

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Entergy Services, Inc.

Docket No. ER04-663-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued July 22, 2005)

1. On June 10, 2005, Entergy Services, Inc. (Entergy) filed a Settlement Agreement reflecting an agreement between Entergy Arkansas, Inc., the Arkansas Electric Cooperative Corporation (AECC), and Conway Corporation, West Memphis Utilities Commission, the cities of Osceola and Prescott, Arkansas, and Farmer's Electric Cooperative Corporation (collectively, ACC). On June 28, 2005 Trial Staff filed comments in support of the Settlement Agreement. On June 29, 2005, the Presiding Administrative Law Judge certified the Settlement Agreement, as uncontested, to the Commission.
2. The Settlement Agreement resolves all issues set for hearing in the above-captioned docket.¹ Specifically, the Settlement Agreement resolves all issues in Docket No. ER04-663-000 concerning Entergy Arkansas' 2004 Wholesale Formula Rate Update, filed by Entergy on March 18, 2004. Specific to ACC, the Settlement Agreement sets forth locked-in transmission and wholesale distribution rates applicable to ACC for the period from March 1, 2004 through February 28, 2005. Likewise AECC and Entergy Arkansas agree to transmission and wholesale distribution rates for the period from March 1, 2004 through February 28, 2005.
3. The Settlement Agreement is in the public interest and is hereby approved. The Commission's approval of the Settlement Agreement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

¹ *Entergy Services Inc.*, 109 FERC ¶ 61,134 (2004).

4. This order terminates Docket No. ER04-663-000. A new subdocket will be assigned in Docket No. ER04-663 upon receipt of the compliance refund report.

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

(S E A L)

Magalie R. Salas,
Secretary.

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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 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.

Suedeen G. Kelly