

111 FERC ¶ 61,225
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Westar Energy, Inc.

Docket No. IN03-2-000

ORDER APPROVING STIPULATION AND CONSENT AGREEMENT

(Issued May 17, 2005)

1. The Commission approves the attached Stipulation and Consent Agreement (“Agreement”) between the Division of Enforcement, Office of Market Oversight and Investigations (“Enforcement”) and Westar Energy, Inc. (“Westar”). This order is in the public interest because it resolves the alleged violations with a settlement that imposes a detailed, three-year plan designed to prevent future violations of the Standards of Conduct, including improper sharing of transmission information and incomplete posting of data on Westar Energy’s OASIS website. We approve the Agreement without modification, as discussed below.
2. The Agreement resolves all issues in a non-public, formal investigation conducted by Enforcement in Docket No. IN03-2-000 under Part 1b of the Commission’s regulations, 18 C.F.R. Part 1b (2004). This investigation concerned alleged violations of certain aspects of the Federal Power Act (FPA), 16 U.S.C. § 792 *et seq.* (2000); the Commission’s then-effective Standards of Conduct for Electric Transmission Providers, 18 C.F.R. section 37.4 (2003); and certain other Commission regulations and policies. Westar neither admits nor denies that its actions violated the FPA or the Commission’s regulations and policies.
3. The facts stipulated in the Agreement concern certain transmission information disclosures by transmission employees of Westar to a business manager operating as a wholesale merchant employee, and certain inadequate postings regarding the business manager’s activities, and other matters, on Westar’s OASIS website. The investigation also examined certain trades with Cleco Corp. whereby Westar served as an intermediary between two Cleco affiliates attempting to evade the Commission’s requirement that interaffiliate trades be approved by the Commission, and pre-arranged, offsetting trades between Westar and a third party and then back to itself. Staff found no actionable violations by Westar resulting from such trades.

4. The Agreement contains a Remedies section consisting of a Compliance Plan whose components are summarized below:

Westar shall implement a Compliance Plan, incorporated into the Agreement as Appendix A, to ensure that Westar stays in full compliance with Commission rules and regulations. The Compliance Plan shall remain in effect for three years. The Compliance Plan includes detailed procedures whereby Westar agrees to have its Order No. 2004 Chief Compliance Officer (CCO): (1) notify Enforcement of any material violation of Commission rules or regulations; (2) develop and implement FERC regulatory compliance training; (3) ensure that no wholesale merchant personnel have access to non-public transmission information and that transmission and merchant function employees function independently from one another; (4) retain communications and documents and engage in internal audits to assure compliance with Commission rules and regulations, this Agreement, and with Compliance Reports to be submitted annually over the next three years; and (5) ensure that Westar's corporate and employee organization charts are posted on Westar's Intranet and Internet websites accurately in the manner required by 18 C.F.R. Part 358.

5. The Agreement does not address or resolve issues pending in any other docketed matters.

The Commission finds:

The Agreement provides an equitable resolution of this matter and is in the public interest.

The Commission orders:

(A) The attached Stipulation and Consent Agreement is approved in its entirety without modification.

(B) Docket No. IN03-2-000 is terminated, save for determination of compliance with this Settlement Order and Agreement.

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(C) The Commission's approval of the attached Stipulation and Consent Agreement does not constitute approval of, or precedent regarding, any principle or issue in any proceeding.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.