

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Consolidated Edison Energy Massachusetts, Inc.                      Docket Nos. ER05-903-000  
ER05-903-001  
ER05-903-002  
ER05-903-003

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued March 22, 2007)

1. On July 18, 2006, as corrected on August 24, 2006, Consolidated Edison Energy Massachusetts, Inc., and Consolidated Edison Energy, Inc. (together, Con Ed), applicants for a reliability-must-run (RMR) agreement for their West Springfield, Massachusetts, generating unit, together with ISO New England, Inc. (ISO-New England), Massachusetts Municipal Wholesale Electric Company, and Chicopee Municipal Lighting Plant and South Hadley Electric Light Department, (collectively, Settling Parties) filed a settlement to resolve all matters in Docket Nos. ER05-903-000, ER05-903-001, ER05-903-002, and ER05-903-003. These proceedings relate to the RMR agreement between Con Ed and ISO New England (Filed Reliability Agreement) that the Commission modified and conditionally accepted by order issued on April 29, 2005,<sup>1</sup> effective May 1, 2005, subject to hearing and settlement judge procedures, and the subsequent October 11, 2005 compliance filing.
2. The Settlement proposes replacement of the Filed Reliability Agreement with the Settlement Reliability Agreement. The Settling Parties state that the Settlement resolves all outstanding issues in Docket No. ER05-903 proceedings, and that, together, the Settlement and the Settlement Reliability Agreement constitute the entire agreement among the Settling Parties. They ask the Commission to make the Settlement Reliability Agreement effective as of May 1, 2005, without modification, suspension, or hearing.
3. On July 31, 2006, Trial Staff submitted comments supporting the Settlement. On August 3, 2006, the Office of the Attorney General of Massachusetts stated that it had no

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<sup>1</sup> *Consolidated Edison Energy Massachusetts, Inc.*, 112 FERC ¶ 61,263 (2005).

objection to the Settlement. The presiding judge certified the Settlement to the Commission as uncontested on September 6, 2005.<sup>2</sup>

4. The Settlement is fair and reasonable and in the public interest. It is hereby approved to become effective as proposed. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings. The Settlement indicates that proposed changes to the Settlement shall be subject to the "public interest" standard and that proposed changes to the Settlement Reliability Agreement shall be subject to the "just and reasonable" standard. Sections 10 and 11 of the Settlement. Thus, the Commission retains the right to investigate the rates, terms and conditions of the Settlement Reliability Agreement under the just and reasonable and not unduly discriminatory or preferential standard of section 206 of the Federal Power Act, 16 U.S.C. § 824e (2000).

5. The tariff sheets reflecting the Settlement Reliability Agreement are in compliance with Order No. 614.<sup>3</sup> The Settlement tariff sheets are hereby accepted for filing and made effective as set forth in the Settlement, to replace the Filed Reliability Agreement.

6. This order terminates Docket Nos. ER05-903-000, ER05-903-001, ER05-903-002, and ER05-903-003.

By the Commission. Commissioners Kelly and Wellinghoff dissenting in part with separate statements attached.

( S E A L )

Philis J. Posey,  
Acting Secretary.

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<sup>2</sup> *Consolidated Edison Energy Massachusetts, Inc.*, 116 FERC ¶ 63,050 (2006).

<sup>3</sup> *See Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs., Preambles July 1996 – December 2000 ¶ 31,096 (2000).

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Consolidated Edison Energy Massachusetts, Inc.

Docket Nos. ER05-903-000  
ER05-903-001  
ER05-903-002  
ER05-903-003

(Issued March 22, 2006)

KELLY, Commissioner, *dissenting in part*:

The parties to this settlement have requested that the Commission apply the *Mobile-Sierra* “public interest” standard of review with respect to any proposed changes to the Settlement. As I explained in my separate statement in *Transcontinental Gas Pipe Line Corporation*,<sup>1</sup> in the absence of an affirmative showing by the parties and reasoned analysis by the Commission regarding the appropriateness of approving the “public interest” standard of review to the extent future changes are sought by a non-party or the Commission acting *sua sponte*, I do not believe the Commission should approve this provision.

Accordingly, I respectfully dissent in part from this order.

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Suedeem G. Kelly

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<sup>1</sup> 117 FERC ¶ 61,232 (2006).

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FEDERAL ENERGY REGULATORY COMMISSION

Consolidated Edison Energy  
Massachusetts, Inc.

Docket No. ER05-903-000  
ER05-903-001  
ER05-903-002  
ER05-903-003

(Issued March 22, 2007)

WELLINGHOFF, Commissioner, dissenting in part:

The parties in this case have asked the Commission to apply the “public interest” standard of review when it considers future changes to the Settlement that may be sought by any of the parties, a non-party, or the Commission acting *sua sponte*. By contrast, the parties state that the “just and reasonable” standard of review should apply when the Commission considers potential future changes to the Settlement Reliability Agreement that is appended to the Settlement.

Because the facts of this case do not satisfy the standards that I identified in *Entergy Services, Inc.*,<sup>1</sup> I believe that it is inappropriate for the Commission to grant the parties’ request and agree to apply the “public interest” standard to future changes to the Settlement sought by a non-party or the Commission acting *sua sponte*.

For this reason, I respectfully dissent in part.

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Jon Wellinghoff  
Commissioner

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<sup>1</sup> 117 FERC ¶ 61,055 (2006).