docket No. ER03-861 upon receipt of the required compliance refund report.

By the Commission. Commissioner Kelly dissenting in part with a separate attachment 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 approves a settlement that provides, in relevant part, that “[t]he standard of review for any modifications to this Settlement that are not agreed to by all Parties, including modifications resulting from the Commission acting *sua sponte*, shall be the ‘public interest’ standard under the Mobile Sierra Doctrine.”

Suedeem G. Kelly