

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Hermiston Power Partnership

Docket No. ER05-1093-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued February 27, 2006)

1. On January 4, 2006, in Docket No. ER05-1093-000, Hermiston Power Partnership (“Hermiston”), on behalf of Hermiston and Bonneville Power Administration (“Bonneville”), filed a settlement resolving all pending issues in Docket No. ER05-1093-000. On January 11, 2006, Hermiston submitted, as an errata, a revised complete package of the settlement that was intended to be substituted for the January 4, 2006 version because the January 4, 2006 document was mistakenly based on a prior draft and therefore did not reflect the final draft of the settlement. The settlement is uncontested.
2. On June 10, 2005, Hermiston filed a proposed rate schedule that contained its annual revenue requirement for supplying reactive power (“Reactive Power Service”) to Bonneville from Hermiston’s electric generating facility (“Hermiston Facility” or “Facility”). The Hermiston Facility is directly connected to Bonneville’s main grid transmission system and Hermiston is required to operate the Facility at voltage set points provided by Bonneville. Hermiston proposed a rate of \$1,242,057.97 annually and requested August 1, 2005, as the effective date. Hermiston’s filing stated that the rate was based upon the rate methodology established by the Commission in *American Electric Power Service Corporation*, 80 FERC ¶ 63,006 (1997), *aff’d*, 88 FERC ¶ 61,141 (1999); *approved*, *WPS Westwood Generation, L.L.C.*, 101 FERC ¶ 61,290 (2002) as it existed as of the date of the TransAlta Settlement in Docket No. ER04-810-000, regardless of any subsequent modifications to the methodology or new methodologies adopted by the Commission (referred to hereinafter, and in the Settlement, as “the Current AEP Methodology”).
3. Bonneville intervened and filed a protest in this docket on July 15, 2005, which was a timely intervention pursuant to a Commission order issued July 1, 2005, extending the time for protests until July 15, 2005. In its August 4, 2005 Order accepting and suspending the proposed rate schedule and establishing hearing and settlement

procedures,<sup>1</sup> the Commission accepted Hermiston's rate for filing and suspended it for a nominal period, to become effective August 1, 2005, subject to refund. The Commission established a hearing process, but held the hearing in abeyance pending a settlement conference. By orders issued August 9, 2005, September 12, 2005, and November 18, 2005, the Chief Judge deferred appointment of a settlement judge due to the continued progress toward settlement being made by the Settling Parties of their own accord.

4. On January 25, 2006, FERC Trial Staff ("Staff") submitted comments in support of the settlement, with one modification. On January 27, 2006, Hermiston, by letter, stated that it did not oppose the modification recommended by Staff. On February 6, 2006, Chief Judge Wagner certified the settlement to the Commission as uncontested.<sup>2</sup>

5. The settlement is fair and reasonable and in the public interest and is hereby approved. The rate schedule sheets submitted as part of the settlement are in compliance with Order 614. *See Designation of Electric Rate Schedule Sheets*, Order No. 614, 65 Fed. Reg. 18,221, (FERC Statutes & Regulations, Regulations Preambles July 1996-December 2000, ¶ 31,096 (2000)). The rate schedules are hereby accepted for filing and made effective as specified in the settlement. The Commission's approval of this settlement does not constitute approval of, or precedent regarding any principle or issue in this proceeding.

6. This Order terminates Docket No. ER05-1093-000.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>1</sup> *Hermiston Power Partnership*, 112 FERC ¶ 61,167 (2005).

<sup>2</sup> *Hermiston Power Partnership*, 114 FERC ¶ 63,020 (2006). On February 7, 2006, Chief Judge Wagner issued an errata to the certification to correct a typographical error.

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(Issued February 27, 2006)

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 accepts for filing a settlement with an Explanatory Statement that provides, in relevant part: “The standard of review for changes to the Settlement Agreement proposed by a Party, a non-Party, or the Commission acting *sua sponte*, shall be the *Mobile-Sierra* public interest standard...”

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Suedeen G. Kelly