

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

San Diego Gas & Electric Company

Docket No. ER05-853-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued February 14, 2006)

1. On November 8, 2005, San Diego Gas & Electric Company (SDG&E) filed an offer of settlement in the above-referenced proceeding. On November 28, 2005, Commission Trial Staff filed comments in support of the settlement agreement. No other comments were filed. On December 29, 2005, the Settlement Judge certified the settlement to the Commission as uncontested.
2. On July 8, 2004, the California Public Utilities Commission (CPUC) issued an order (CPUC Order) requiring SDG&E and other utilities to take into account the costs of transmission congestion in scheduling or procuring energy from generation resources outside their service territories. The CPUC Order was intended to minimize the overall costs of assuring grid reliability. On April 21, 2005, SDG&E filed with the Commission a revision to its Transmission Owner Tariff (TO Tariff)<sup>1</sup> to reflect the incremental procurement costs it incurred, and continues to incur, in complying with the CPUC Order. SDG&E classified the additional costs as a new category of Reliability Services costs under its TO Tariff. On June 20, 2005, the Commission accepted certain proposed tariff revisions to SDG&E's TO Tariff, suspended their effectiveness for a nominal period, permitting them to become effective June 21, 2005, subject to refund, and set the issues raised by the filing for hearing and settlement judge procedures.<sup>2</sup> The subject settlement resolves all issues in the proceeding.

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<sup>1</sup> FERC Electric Tariff, Second Revised Volume No. 11.

<sup>2</sup> *San Diego Gas & Elec. Co.*, 111 FERC ¶ 61,426 (2005).

3. The subject settlement is in the public interest and is hereby approved. The rate schedules submitted as part of the settlement 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.

4. This order terminates Docket No. ER05-853-000.

By the Commission. Commission 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 approves a settlement that provides the standard of review for any modifications to this Settlement Agreement that are not agreed to by all the Parties, including any modifications 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