

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Services, Inc.

Docket No. EL04-84-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued June 1, 2005)

1. In this order, the Commission approves an uncontested settlement filed on March 18, 2005 by Entergy Services, Inc. as agent for the Entergy Operating Companies (collectively, Entergy)¹ and on behalf of the South Mississippi Electric Power Association (SMEPA). This order benefits customers by resolving a dispute that arose between the parties regarding cost responsibility for Schedule 2 (Reactive Supply and Voltage Control from Generation Sources Service) charges and other unrelated issues.

Background

2. On May 2, 2002, Entergy began billing SMEPA for Schedule 2 charges for 75 MW of firm point-to-point transmission service which is provided to SMEPA pursuant to the Transmission Service Agreement between Entergy and SMEPA, dated October 1, 1994 (1994 TSA). SMEPA purchases this transmission service from Entergy in order to wheel energy from Louisiana Generating, LLC's Big Cajun II generating facility (Big Cajun II) to SMEPA's load. In May 2002, SMEPA began to pay these charges under protest.

3. On February 23, 2004, SMEPA filed a complaint against Entergy in the instant proceeding. In the complaint, and in subsequently filed pleadings, SMEPA argued, among other things, that the 1994 TSA was a "grandfathered contract" pursuant to Order No. 888,² and consequently, SMEPA was not subject to Schedule 2 charges.

¹ The Entergy Operating Companies are Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc.

² See *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036

Alternatively, SMEPA argued that it was entitled to a reactive power credit because of its interests in Big Cajun II. In its answer and in subsequently filed pleadings, Entergy argued that SMEPA was taking Open Access Transmission Tariff (OATT) service, and therefore, was responsible for Schedule 2 charges, and was not eligible for a reactive power credit. Subsequently, the parties reached a settlement intended to resolve the complaint as well as other matters in dispute.

4. Comments on the settlement were due on April 7, 2005, with reply comments due on April 18, 2005. None was filed.

5. The subject settlement is in the public interest and is hereby approved, and, consistent with the parties' agreement, approval of the settlement constitutes a withdrawal of the complaint. The Commission's approval of the settlement does not constitute acceptance of, or precedent regarding, any principle or issue in this proceeding.

6. This order terminates Docket No. EL04-84-000.

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

(S E A L)

Linda Mitry,
Deputy Secretary.

(1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Entergy Services, Inc.

Docket No. EL04-84-000

(Issued June 1, 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 approves a settlement that provides “[t]he standard of review for any modifications to this Settlement Agreement that are not agreed to by the Parties, including any modifications resulting from the Commission acting *sua sponte*, shall be the ‘public interest’ standard under the *Mobile-Sierra* Doctrine.”

	<hr/> <p>Sudeen G. Kelly</p>
--	------------------------------