

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

May 11, 2006

In Reply Refer To:

Docket Nos. ER05-6-046  
EL04-135-048  
EL02-111-066  
EL03-212-062

Baker Botts L.L.P.  
Attn: Brooksany Barrowes, Esq.  
Attorney for Reliant Energy, Inc.  
The Warner  
1299 Pennsylvania Ave., NW  
Washington, DC 20004-2400

Dear Ms. Barrowes:

1. On March 6, 2006, you filed a Settlement Agreement (Settlement) for Reliant Energy, Inc. (Reliant), on behalf of itself and its subsidiary Orion Power Midwest, L.P. (Orion), and Dominion Retail, Inc. (Dominion Retail), in the above-referenced dockets. No comments were filed on the Settlement. The Settlement resolves Dominion Retail's shift-to-shipper claim against Orion in these dockets, which would transfer seams elimination cost adjustment charges (SECA) to Orion. Specifically, the Settlement requires Reliant to pay Dominion Retail \$512,500. On April 5, 2006, the Presiding Administrative Law Judge certified the Settlement to the Commission as an uncontested partial settlement.
2. The Settlement is 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 *Mobile-Sierra* public interest standard will apply to this Settlement.

3. This letter terminates Docket Nos. ER05-6-046, EL04-135-048, EL02-111-066, and EL03-212-062.

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

Magalie R. Salas,  
Secretary.

cc: All Parties

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Midwest Independent Transmission System Operator, Inc.	ER05-6-046
Midwest Independent Transmission System Operator, Inc. PJM Interconnection, LLC, <i>et al.</i>	EL04-135-048
Midwest Independent Transmission System Operator, Inc. PJM Interconnection, LLC, <i>et al.</i>	EL02-111-066
Ameren Services, <i>et al.</i>	EL03-212-062

(Issued May 11, 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 Agreement that are not agreed to by both of the Parties shall be the ‘public interest’ standard under the *Mobile-Sierra* Doctrine.”

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Suedeem G. Kelly