

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Portland General Electric Company

Docket No. EL03-165-000

ORDER APPROVING CONTESTED SETTLEMENT AGREEMENT

(Issued March 8, 2004)

1. On August 27, 2003, Commission Trial Staff (Trial Staff) and Portland General Electric Company (Portland) filed a Settlement Agreement. The Settlement Agreement resolves all issues related to Portland that were set for hearing in Docket No. EL03-165-000 in the Commission's Order to Show Cause Concerning Gaming and/or Anomalous Market Behavior (Gaming Order).<sup>1</sup>
2. On September 30, 2003, the California Independent System Operator Corporation (ISO) filed comments objecting in part to the Settlement Agreement. Also on September 30, 2003, the California Parties<sup>2</sup> and the Port of Seattle, Washington (Seattle) filed comments opposing the Settlement Agreement.
3. On October 20, 2003, Trial Staff filed general reply comments addressing the California Parties' objections. Also on October 20, 2003, Trial Staff filed specific reply comments in support of the Settlement Agreement. On October 22, 2003, Trial Staff filed a motion to supplement its general reply comments in order to address the "Information to be Provided with Settlement Agreements," as described in a Notice to the Public issued by the Chief Administrative Law Judge on October 15, 2003. Also on October 20, 2003, Portland filed reply comments responding to the objecting parties'

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<sup>1</sup> American Electric Power Service Corp., *et al.*, 103 FERC ¶ 61,345 (2003), *reh'g denied*, 106 FERC ¶ 61,020 (2004).

<sup>2</sup> The California Parties are the California Electricity Oversight Board; the California Public Utilities Commission; Pacific Gas and Electric Company; and Southern California Edison Company.

comments. On November 21, 2003, the presiding judge certified the Settlement Agreement to the Commission as contested, but recommending its approval.<sup>3</sup>

4. The Settlement Agreement constitutes a reasonable resolution of these proceedings and will be approved. The Settlement Agreement reasonably addresses and resolves the charges against Portland that were set for hearing in the Gaming Order. In this regard, Portland will be returning \$12,730.00, the total revenues (and not merely the profits—and thus more than could be achieved in litigation<sup>4</sup>) associated with Portland's alleged participation in the gaming practice of Cutting Non-Firm.

5. Issues raised by the ISO, the California Parties, and Seattle go to the scope of these proceedings, are thus essentially requests for rehearing of the Gaming Order, and, in fact, were addressed in the rehearing order issued on January 22, 2003.<sup>5</sup> Such matters thus need not be further addressed here.

6. This order terminates Docket No. EL03-165-000.

By the Commission. Commissioner Kelly not participating.

( S E A L )

Linda Mitry,  
Acting Secretary.

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<sup>3</sup> The terms of the Settlement Agreement and these various pleadings are described in more detail in the presiding judge's certification. See Portland General Electric Company, 105 FERC ¶ 63,029 (2004) (Certification).

<sup>4</sup> See Gaming Order, 103 FERC ¶ 61,345 at P 1, 2, 71.

<sup>5</sup> See supra note 1. To the extent that these issues are addressed in the rehearing order, we incorporate by reference the discussion of these issues in that order.