

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

July 23, 2003

In Reply Refer To:
Docket No. EL02-119-000

Law Offices of GKRSE
1500 K Street, NW
Suite 330
Washington, DC 20005

Attn: Alan I. Robbins, Esq.
Attorney for the The Kroger Co.

Dear Mr. Robbins,

1. You filed an offer of settlement in the above-captioned proceeding on July 3, 2003. The offer of settlement resolves all issues set for hearing in Docket No. EL02-119-000 in the Commission's March 10, 2003 Order Setting Complaints for Hearing, Establishing Hearing Procedures, and Holding Hearing in Abeyance in unconsolidated Docket Nos. EL02-117-000 and EL02-119-000. Insofar as Docket No. EL02-119-000 is concerned, that order addressed a complaint filed by Kroger Co. against Dynegy Power Marketing, Inc. seeking to void or modify four (4) forward bilateral contracts for the delivery of energy which were entered into during the California energy crisis of 2000-2001 on the basis that dysfunctions in California's electricity spot markets rendered those contracts unjust and unreasonable. The offer of settlement terminates two (2) of the contracts at issue effective July 6, 2003, and re-prices the other two (2) subject to specified conditions, in consideration of specified payments from the Kroger Co. to Dynegy Power Marketing, Inc.

2. Commission Trial Staff filed initial comments in support of the offer of settlement on July 9, 2003. Neither any other initial comments nor any reply comments were filed within the expedited comment period. The settlement judge certified the offer of settlement to the Commission as uncontested on July 11, 2003.

3. The subject settlement is in the public interest and is hereby approved. Commission approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue involved in this proceeding. The Commission retains the right to investigate the settlement rates, terms and conditions under the "just and

reasonable and not unduly discriminatory or preferential” standard of Section 206 of the Federal Power Act, 16 U.S.C. § 824e (1994).

4. This letter order terminates Docket No. EL02-119-000.

By direction of the Commission.

Linda Mitry
Acting Secretary

cc: All Parties