

132 FERC ¶ 61,013
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 2, 2010

In Reply Refer To:
Duke Energy Kentucky, Inc.
Docket No. ER08-403-000

Duke Energy Corporation
Attn: Jeffrey M. Trepel, Esq.
Attorney for Duke Energy Kentucky, Inc.
526 South Church Street
Charlotte, NC 28202

Dear Mr. Trepel:

1. On July 24, 2008, you filed an Offer of Settlement (Settlement) on behalf of Duke Energy Kentucky, Inc. (Duke Energy). Duke Energy states that the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), American Municipal Power-Ohio, Inc. (AMP-Ohio), Duke Energy, the City of Williamstown, Kentucky (Williamstown) (collectively, the Settling Parties) do not object to the terms of the Settlement. The Settlement resolves all of the issues set for hearing in this proceeding, which involves Duke Energy's filing of an unexecuted wholesale distribution service agreement (Exhibit WDS) between it and Williamstown.¹
2. Among other things, the Settlement reduces the amount charged by Duke Energy for wholesale distribution service from \$0.26/kW per month to \$0.22/kW per month. In addition, Duke Energy agrees to pay refunds, with interest at the Commission-approved rate, 18 C.F.R. § 35.19a (2010), for amounts collected that exceed the new rate.
3. On August 13, 2008, Commission Trial Staff filed comments in support of the Settlement. On August 27, 2008, the Presiding Administrative Law Judge certified the Settlement to the Commission as uncontested.²

¹ *Duke Energy Kentucky, Inc.*, 122 FERC ¶ 61,182 (2008).

² *Duke Energy Kentucky, Inc.*, 124 FERC ¶ 63,013 (2008).

4. Under Article 2.1 of the Settlement, as to the Settling Parties, the public interest standard of review will be applied to Exhibit WDS during the moratorium period of December 1, 2007 through December 31, 2011, after which time period a just and reasonable standard will be applied. Article 2.1 also states that the Commission shall retain the right to review the Settlement under the most stringent standard of review allowed by applicable law, and a just and reasonable standard of review will be applied to non-parties to this proceeding both during and after the moratorium period.
5. 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.
6. This letter order terminates Docket No. ER08-403-000.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.