

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Wisconsin Public Service Corporation

Docket No. ER03-606-000

ORDER ACCEPTING UNCONTESTED SETTLEMENT

(Issued November 19, 2004)

1. On July 9, 2004, Wisconsin Public Service Corporation (WPSC) filed a Settlement Agreement (Settlement) by and between WPSC, the Algoma Group, and the Upper Peninsula Power Company (UPPCo) intended to resolve all issues in this proceeding as to those parties. The Commission was asked to treat the Settlement as an Offer of Settlement to the Town of Daggett, Michigan. Upper Peninsula Transmission Dependent Utilities, Wisconsin Electric Power Company, and Wisconsin Public Power, Inc., did not oppose the Settlement. On August 19, 2004, as supplemented September 2, 2004, the Commission Trial Staff filed comments in support of the Settlement. On October 4, 2004, the settlement judge certified the uncontested settlement to the Commission for consideration.

2. The subject settlement 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. Except as otherwise provided in Article VII, section 7.1(b) of the Settlement, the Commission retains the right to investigate the 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). The rate schedules submitted as part of the settlement are in compliance with Designation of Electric Rate Schedule Sheets, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000) and are accepted for filing as designated.

3. This Order terminates Docket No. ER03-606-000.

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.

The settlement at issue here provides, in relevant part, that the *Mobile-Sierra* public interest standard, as set forth in *United Gas Pipe Line Co v. Mobile Gas Services Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), shall apply to future review of certain issues addressed by the settlement. To the extent that the relevant provisions are meant to bind the Commission to a public interest standard even when it is acting *sua sponte* on behalf of a non-party, or pursuant to a complaint by a non-party, I respectfully dissent in part.

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