

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Sierra Pacific Resources Operating Companies

Docket No. ER05-14-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued May 6, 2005)

1. On March 8, 2005 the Sierra Pacific Resources Operating Companies, Nevada Power Company, and Sierra Pacific Power Company (together SPR) filed a settlement to resolve all disputed issues regarding SPR's October 1, 2004 rate filing in this proceeding, which was protested by intervenors Truckee Donner Public Utility District, the City of Fallon, Nevada, Newmont Mining Corporation and Barrick Goldstrike Mines, Inc. On March 15, 2005, the Commission Trial Staff submitted comments in support of the settlement. No other comments were received. On March 31, 2005, the settlement judge certified the settlement to the Commission as uncontested.
2. The settlement resolves all issues regarding the transmission rate and other changes that SPR proposed. SPR filed a change in the transmission rates for Zone A, the area pertinent to the Sierra Pacific Power company system. SPR sought a thirty-one percent increase in annual transmission revenue, and proposed to adopt a monthly stated rate to replace the existing load-ratio-share methodology for network transmission service to simplify their rate structure and bring consistency to SPR's Open Access Transmission Tariff (OATT).
3. The subject 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. The rate schedules submitted as part of the settlement are in compliance with Order No. 614, *Designation of Electric Rate Schedule Sheets*, FERC Stats. & Regs., Regulations Preambles July 1996 – December 2000 ¶ 31,096 (2000), and are hereby accepted.

4. Within thirty (30) days from the date of this order, any refunds provided for in the settlement shall be carried out.

5. This order terminates Docket No. ER05-14-000.

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 “[t]he standard of review for any modifications not agreed to by all parties, including any modifications resulting from the Commission acting *sua sponte*, shall be the ‘public interest’ standard under the *Mobile Sierra* doctrine.”

Suedeem G. Kelly