

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Services Inc.

Docket No. ER04-886-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued June 16, 2005)

1. On April 4, 2005 Entergy Services, Inc. (Entergy) filed a proposed offer of settlement and settlement agreement (settlement) in the above-referenced proceeding. On April 25, 2005, as corrected April 26, 2005, FERC trial staff filed a comment in support of the settlement. On May 4, 2005, the settlement judge certified the settlement to the Commission as an uncontested settlement.
2. The settlement resolves all issues regarding the appropriate rates and revenue requirement for transmission billings on Entergy's transmission system from June 1, 2004, through May 31, 2005. The settlement agreement sets forth certain modifications to the formula rate calculations originally submitted by Entergy in this proceeding related to weighted cost of capital and the weighted costs of debt, the identified ADIT balances, the accounting of certain RTO development and related activities, and the treatment of certain voluntary severance payments booked during applicable 2003 test year. The settlement agreement also sets forth certain amendments to Entergy's OATT formula rate in order to implement the active parties' agreements concerning un-refunded prepayments for transmission customers.

3. The settlement is in the public interest and is hereby approved. The rate schedule revisions submitted with the settlement are in compliance with Order No. 614.<sup>1</sup> The Commission's approval of the settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. Section 13 to the settlement agreement contains language that applies the Mobile-Sierra public interest standard of review to the settlement agreement.

4. Within thirty (30) days from the date of this letter, any amounts collected in excess of the settlement rates shall be refunded together with interest computed under section 35.19a of the Commission's regulations.<sup>2</sup> Within fifteen (15) days after making such refunds, Entergy shall file with the Commission a compliance refund report showing monthly billing determinants, revenue receipt dates, revenues under the present and settlement rates, the monthly revenue refund, and the monthly interest computed, together with a summary of such information for the total refund period. Entergy shall furnish copies of the report to the affected customers and to each state commission within whose jurisdiction the affected wholesale customers distribute and sell electric energy at retail.

5. This order terminates Docket No. ER04-886-000. A new subdocket will be assigned in Docket No. ER04-886 upon receipt of the required compliance refund report.

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

( S E A L )

Linda Mitry,  
Deputy Secretary.

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<sup>1</sup> *FERC Stats. & Regs.*, Regulations Preambles July 1996 – December 2000 ¶ 31,096 (2000)

<sup>2</sup> 18 C.F.R. § 35.19a (2004).

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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 “[t]he standard of review for any modifications to this Settlement Agreement that are not agreed to by all 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>Suedeem G. Kelly</p>
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