

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: NATURAL GAS
COMMODITY LITIGATION

) Master File No. 03 CV 6186 (VM) (AJP)

) Hon. Victor Marrero, USDJ

THIS DOCUMENT RELATES TO:
ALL ACTIONS

) CLASS ACTION

FINAL JUDGMENT AND ORDER OF DISMISSAL

This matter having come before the Court on a joint motion for approval of the Stipulations and Agreements of Settlement (the "Settlement Agreements") between defendants CMS Field Services (now known as Cantera Gas Company LLC), CMS Marketing Services & Trading Company (now known as CMS Energy Resource Management Company), Cook Inlet Energy Supply, LLC, Cinery Marketing and Trading, L.P., Duke Energy Trading and Marketing, L.L.C., Dynegy Marketing and Trade, West Coast Power LLC, *e-prime*, inc., Enserco Energy, Inc., Entergy-Koch Trading, LP, MidAmerican Energy Company, Mico, Inc., ONEOK, Inc., ONEOK Energy Services Company, L.P. (formerly ONEOK Energy & Marketing Company, L.P.), Reliant Energy Services, Inc., Sempra Energy Trading Corp., Western Gas Resources, Inc., WD Energy Services, Inc., Williams Power Company, Inc. (formerly Williams Energy Marketing & Trading Co., Inc.), and the Williams Companies, Inc. (collectively, the "Settling Defendants") and plaintiffs in the class actions consolidated herein;

The Court, having considered all papers filed and proceedings held in connection with said motion, and having held a Hearing on May 19, 2006; and

Notice of the Hearing having duly been given in accordance with this Court's Order dated March 8, 2006, and the Court finding no just reason for delay in entry of this Final Judgment and good cause appearing therefor, it is this 24th day of May, 2006,

ORDERED, ADJUDGED AND DECREED THAT:

1. By its Preliminary Orders dated August 4, 2005, November 18, 2005, February 8, 2006, February 17, 2006, and March 9, 2006, the Court certified these actions as class actions under Federal Rule of Civil Procedure 23(b)(3). The Class is defined as follows:

All persons who purchased, sold, or settled NYMEX Natural Gas Contracts¹, as an opening or closing transaction or otherwise, between June 1, 1999 and December 31, 2002, inclusive ("the Class Period"). Excluded from the Class are the defendants in the Action, their employees, any parents, subsidiaries, or affiliates of the defendants, any entity in which any of the defendants has or had a controlling interest during the Class Period, and the legal representatives, heirs, successors or assigns of any of the defendants.

2. This action is, for settlement purposes, certified as a class action pursuant to Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure for the class as defined in paragraph 1 above (the "Class"). Certification for the purposes of settlement is appropriate because:

a. The requirements of Rule 23(a) of the Federal Rules of Civil Procedure have been met:

i. the Class is so numerous, consisting of more than 1,000 members,

¹ "NYMEX Natural Gas Contracts" means any commodity futures (including any option thereon), basis, or swap contract related to natural gas that was traded on NYMEX, or any combination thereof, that was transacted or settled during the Class Period.

that joinder of all members is impracticable;

ii. the claims of plaintiffs Titan Energy Partners, L.P. (formerly Cornerstone Propane Partners, L.P.), Roberto Calle Gracey, and Dominick Viola and the defenses thereto, present questions of law or fact common to the Class;

iii. as purchasers and/or sellers of NYMEX Natural Gas Contracts during the Class Period, plaintiffs' claims are typical of the claims of, or defenses to, the Class;

iv. Class Counsel have fairly and adequately represented the interests of the Class; and

v. based on their active participation in discovery and the settlements, plaintiffs Titan Energy Partners, L.P., Roberto Calle Gracey, and Dominick Viola have fairly and adequately represented the interests of the Class.

b. The requirements of Rule 23(b)(3) of the Federal Rules of Civil Procedure have been met:

i. questions of law or fact relating to whether there was unlawful manipulation of NYMEX Natural Gas Contracts prices predominate over any questions affecting only individual members; and

ii. because there are no competing actions or any suggestions that a more efficient alternative to the Actions² exists, the actions are the superior method for the fair and efficient adjudication of this controversy.

