

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Pinnacle West Energy Corporation,
Complainant,

v.

Nevada Power Company,
Respondent

Docket No. EL03-209-000

Southern Nevada Water Authority,
Complainant,

v.

Nevada Power Company,
Respondent

Docket No. EL03-213-000
(Not Consolidated)

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued March 25, 2004)

1. On December 19, 2003, Nevada Power Company (Nevada Power) filed, on behalf of itself, Pinnacle West Energy Corporation, and the Southern Nevada Water Authority, an offer of settlement that resolves all issues in these proceedings. On January 6, 2004, the Commission Trial Staff submitted comments in support of the settlement. No other comments were received. On January 12, 2004, the settlement judge certified the settlement to the Commission as an uncontested settlement.

2. The subject settlement is 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 this proceeding.

3. This order terminates Docket Nos. EL03-209-000 and EL03-213-000.

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

(S E A L)

Magalie R. Salas,
Secretary.

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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 approves a settlement that provides, in relevant part:

The standard of review for any modifications not agreed to by all Parties, including any modifications resulting from the Commission acting *sua sponte*, shall be the “public interest” standard under the Mobile Sierra Doctrine. The standard of review applicable to any future attempts to modify the terms and conditions of the TSA(s) that would affect or otherwise alter the substantive terms of this Agreement, if such modification has not been agreed to by all Parties to this Agreement, shall also be the public interest standard as set forth in the Mobile-Sierra Doctrine.

Suedeen G. Kelly