

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Nevada Power Company

Docket Nos. ER04-152-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued June 1, 2005)

1. On March 24, 2005, Nevada Power Company (Nevada Power), the Western Area Power Administration (WAPA), Valley Electric Association, Inc. (Valley), Nevada Power's Chuck Lenzie Generating Station (NPC Lenzie), GenWest, LLC (GenWest), the Southern Nevada Water Authority (SNWA), Las Vegas Cogeneration II, LLC (LV Cogen), Mirant Las Vegas, LLC (Mirant), and Reliant Energy Wholesale Generation, LLC (Reliant) (collectively, the Settling Parties) filed a Settlement Agreement and Explanatory Statement that resolves all issues set for hearing in Docket ER04-152-000 (Settlement Agreement).¹ Specifically, the Settlement Agreement resolves issues with respect to the Memoranda of Understanding (MOUs) between Nevada Power and the MOU Generators,² regarding the funding and construction of required regional system upgrades necessary to remedy short-circuit or stability problems at WAPA's Mead substation associated with the interconnection of the MOU Generators with Nevada Power's transmission system. The Settlement Agreement also resolves issues with respect to a construction agreement between Nevada Power and WAPA, which provides for the replacement and upgrade of certain facilities and equipment at the Mead substation.

2. On April 13, 2005, Commission Trial Staff filed initial comments in support of the Settlement Agreement. No other comments were filed. On April 27, 2005, the Settlement Judge certified the Settlement Agreement to the Commission as uncontested.

¹ *Nevada Power Company*, 106 FERC ¶ 61,001 (2004).

² The MOU Generators include NPC Lenzie, GenWest, SNWA, LV Cogen, Mirant, and Reliant.

3. The Settlement Agreement is in the public interest and is hereby approved. In approving the Settlement Agreement, the Commission agrees, in accordance with paragraph 18 of the Settlement Agreement, that it is just and reasonable and in the public interest in this situation for Nevada Power, as a transmission owner, to recover the full amount of its share (33%) of the Centennial Adder Costs,³ paid pursuant to paragraph 13 of the Settlement Agreement, in its Commission-jurisdictional transmission rates, subject only to a review of the prudence of the level of those costs. Pursuant to paragraph 17 of the Settlement Agreement, all Settling Parties agree to support Nevada Power's future recovery of these costs in any future proceeding in which Nevada Power seeks to recover the costs on a non-discriminatory basis in its transmission rates, provided that the Settling Party has intervened in such future proceeding.

4. The rate schedule revisions submitted with the Settlement Agreement are in compliance with Order No. 614, *Designation of Electric Rate Schedule Sheets*, FERC Stats. & Regs., Regulations Preambles July 1996 – December 2000 ¶ 31,096 (2000). The Commission's approval of the Settlement Agreement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

5. This order terminates Docket No. ER04-152-000.

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

(S E A L)

Linda Mitry,
Deputy Secretary.

³ The Centennial Adder Costs are the fault duty upgrade costs for the north and south portions of the Mead substation that are attributed to the fault duty impacts of Nevada Power's Centennial Project.

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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, “[t]he standard of review for any modification not agreed to by all the Parties, including any modifications resulting from 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. 348 (1956) (the ‘Mobile-Sierra Doctrine’).”

	_____ Sudeen G. Kelly
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Secretary