

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Nevada Power Company,
Valley Electric Association, Inc,
Southern California Edison Company

Docket Nos. ER02-1741-000,
ER02-1742-000,
ER04-424-002,
ER02-2344-001

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued July 22, 2005)

1. On May 23, 2005, Nevada Power Company (Nevada Power), Southern California Edison Company (SCE), Valley Electric Association, Inc. (Valley), Nevada Power's Chuck Lenzie Generating Station (NPC Lenzie),¹ 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)² (collectively, the Settling Parties), filed a Settlement Agreement and Explanatory Statement that resolves all outstanding issues in Docket Nos. ER02-1741-000 and ER02-1742-000 that were not resolved by the settlement agreement in *Nevada Power*,³ and all of the issues in Docket No. ER04-424-002. As part of the Settlement Agreement, the Settling Parties submitted an Amended and Restated Settlement Agreement between SCE and Nevada Power, GenWest, LV Cogen, Mirant, NPC Lenzie,

¹ NPC Lenzie is successor-in-interest to Duke Energy Moapa, LLC (Duke).

² Reliant was known as Reliant Energy Bighorn, LLC.

³ *Nevada Power Company, et al.*, 103 FERC ¶ 61,050 (2003) (*Nevada Power*).

Reliant and SNWA (Amended SCE Agreement) that supersedes the January 31, 2003 Settlement Agreement that the Commission approved in *Nevada Power*.⁴

2. The development of electrical facilities by each of Gen West, SNWA, LV Cogen, Mirant, NPC Lenzie and Reliant (collectively, the MOU Generators),⁵ and the interconnection of these facilities with Nevada Power's transmission system has given rise to the need for network upgrades on the transmission systems of other transmission providers in the region. The Settlement Agreement resolves issues with respect to the allocation of the cost responsibility for certain of these network upgrades.⁶

3. On June 13, 2005, Commission Trial Staff filed initial comments in support of the Settlement Agreement. No other comments were filed. On June 17, 2005, the Settlement Judge certified the Settlement Agreement to the Commission as uncontested.

4. The Settlement Agreement, including all attachments, is in the public interest and is hereby approved. The parties agree that the standard of review for any modification of the Settlement Agreement not agreed to by all of the parties shall be the public interest standard of the *Mobile-Sierra* doctrine.⁷ The Commission's approval of the Settlement Agreement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

5. The Commission agrees, in accordance with paragraph 38 of the Settlement Agreement, that, in light of *Standardization of Generator Interconnection Agreements*

⁴ *Id.* The Settling Parties submitted the Amended SCE Agreement in Docket No. ER02-2344-001.

⁵ Each of these generators has executed a Memorandum of Understanding (MOU) with Nevada Power Company (Nevada Power) that details, among other things, their responsibility for regional required system upgrades (RRSU) that result from their interconnection with Nevada Power.

⁶ The Commission resolved the cost responsibilities for the remaining network upgrades in *Nevada Power Company*, 111 FERC ¶ 61,321 (2005).

⁷ *United Gas Pipe Line Company v. Mobile Gas Service Corporation*, 350 U.S. 332 (1956); *Federal Power Commission v. Sierra Pacific Power Company*, 350 U.S. 348 (1956).

and Procedures,⁸ it continues to be just and reasonable and in the public interest for SCE as a transmission owner to continue to provide transmission credits to the MOU Generators under the terms of the Amended and Restated Settlement Agreement among the MOU Generators, Nevada Power, and SEC (the Amended SCE Settlement Agreement).⁹ These credits reflect the MOU Generators' contributions to the cost of the regional required system upgrades on SCE's system,¹⁰ with which the MOU Generators are not directly interconnected.¹¹

6. The Commission also agrees, in accordance with paragraph 38 of the Settlement Agreement, that it is just and reasonable and in the public interest for the Settling Parties to omit the text of Paragraph 32 of the original SCE Agreement filed January 31, 2003 from the Amended SCE Settlement Agreement.¹²

7. The Commission further agrees that it continues to be just and reasonable and in the public interest for SCE to recover the full amount of credits paid pursuant to the Settlement Agreement in its Commission-jurisdictional transmission rates, subject only to a review of the prudence of the level of the costs of the RRSU.

8. 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), are

⁸Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2005), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005); *see also* Notice Clarifying Compliance Procedures, 106 FERC ¶ 61,009 (2004).

⁹ The Amended SCE Settlement Agreement is attached to the Settlement Agreement as Attachment I.

¹⁰ The Settling Parties have identified these upgrades in the Amended SCE Settlement Agreement as the Required Regional System Upgrades (RRSU).

¹¹ These crediting arrangements are set forth in Paragraphs 26-33 of the Amended SEC Settlement Agreement.

¹² Paragraph 38 of the Settlement Agreement states specifically that the Settling Parties do not intend to revise or reopen the SCE Settlement Agreement in any way other than to make the specified changes reflected in the Amended SCE Settlement Agreement.

accepted for filing as designated, and are effective on the date specified in the Settlement Agreement.

9. This order terminates Docket Nos. ER02-1741-000, ER02-1742-000, ER04-424-000, and ER02-2334-001.

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

(S E A L)

Linda Mitry,
Deputy Secretary.

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Docket Nos. ER02-1741-000,
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ER04-424-002, and
ER02-2344-001

(Issued July 22 , 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 the 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.

	_____ Sudeen G. Kelly
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