

128 FERC ¶ 61,130  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Atlantic Path 15, LLC

Docket Nos. ER08-374-003  
EL08-38-002

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued August 3, 2009)

1. On March 23, 2009, Atlantic Path 15, LLC (Atlantic Path) filed an Offer of Settlement and Stipulation (Settlement) on behalf of itself, the Southern California Edison Company (SoCal Edison), and Pacific Gas and Electric Company (PG&E) (the Settling Parties).<sup>1</sup>
2. On April 1, 2009, the Public Utilities Commission of the State of California Pacific Gas (California Commission) filed comments in support of the Settlement. The Commission's Trial Staff (Trial Staff) filed comments in support of the Settlement Agreement on April 2, 2009. No other comments were filed. On April 9, 2009, the Presiding Administrative Law Judge certified the Settlement to the Commission as uncontested.<sup>2</sup>
3. The Settlement resolves, or sets procedures for the resolution of, all issues in the above captioned proceeding, including Atlantic Path's proposed revisions to the rates that it charges for transmission service, i.e., its base transmission revenue requirement (Base

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<sup>1</sup> The Settlement was originally misfiled under Docket Nos. ER08-374-000 and EL08-38-000, the former settlement docket numbers, which were terminated in an *Order of Chief Judge Terminating Settlement Judge Procedures, Designating Presiding Administrative Law Judge, And Establishing Track II Procedural Schedule*, Docket Nos. ER08-374-000, ER08-374-003 and EL08-38-000, EL08-38-002, at p. 2 (July 25, 2008). The Settlement Agreement is now properly docketed under Docket Nos. ER08-374-003 and EL08-38-002.

<sup>2</sup> *Atlantic Path 15, LLC*, 127 FERC ¶ 63,002 (2009).

TRR), associated with the upgrade of the Atlantic Path 15 transmission corridor in California.<sup>3</sup> The Settlement is fair and reasonable and 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. The Commission retains the right to investigate the rates, terms and conditions under the just and reasonable and not unduly discriminatory or preferential standard of section 206 of the Federal Power Act.<sup>4</sup>

4. The tariff sheets submitted as part of the Settlement are properly designated, accepted for filing, and made effective as specified in the Settlement.<sup>5</sup>

5. Pursuant to Article 4 of the Settlement, the California Commission has agreed to withdraw its March 20, 2008 request for rehearing of the February 19, 2008 Order issued in this proceeding within thirty (30) days of the Commission's approval of the Settlement.

6. As described in Article 3 of the Settlement, SoCal Edison retains the right to pursue the three issues raised in its request for rehearing of the February 19 Order including seeking any appellate review of orders issued with respect to these issues.<sup>6</sup> The Settlement provides for a predetermined resolution of these three issues, if certain triggering events<sup>7</sup> take place in conjunction with any Commission or court action. If a triggering event occurs, the Settling Parties have agreed that such occurrence will be resolved with a predetermined prospective reduction to Atlantic Path's Base TRR.<sup>8</sup>

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<sup>3</sup> *Atlantic Path 15, LLC*, 122 FERC ¶ 61,135 (2008) (February 19 Order).

<sup>4</sup> 16 U.S.C. § 824e (2006)

<sup>5</sup> *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000).

<sup>6</sup> The three issues raised in SoCal Edison's March 20, 2008 request for rehearing include (a) the Commission's approval of Atlantic Path's use of a historic test year; (b) the Commission's approval of Atlantic Path's use of a Western Electric Coordinating Council-based proxy group; and (c) the Commission's upfront return on investment determination without setting the issue for hearing.

<sup>7</sup> See Settlement at Article 3.3.

<sup>8</sup> See Settlement at Articles 3.4-3.8.

7. Article 7.10 of the Settlement provides that:

The just and reasonable standard governs all future changes to this Settlement. Nothing in this Settlement is intended to impose the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956), and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), on either the Settling Parties or the Commission, or to prevent the Commission from acting on its own motion with respect to this proceeding.

8. Refunds and adjustments shall be made pursuant to the Settlement.

9. This order terminates Docket Nos. ER08-374-003 and EL08-38-002.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.