

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Entergy Services, Inc.

Docket Nos. ER05-719-000
ER05-719-001

ORDER ON UNCONTESTED PARTIAL SETTLEMENT

(Issued April 26, 2006)

1. On January 24, 2006, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc. (collectively, Entergy), and the cities of Osceola and Prescott, Arkansas, the Conway Corporation, the West Memphis Utilities Commission and Farmer's Electric Cooperative Corporation (collectively, ACC), filed an Offer of Partial Settlement (Settlement) with the Commission in the instant proceeding. The Settlement does not address or resolve any issues in this proceeding raised by Arkansas Electric Cooperative Corporation (AECC), and which have been assigned to Docket No. ER05-719-002. Comments in support of the proposed partial settlement were filed by Commission Trial Staff. The Settlement is uncontested.
2. On March 23, 2005, Entergy filed its 2005 Wholesale Formula Rate Update (2005 Rate Update) setting forth its formula rate charges and transmission loss factor. The updated charges and factors are based on actual data for the immediately preceding calendar year, as provided for in Entergy's Open Access Transmission Tariff (OATT). On June 3, 2005, Entergy submitted revised sheets for the 2005 Rate Update in Docket No. ER05-719-001. On October 21, 2005, the Commission accepted and suspended the rates proposed by Entergy, to be effective March 1, 2005, subject to refund and the outcome of hearing and settlement judge procedures.¹

¹ *Entergy Services, Inc.*, 113 FERC ¶ 61,076 (2005).

3. On January 24, 2006, Entergy file the instant Settlement resolving all issues in this proceeding regarding the rates of all customers, with the exception of AECC. At the recommendation of Entergy and supported by AECC, the unresolved issue between these parties was set for hearing in Docket No. ER05-719-002.² On March 3, 2006, the Settlement Judge certified the Settlement as uncontested.³

4. The instant Settlement is fair and reasonable and in the public interest and is hereby approved. The rate schedule submitted as part of the Settlement is properly designated and is accepted for filing, and made effective as set forth in the Settlement. *See Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000). The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

5. Within thirty (30) days from the date of the issuance of this order, any amounts collected from the settling parties in excess of the settlement rates shall be refunded together with interest computed under section 35.19a of the Commission's regulations.⁴ Within fifteen (15) days after making such refunds, Entergy shall file with this Commission a compliance refund report showing monthly billing determinants, revenue receipt dates, revenues under the prior, present and settlement rates, the monthly revenue refund and the monthly interest computed, together with summary of such information for the total refund period. Entergy shall furnish copies of the report to the settling wholesale customers and to the state Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

6. This order terminates Docket Nos. ER05-719-000 and ER05-719-001, and resolves all issues between Entergy and its customers impacted by the Settlement. Docket No. ER05-719-002 has been assigned for the unresolved issues.

By the Commission. Commissioner Kelly dissenting in part with a separate statement attached.

(S E A L)

Magalie R. Salas,
Secretary.

² Order of Chief Judge, issued February 8, 2006.

³ *Entergy Services, Inc.*, 114 FERC ¶ 63,032 (2006).

⁴ 18 C.F.R. § 35.19a (2005).

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Entergy Services, Inc.

Docket Nos. ER05-719-000
ER05-719-001

(Issued April 26, 2006)

KELLY, Commissioner, *dissenting in part*:

For the reasons I have previously set forth in *Wisconsin Power & Light Co.*, 106 FERC ¶ 61,112 (2004), I do not believe that the Commission should depart from its precedent of not approving settlement provisions that preclude the Commission, acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, from investigating rates, terms and conditions under the “just and reasonable” standard of section 206 of the Federal Power Act at such times and under such circumstances as the Commission deems appropriate.

Therefore, I disagree with this order to the extent it accepts for filing a settlement that provides, in relevant part: “The standard of review for any modifications to this Settlement Agreement that are not agreed to by ACC and Entergy, including any modifications resulting from the Commission acting *sua sponte*, shall be the ‘public interest’ standard under the Mobile-Sierra Doctrine.”

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