

109 FERC ¶ 61,081
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Colorado River Commission of Nevada

Docket No. EL03-184-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued October 27, 2004)

1. On August 26, 2004, the Colorado River Commission of Nevada (CRC) and Commission Trial Staff filed a settlement providing for the full and final resolution of all issues related to CRC set for hearing on June 25, 2003 in Docket No. EL03-184-000 in the Commission's Order to Show Cause Concerning Gaming and/or Anomalous Market Behavior Through the Use of Partnerships, Alliances or Other Arrangements.¹ No comments were filed. On September 30, 2004, the presiding administrative law judge certified the settlement to the Commission as uncontested.
2. The settlement is in the public interest and is hereby approved. The settlement reasonably addresses and resolves the charges against CRC that were set for hearing in the Partnership Order. In this regard, CRC will be returning \$996,145, the total revenues (and not merely the profits – and thus more than would be achieved in litigation²) from CRC's alleged participation in gaming practices.
3. The Commission's approval of this uncontested settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

¹ *Enron Power Marketing, Inc. and Enron Energy Services Inc., et al.*, 103 FERC ¶ 61,346 (2003) (Partnership Order).

² Partnership Order, 103 FERC ¶ 61,346 at P 2, 3, 48.

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4. This order terminates Docket No. EL03-184-000.

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

(S E A L)

Linda Mitry,
Acting 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 it “may not be changed or modified in the future unless a showing is made that the ‘public interest’ requires it.”

	_____ Sudeen G. Kelly
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