

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

December 22, 2003

In Reply Refer to:
Docket Nos. EL03-47-002
QF95-328-004

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Ladies and Gentlemen:

1. On October 21, 2003, Commission Trial Staff (Trial Staff), EcoEléctrica, L.P. (EcoEléctrica), and intervenors Edison Mission Energy (EME) and Enron Corporation (Enron) submitted a Consent Agreement Regarding Qualifying Facility Status as an offer of settlement that resolves all issues under investigation in the above dockets related to EcoEléctrica and its generation located in Peñuelas, Puerto Rico. No initial comments or

reply comments were filed. On November 12, 2003, the presiding judge certified the settlement as uncontested.¹

2. The settlement is in the public interest and is hereby approved. The Commission's approval of the settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

3. This letter order terminates Docket Nos. QF95-328-004.

By direction of the Commission.

Linda Mitry,
Acting Secretary.

cc: All Parties

Puerto Rico Public Service Commission
Muñoz Rivera Avenue, Num.50
Hato Rey, Puerto Rico 00919

¹ On December 2, 2003, the Environmental Action Center, the Committee to Save the Environment in Guayanilla, and the Union of Electrical and Irrigation Industry Workers filed an untimely joint motion to intervene for purposes of opposing the settlement. They state they did not seek intervention earlier because they "frankly did not envision much benefit" in intervention.

The Commission will deny their intervention. Under Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2003), in determining whether to grant late intervention, the Commission may consider, among other things, any disruption of the proceeding that might result and any prejudice to or additional burdens upon existing parties to the proceeding in considering whether to permit late intervention. Allowing these untimely petitioners to intervene at this late point in this proceeding, long after the time for timely intervention has passed and after a settlement has been negotiated, filed and certified, would result in the disruption of the settlement process and prejudice to and additional burdens on existing parties. See, e.g., Williams Energy Marketing & Trading Company, 105 FERC ¶ 61,165 at P8 (2003) (intervention for purpose of opposing uncontested settlement denied); Pacific Gas and Electric Company, 51 FERC ¶ 61,371 at 62,264 (1990) (same), reh'g denied, 52 FERC ¶ 61,318 at 62,271-72 (1990); Pacific Interstate Transmission Company, 23 FERC ¶ 61,309 at 61,656 (1983) (same).