

108 FERC ¶ 61,240
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Northeast Utilities Service Company

Docket No. ER03-1247-003

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued September 16, 2004)

1. On June 14, 2004, Northeast Utilities System Company (NUSCO) and the Connecticut Department of Public Utility Control filed a partial offer of settlement.¹ On July 6, 2004, the Commission's Trial Staff submitted a comment in support of the settlement. No other comments were filed. On July 15, 2004, the Presiding Administrative Law Judge certified the settlement to the Commission as an uncontested offer of settlement.

2. The settlement establishes a rate formula employing a projected cost methodology to calculate revenue requirements based on integrated whole system costs (minus transmission revenues from other sources), with subsequent true-up to actual costs (plus interest on any refunds/surcharges). The settlement also reduces NUSCO's currently-effective return on common equity (ROE) from 11.75 percent to 11.0 percent, either until the RTO-NE ROE becomes effective as anticipated on or before January 1, 2006 or, failing that, unless or until NUSCO files to change its ROE after that date under section 205 of the Federal Power Act. In addition, the settlement reflects various non-rate changes addressing performance-related accounts and records.

¹ The settlement does not address issues raised by Unitil Power Corp./Unitil Energy Systems, Inc. (collectively, Unitil) concerning whether the underlying NUSCO rate filing violated a December 30, 1996 memorandum of understanding (MOU) between NUSCO and Unitil, or the appropriate standard for NUSCO indemnification by its customers. The indemnification issue was addressed in the October 22, 2003 Order and is subject to a pending rehearing request, and the MOU-related issue remains to be resolved in the request for rehearing pending in Docket No. ER03-1247-002.

3. The subject settlement and the tariff sheets designated therein are in the public interest and are hereby approved. The rate schedules submitted as part of the settlement are in compliance with Order No. 614 (FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000)) and are accepted for filing as designated. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

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

(S E A L)

Linda Mitry,
Acting Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Northeast Utilities Service Company

Docket Nos. ER03-1247-003

(Issued September 16, 2004)

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 dissent from this order to the extent it accepts for filing an agreement that provides, in relevant part: “The standard of review for any modification by the Commission to the Settlement Agreement (or rate schedule provisions agreed to in the Settlement Agreement) that is not agreed to by all the parties hereto shall be the “public interest” standard under the *Mobile-Sierra* doctrine.”

Sudeen G. Kelly