

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

American Electric Power Service Corporation on  
Behalf of:

Docket Nos. EL05-74-001  
EL05-74-002

Appalachian Power Company  
Columbus Southern Power Company  
Indiana Michigan Power Company  
Kentucky Power Company  
Kingsport Power Company  
Ohio Power Company  
Wheeling Power Company

Commonwealth Edison Company and  
Commonwealth Edison Company of Indiana, Inc.

Dayton Power and Light Company

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued May 30, 2006)

1. On April 7, 2006, an Offer of Settlement and Settlement Agreement were filed in Docket Nos. EL05-74-001 and EL05-74-002 (Settlement) on behalf of American Electric Power Service Corporation (AEP);<sup>1</sup> Dayton Power and Light Company (Dayton); Exelon Corporation on behalf of PECO Energy Company, Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. (ComEd); Pepco Holdings, Inc.;<sup>2</sup> PPL Electric Utilities Corporation; Public Service Electric and Gas Company and PSEG Energy Resources and Trade, LLC; and Virginia Electric and Power Company d/b/a Dominion Virginia Power. On April 27, 2006, Commission Trial Staff submitted

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<sup>1</sup> On behalf of Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, and Wheeling Power Company.

<sup>2</sup> On behalf of Potomac Electric Power Company, Atlantic City Electric Company and Delmarva Power & Light Company.

comments in support of the Settlement. No other comments were filed. On May 1, 2006, the Settlement was certified to the Commission as uncontested.

2. The Settlement is intended to resolve all issues in this proceeding, which concerns the funding of certain non-capital costs associated with the integration of AEP, ComEd and Dayton into PJM Interconnection, L.L.C. (PJM).<sup>3</sup> The Settlement is in the public interest and is hereby approved. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

3. The tariff sheets submitted as part of the Settlement are in compliance with Order No. 614. *See Designation of Electric Rate Schedule Sheets*, Order No. 614, 65 Fed. Reg. 18,221, FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000). The tariff sheets are hereby accepted for filing and made effective on May 1, 2005, as specified in the Settlement.

4. PJM will make the refunds, or assess surcharges, as necessary to reflect the rates provided in the Settlement.<sup>4</sup> PJM will file with the Commission a refund report within thirty (30) days of the date on which PJM has provided refunds to all customers, as described in the Settlement.

5. Docket Nos. EL05-74-001 and EL05-74-002 are terminated. A new subdocket will be assigned upon receipt of the required refund report.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>3</sup> Pursuant to the Settlement, these costs are established at \$52,549,556, effective May 1, 2005, and are to be recovered over approximately ten years.

<sup>4</sup> PJM shall begin billing the Settlement rates on the first day of the first month following the issuance date of this order. PJM shall assess refunds or surcharges for amounts assessed, or not assessed, under Schedule 13 since May 1, 2005.

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

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Suedeen G. Kelly