

152 FERC ¶ 61,059
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

July 20, 2015

In Reply Refer To:
Ameren Corporation
Docket Nos. AC11-46-000
AC11-46-002
AC11-46-003
AC11-46-004

Wright & Talisman, P.C.
Attn: Wendy B. Warren, Esq.
1200 G Street, NW
Suite 600
Washington, DC 20005

Dear Ms. Warren:

1. On April 14, 2015, you filed, in the above-referenced proceeding, a Settlement Agreement between Ameren Services Company, on behalf of Ameren Corporation and Ameren Illinois Company d/b/a Ameren Illinois (collectively, Ameren) and the Illinois Municipal Electric Agency, Prairie Power, Inc., Southern Illinois Power Cooperative, and Wabash Valley Power Association, Inc. (collectively, the Customer Group) (Ameren and the Customer Group are collectively the Settling Parties). On May 4, 2015, Commission Trial Staff filed comments supporting the Settlement Agreement. No other comments were filed. On May 18, 2015, the Settlement Judge certified the Settlement Agreement to the Commission as an uncontested settlement.¹

2. The Settlement Agreement concerns the appropriate ratemaking treatment of purchase accounting adjustments associated with Ameren's acquisition of Illinois Power Company and CILCORP, Inc.

¹ *Ameren Corp.*, 151 FERC ¶ 63,010 (2015).

3. Section 6.12 of the Settlement Agreement states that:

[t]he standard of review for any modifications to this Settlement [Agreement] requested by a Settling Party shall be the “public interest” version of the just and reasonable standard of review. The standard of review for any modifications to this Settlement [Agreement] requested by any other Party, non-party, or the Commission acting *sua sponte*, shall be the most stringent standard permissible under applicable law.

4. Because the Settlement Agreement appears to provide that the standard of review applicable to modifications to the Settlement Agreement proposed by third parties and the Commission acting *sua sponte* is to be “the most stringent standard permissible under applicable law,” we clarify the framework that would apply if the Commission were required to determine the standard of review in a later challenge to the Settlement Agreement by a third party or by the Commission acting *sua sponte*.

5. The *Mobile-Sierra* “public interest” presumption applies to an agreement only if the agreement has certain characteristics that justify the presumption. In ruling on whether the characteristics necessary to justify a *Mobile-Sierra* presumption are present, the Commission must determine whether the agreement at issue embodies either: (1) individualized rates, terms, or conditions that apply only to sophisticated parties who negotiated them freely at arm’s-length; or (2) rates, terms, or conditions that are generally applicable or that arose in circumstances that do not provide the assurance of justness and reasonableness associated with arm’s-length negotiations. Unlike the latter, the former constitute contract rates, terms or conditions that necessarily qualify for a *Mobile-Sierra* presumption.² In *New England Power Generators Association v. FERC*,³ however, the D.C. Circuit determined that the Commission is legally authorized to impose a more rigorous application of the statutory “just and reasonable” standard of review on future changes to agreements that fall within the second category described above.

6. The Settlement Agreement resolves all issues in dispute in these proceedings. The Settlement Agreement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission’s approval of the Settlement Agreement does not constitute approval of, or precedent regarding, any principle or issue in these proceedings.

² *Panhandle Eastern Pipe Line Co.*, 143 FERC ¶ 61,041, at P 84 (2013); *Entergy Arkansas, Inc.*, 143 FERC ¶ 61,299, at P 92 (2013).

³ *New England Power Generators Ass’n v. FERC*, 707 F.3d 364, 370-371 (D.C. Cir. 2013).

7. This order terminates Docket Nos. AC11-46-000, AC11-46-002, AC11-46-003, and AC11-46-004.

By direction of the Commission.

Kimberly D. Bose,
Secretary.