

142 FERC ¶ 61,029
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
Cheryl A. LaFleur, and Tony T. Clark.

Kentucky Utilities Company

Docket No. ER12-1574-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued January 15, 2013)

1. On November 30, 2012, Kentucky Utilities Company (KU) submitted an uncontested settlement agreement (Settlement) resulting from its negotiations with the Benham Power Board f/k/a the Benham Electric System (Benham). KU states that this Settlement resolves all currently pending issues between KU and Benham in this proceeding.¹
2. On December 20, 2012, Commission Trial Staff submitted comments supporting the certification and approval of the Settlement. On January 3, 2013, the Administrative Law Judge certified the Settlement as uncontested.²
3. Article 3.2 of the Settlement extends the notice of termination to five years and states that KU need not make an additional Federal Power Act section 205 filing to terminate the Contract. Instead, the Settlement states that this proceeding will remain pending, subject to further Commission order following a final report from the parties to be filed no later than May 15, 2016.
4. Article 3.3 states that Benham is no longer in default under section 7.1.2 of the Contract and that KU must return the \$10,000 in Performance Assurance that Benham previously paid within 30 days of the Contract's termination.
5. Under Article 3.4, KU must calculate the amount of accrued Construction Work in Progress, plus interest, that Benham has and will continue to pay for the period beginning

¹ On April 19, 2012, KU filed a notice of termination in this docket to terminate its wholesale requirements contract with Benham (Contract). On June 13, 2012, Benham protested the notice of termination. The Commission set this proceeding for settlement judge procedures on July 17, 2012. *Kentucky Utils. Co.*, 140 FERC ¶ 61,039 (2012).

² *Kentucky Utils. Co.*, 142 FERC ¶ 63,001 (2013).

August 16, 2011 through the date of the Contract's termination. KU will file an informational filing providing this calculation every six months and will refund this amount to Benham within 30 days of the Contract's termination.

6. Article 3.5 states that Benham will use commercially reasonable efforts to find an alternative power supplier and will file semi-annual informational reports to document its efforts.

7. Article 3.6 states that KU and its affiliates will work with Benham to ensure a smooth transition to a new power supplier, consistent with all applicable regulatory obligations.

8. Article 3.7 states that KU will reimburse Benham for its actually-incurred, reasonable costs up to \$15,000 to retain a consultant to assist Benham in finding an alternative power supply.

9. Article 3.8 states that, other than as expressly provided for in the Settlement, the rates, terms, and conditions of the existing Contract between KU and Benham shall remain in full force and effect, including Benham's right to challenge termination and seek relief from the Commission.

10. The Settlement, appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

The Commission orders:

The settlement filed on November 30, 2012 is hereby approved.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.