



4. The designations of this tariff do not comply with *Designation of Electric Rate Schedule Sheets*, Order No. 614, 65 Fed. Reg. 18,221, (FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000)). The designations at the top of the tariff sheets must be changed. FirstEnergy Solutions is directed to file rate schedule sheets in conformance with Order No. 614 within 30 days from the date of this order approving the Settlement.

5. This order terminates Docket Nos. ER04-652-002 and ER04-652-000. By approving the Settlement Agreement, FirstEnergy Solutions' application for clarification and/or rehearing of the May 10, 2004 order in this proceeding as filed in Docket No. ER04-652-001 is moot and is terminated.

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

( S E A L )

Linda Mitry,  
Deputy Secretary.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

First Energy Solutions Corporation

Docket No. ER04-652-002  
ER04-652-000  
ER04-652-001

(Issued February 14, 2005)

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 interprets certain provisions of this settlement to prohibit the Commission, acting *sua sponte* on behalf of a non-party or pursuant to a complaint by a non-party, from reviewing modifications to the annual revenue requirement for Reactive Supply Service prior to July 1, 2006, under the just and reasonable standard.

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Suedeem G. Kelly