c. Certification of class actions, such as this one, for the purposes of

² "Actions" shall mean *In re Natural Gas Commodity Litigation*, 03 Civ. 6186 (VM), and all individual actions that have been consolidated therein, including, without limitation, *Cornerstone Propane Partners, L.P. v. Reliant Energy, et al.* (S.D.N.Y. No. 03 Civ. 6186), *Roberto E. Calle Gracey v. American Electric Power Co., Inc., et al.* (S.D.N.Y. No. 03 Civ. 7750), *Dominick Viola v. Reliant Energy, et al.* (S.D.N.Y. No. 03 Civ. 9039); *Cornerstone Propane Partners, L.P. v. Coral Energy Resources L.P., et al.* (S.D.N.Y. No. 03 Civ. 8320), *Cornerstone Propane Partners, L.P., et al. v. e-prima, Inc., et al.* (S.D.N.Y. No. 04 Civ. 758), and *Cornerstone Propane Partners, L.P., et al. v. Western Gas Resources, Inc. et al.* (S.D.N.Y. No. 04 Civ. 7415).

settlement is desirable to facilitate resolution of complex, nationwide litigations such as this one.

3. This Court hereby approves the settlements set forth in the Settlement Agreements and finds that said settlements are, in all respects, fair, reasonable and adequate to the Class in accordance with Rule 23 of the Federal Rules of Civil Procedure.

4. This Court hereby finds and concludes that the notice given to the Class was in compliance with this Court's Order dated March 8, 2006, and that said notice was the best notice practicable under the circumstances and fully satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure and the requirements of due process, including, but not limited to, the form of notice and methods of identifying and giving notice to the Class.

5. This Court hereby dismisses, on the merits and with prejudice, without costs to any party, these actions in favor of the Settling Defendants and against the members of the Class who did not timely request exclusion from the Class. A list of those members of the Class who have filed timely requests for exclusion from the Class is annexed hereto as Appendix A and made a part hereof. Those persons appearing on the list annexed hereto as Appendix A, who have requested exclusion from the Class, shall not participate in the proceeds of the settlements hereby approved nor receive any benefits thereunder. Any member of the Class whose name does not appear on the list annexed hereto as Appendix A failed to file a timely request for exclusion from the Class and is hereby barred from asserting otherwise.

6. a. The Released Parties³ are finally and forever released and discharged from

³ "Released Parties" shall mean the Settling Defendants, the Settling Defendants' predecessors, the Settling Defendants' successors, and the present or former members, principals, officers, directors, employees, agents, assigns, attorneys, insurers, shareholders, advisors, parents, subsidiaries, affiliates, joint ventures, partnerships, and associates (as defined in SEC Rule 12b-2 promulgated pursuant to the Securities Exchange Act of 1934) of the Settling Defendants, the Settling Defendants' predecessors, and/or the Settling Defendants' successors, in any capacity related to the Settling Defendants and their predecessors or successors, but not in any capacity related to any of the non-settling defendants; and each of their assigns, representatives, heirs, executors, and administrators (and present or former members, principals, officers, directors, employees, agents, assigns, attorneys, insurers, shareholders, advisors, parents, subsidiaries, affiliates, joint ventures, partnerships, or associates of all such parents,

all manner of claims, rights, demands, actions, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, judgments, extents, executions, and causes of action in law, admiralty, or equity, whether class, individual, or otherwise in nature, damages, whenever incurred, and liabilities of any nature whatsoever, including costs, expenses, penalties and attorneys' fees, whether known or unknown, suspected or unsuspected, whether concealed or hidden, or in law, admiralty, or equity, that the Representative Plaintiffs and other members of the Class who have not timely opted out of the settlement and excluded themselves from the Class ("Settling Plaintiffs"), or any of them, individually, or as a class (whether or not they make a claim upon or participate in the Settlement Funds), ever had, now have or hereafter can, shall or may have, against the Released Parties arising from or relating in any way to trading in NYMEX Natural Gas Contracts (including purchasing, selling, or holding any NYMEX Natural Gas Contract, or taking or making delivery of physical natural gas pursuant to any NYMEX Natural Gas Contract, or any combination thereof, whether as a hedger or speculator), whether or not asserted in the Action, including, without limitation, claims which (a) arise from or relate in any way to any conduct complained of in any complaint filed in the Action, (b) have been asserted or could have been asserted in any state or federal court or any other judicial or arbitral forum against the Released Parties or any one of them, (c) arise under or relate to any federal or state commodity price manipulation law, any state or federal unfair or deceptive business or trade practices law, or other law or regulation, or common law, including, without limitation, the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, the federal antitrust laws (as that term is defined in 15 U.S.C. § 12), or

subsidiaries, affiliates, joint ventures, partnerships, or associates in any capacity related to the Settling Defendants but not in any capacity related to any of the non-settling defendants). Released Parties shall, with respect to the Settling Defendants and the Settlement Agreements, not include (i) any of the non-settling defendants or (ii) any of the foregoing persons or entities in any capacity related to any of the non-settling defendants.

