

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

WPS Canada Generation, Inc., Maine	Docket Nos. ER03-689-000
Public Service Company, and the Northern Maine	ER03-689-001
Independent System Administrator, Inc.	ER03-689-002
	ER04-210-000

ORDER APPROVING UNCONTESTED SETTLEMENT AGREEMENT

(Issued April 14, 2004)

1. On February 10, 2004, WPS Canada Generation, Inc. (WPS Canada) filed a settlement by and between WPS Canada, Maine Public Service Company and the Northern Maine Independent System Administrator, Inc. that resolves all issues in this proceeding.
2. Trial Staff filed initial comments on March 1, 2004 supporting the settlement. The Maine Office of Public Advocate (MPA) filed initial comments that same day but does not oppose the settlement.<sup>1</sup> No reply comments were filed. On March 18, 2004, the Settlement Judge certified the settlement to the Commission as uncontested.
3. The subject settlement is in the public interest and is hereby approved. The Commission's approval of this settlement does not constitute approval or precedent regarding any principle or issue in this proceeding.

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<sup>1</sup> MPA raised a more general policy concern regarding generators in a competitive market separately charging customers for reactive power support. MPA argues that cost of reactive power support should instead be recovered in the generators' market-based rates. Regardless, MPA expressly states that this issue does not cause it to contest the settlement.

4. This order terminates Docket Nos. ER03-689-000, ER03-689-001, ER03-689-002 and ER04-210-000.

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

( S E A L )

Linda Mitry,  
Acting Secretary.

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WPS Canada Generation, Inc.,  
Maine Public Service Commission,  
and Northern Maine Independent  
System Administrator, Inc.

Docket Nos. ER03-689-000  
ER03-689-001  
ER03-689-002  
ER04-210-000

(Issued April 14, 2004)

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 dissent from this order to the extent it approves a settlement that provides, in relevant part:

Absent the agreement of all Parties to a proposed change, the standard of review for changes to the Settlement, including particularly the Appendix A Settlement Rate and the Appendix B Settlement Rate and Articles V and VI, whether proposed by WPS Canada, a Party, any other person or the Commission acting *sua sponte* shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 248 (1956).

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Suedeen G. Kelly