

153 FERC ¶ 61,269
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 2, 2015

In Reply Refer To:
Kentucky Utilities Company
Docket Nos. ER13-2428-000
ER13-2428-008
ER13-2428-009
EL14-5-000
EL14-5-008

Troutman Sanders
401 9th Street, NW
Suite 1000
Washington, DC 20004-2134

Attention: Anne K. Dailey, Esq.
Attorney for Kentucky Utilities Company

Dear Ms. Dailey:

1. On August 7, 2015, as amended on August 11, 2015, you filed, in the above-referenced proceedings, a unilateral Offer of Partial Settlement (Settlement) between Kentucky Utilities Company (Kentucky Utilities) and the Frankfort Electric and Water Plant Board and the Cities of Barbourville, Bardwell, Benham, Berea, Corbin, Falmouth, Madisonville, Paris, and Providence, Kentucky (collectively, the Settling Municipals).¹ On August 27, 2015, Commission Trial Staff submitted comments in support of the Settlement. No other comments were submitted. On September 15, 2015, the Settlement Judge certified the Settlement to the Commission as a partial uncontested settlement.²

¹ Because of the Settling Municipals' internal procedural constraints, Kentucky Utilities filed the Settlement on a unilateral basis but was authorized to state that the Settling Municipals support the Settlement. Explanatory Statement at 1-2, 5.

² *Ky. Utils. Co.*, 152 FERC ¶ 63,027 (2015).

2. The Settlement establishes the rates, terms, and conditions of the wholesale requirements service that Kentucky Utilities provides to the Settling Municipals and addresses all issues in the captioned proceedings, except for one issue affecting only one of the Settling Municipals, the City of Paris.³

3. Pursuant to the Settlement,

[t]he standard of review for any proposed changes sought by any Party to the terms of this Settlement shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Services Corp.*, 350 U.S. 332 (1956), *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and *Morgan Stanley Capital Group Inc. v. Pub. Util. Dist. No. 1*, 554 U.S. 527 (2008), and the standard of review for any changes proposed by a non-Party or the Commission acting *sua sponte* shall be the ordinary just and reasonable standard of review, not the public interest standard of review, *see Devon Power LLC*, 134 FERC ¶ 61,208 at P 10 (2011); provided, however, that, except as provided in the agreements attached hereto as Exhibit D, nothing in this Settlement shall affect the rights of any Party, the Commission, or any other entity to seek further future changes to the rates, terms or conditions of [Kentucky Utilities’] service to the Settling Municipals under Sections 205 or 206 of the [Federal Power Act].⁴

4. The Settlement resolves all issues in dispute in these proceedings, except for one issue affecting only the City of Paris.⁵ The Settlement appears to be 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 these proceedings.

³ The reserved issue pertains to the City of Paris in Docket Nos. ER13-2428-010 and EL14-5-009. *Id.* at n.1. Kentucky Utilities proposed to remove Kentucky Utilities’ right to interrupt service to the City of Paris and the City of Paris’ related capacity credit. *Id.* The City of Paris protested this change, arguing that Kentucky Utilities needed to provide notice of termination before the provisions relating to interrupt and capacity credit could be removed from the City of Paris’ agreement. *Id.* Kentucky Utilities takes the position that these changes are within its Federal Power Act section 205 rights as provided for in its contract with City of Paris. *Id.* The parties desire that this issue be resolved at hearing. *Id.*

⁴ Settlement, § 5.5.

⁵ *See supra* note 3.

5. Kentucky Utilities is directed to file revised wholesale requirements service agreements in eTariff format,⁶ within 30 days of the date of issuance of this order, to reflect the Commission's action in this order.

6. This letter order terminates Docket Nos. ER13-2428-000, ER13-2428-008, ER13-2428-009, EL14-5-000, and EL14-5-008.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).