

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

ISO New England, Inc.

Docket Nos. ER04-798-000
ER04-798-001

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued May 6, 2005)

1. On February 15, 2005, ISO New England, Inc. (ISO-NE) filed a proposed offer of settlement on behalf of itself and the other settling parties¹ in the above-referenced proceeding. The settlement resolves all issues set for hearing related to ISO-NE's revision of the Day Ahead Energy Market results for April 19, 2004. Commission Trial Staff and NEPOOL filed comments in support of the settlement. On March 21, 2005, the settlement judge certified the settlement to the Commission as uncontested.
2. The settlement is in the public interest and is hereby approved. The rate schedule revisions submitted with the settlement are in compliance with Order No. 614² and are hereby accepted. The Commission's approval of the settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

¹ New England Power Pool (NEPOOL), Burlington Electric Department, Central Vermont Public Service Corp., Citadel Energy Products, L.L.C., Consolidated Edison Energy, Inc., Coral Power, L.L.C., DC Energy, L.L.C., Fitchburg Gas and Electric Light Company, Unitil Energy Systems, Inc., National Grid USA, Northeast Utilities Service Company (on behalf of its operating company affiliate Public Service Company of New Hampshire), PPL EnergyPlus LLC, PPL Wallingford Energy LLC, PPL Maine, LLC, PPL Great Works, LLC, PSEG Energy Resources & Trade LLC and USGen New England, Inc.

² *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs., Regulations Preambles July 1996 – December 2000 ¶ 31,096 (2000).

3. This order terminates Docket Nos. ER04-798-000 and ER04-798-001.

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

(S E A L)

Linda Mitry,
Deputy 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 “the standard of review for any changes to this Agreement, whether proposed by a Settling Party, a non-party, or the Commission acting *sua sponte*, shall be the ‘public interest’ standard of review...” under the Mobile-Sierra Doctrine.

Suedeem G. Kelly