

108 FERC ¶ 61,132
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Haviland Holdings, Inc.

Docket No. EL04-55-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued August 3, 2004)

1. On June 9, 2004, Public Service Company of New Mexico (“PNM”), Haviland Holdings, Inc. (“Haviland”), and Superior Renewable Energy, LLC (“Superior”) (collectively the “Parties”) filed an offer of settlement resolving all issues in the above referenced docket. The settlement agreement resolves all issues the parties have raised in the above referenced proceeding.
2. On June 12, 2004, the Commission’s Trial Staff filed initial comments in support of the settlement agreement. No other comments were filed. On July, 6, 2004, the Settlement Judge certified the settlement to the Commission as uncontested.
3. The settlement agreement is in the public interest and is hereby approved. The Commission’s approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.
4. In addition, the rate schedules submitted as part of the settlement are in compliance with Order No. 614¹ and are hereby accepted for filing as designated.

¹ Designation of Electric Rate Schedule Sheets, Order No. 614, 65 Fed. Reg. 18,221, FERC Statutes, Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000).

5. This order terminates Docket No. EL04-55-000.

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 that it “shall not be subject to condition or modification unless required by the public interest standard 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