state antitrust laws, and/or (d) the claims brought in this Action. The Settling Plaintiffs, and each of them, are hereby enjoined from asserting any such claims against the Released Parties.

b. Each Settling Plaintiff has expressly and completely waived, released and relinquished, any and all provisions, rights, and benefits under Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor,

and any and all provisions, rights and benefits of any similar state or federal law, rule or regulation, or the common law, notwithstanding that such Settling Plaintiff may hereafter discover facts other than or different from those which he, she, or it knows, believes or suspects with respect to the subject matter of the Settlement Agreements. The Court finds that each Settling Plaintiff, through the Settlement Agreements and this Order, with the ability to seek independent advice of counsel, intended to and did in fact, fully, finally and forever settle and release all such claims. In furtherance of such intention, the releases given by the Settling Plaintiffs in the Settlement Agreements shall be and remain in effect as full and complete releases of the claims set forth in the Action, notwithstanding the discovery or existence of any additional or different facts related thereto and any such additional or different claims that would fall within the scope of the release provided in the Settlement Agreements, as if such facts or claims had been known at the time of the release granted therein.

c. **Claims by the Other Defendants, including Non-Settling Defendants,⁴** against the Released Parties for contribution or indemnification (however denominated) for all or a portion of any amounts any Other Defendant, including non-settling defendants, has paid or may pay in the actions by way of settlement, judgment, or otherwise, are hereby barred.

d. In the event that a judgment is obtained against one or more of the Non-Settling Defendants by the members of the certified class as certified by the Court on September 30, 2005 (as may be subsequently amended or certified, the "Certified Class"), such a judgment shall be reduced by the greater of (i) the total amount of settlement funds that plaintiffs have recovered at the time of the judgment or (ii) the proportionate share of the liability of any defendant(s) who has(ve) settled at the time a damages judgment is entered. Nothing herein shall preclude: (i) plaintiffs from asserting that any damages against which an offset must be credited must be determined in accordance with applicable law, or (ii) the Non-Settling Defendants from asserting that the judgment against which the credit shall be applied must reflect actual damages demonstrated by each of the members of Certified Class, and all such arguments are fully preserved by the parties.

7. Without affecting the finality of this judgment, the Court hereby reserves and retains continuing and exclusive jurisdiction over all matters relating to the administration and consummation of the terms of the Settlement Agreements and the settlements embodied therein, including one or more applications for the award of fees and reimbursement of expenses to plaintiffs' counsel.

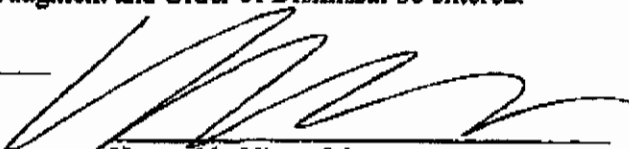
⁴ The Non-Settling Defendants are (1) American Electric Power Co., Inc. and AEP Energy Services, Inc.; (2) Aquila Energy Services Marketing Corp. and Aquila Merchant Services, Inc.; (3) Coral Energy Resources, LP; and (4) El Paso Merchant Energy, L.P. and El Paso Corp.

8. Plaintiffs' Lead Counsel shall file with the Clerk of the Court a list of those members of the Class who have timely excluded themselves from the Class and a copy of all requests for exclusion from the Class.

9. All terms used, but not otherwise defined herein, shall have the meanings ascribed to them in the Settlement Agreements.

10. This Court determines pursuant to Fed. R. Civ. P. 54(b) that there is no just reason for delay and hereby directs that the Final Judgment and Order of Dismissal be entered.

Dated: 24 May 2006



Honorable Victor Marrero
United States District Judge