

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 25, 2004

In Reply Refer To:
Western Area Power Administration
Docket No. ER02-1672-002

Douglas O. Waikart, Esq.
Wright & Talisman, P.C.
1200 G Street, N.W., Suite 600
Washington, DC 20005-3802

Dear Mr. Waikart:

1. On June 20, 2003, on behalf of the Public Utilities Commission of the State of California (CPUC), Trans-Elect, Inc., and Trans-Elect NTD Path 15, LLC (collectively "Trans-Elect") you submitted a settlement agreement intended to resolve Docket Nos. ER02-1672-000 and ER02-1672-001 insofar as they apply to issues between CPUC and Trans-Elect. No comments were submitted in response to the settlement.
2. This settlement is 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 these proceedings. The Commission retains the right to investigate the rates, terms and conditions under the just and reasonable and not unduly discriminatory or preferential standard of Section 206 of the Federal Power Act, 16 U.S.C. § 824e (2000).

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

Magalie R. Salas,
Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Western Area Power Administration

Docket No. ER02-1672-002

(Issued March 25, 2004)

Nora Mead BROWNELL, Commissioner *dissenting in part*:

1. As I explained in my separate statement in Midwest Independent Transmission System Operator, Inc., 105 FERC ¶ 61,073 (2003), I can no longer support making our acceptance of settlement agreements subject to a Commission reservation of authority to make future revisions under the just and reasonable standard, as opposed to the Mobile-Sierra public interest standard--unless, of course, the agreement itself includes language requesting such a reservation. If the Commission has objections to a settlement, we should articulate them when we first review it, instead of approving the settlement with the cloud of uncertainty that we might make subsequent changes under a lower-than-public-interest standard after market participants have come to rely on it. Therefore, I would have accepted this agreement without reserving the option of revisiting it under a just and reasonable standard.

Nora Mead Brownell