

131 FERC ¶ 61,099
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

May 3, 2010

In Reply Refer To:
California Power Exchange Corporation
Docket No. ER10-905-000

Bruder, Gentile & Marcoux, L.L.P.
1701 Pennsylvania Avenue, N.W.
Suite 900
Washington, DC 20006-5807

Attention: James H. McGrew, Counsel
California Power Exchange

Reference: Petition for Extension of Existing Settlement

Dear Mr. McGrew:

1. On March 18, 2010, the California Power Exchange (CalPX) filed a Petition to Extend Existing Wind-Up Charge Settlement (Petition) pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure,¹ proposing to amend the existing wind-up charge settlement agreement (Settlement) approved in Docket Nos. ER05-167-000, *et al.*,² and subsequently extended for an additional three years in Docket No. ER07-861-000.³ The Petition requests that the Commission extend the term of the Settlement for an additional three years through December 31, 2013. CalPX requests the extension because the California Refund Proceeding in Docket Nos. EL00-95-000, *et al.*, and its related wind-up functions are ongoing. CalPX notes that the Commission has not yet

¹ 18 C.F.R. § 385.207(a)(5) (2009). CalPX cites *Gulf Pipeline Company, L.P.*, 129 FERC ¶ 61,062 (2009), in support of its contention that a Rule 207 petition is the appropriate procedural vehicle for this request.

² *California Power Exchange Corp.*, 113 FERC ¶ 61,017 (2005).

³ *California Power Exchange Corp.*, 120 FERC ¶ 61,006 (2007).

issued final orders approving the refund calculations and surmises that the Refund Proceeding and related dockets will not be concluded until well after December 31, 2010.⁴ CalPX asserts that the proposed extension will permit it to continue its wind-up functions without having to engage in costly and time-consuming litigation about the allocation of its wind-up costs.⁵

2. The Petition proposes to maintain all of the terms of the existing Settlement, including the provision that the currently effective rates will continue to apply, but it modifies section 3 so that the existing effective period will be extended for an additional three years. Specifically, section 3 of the Settlement will be modified to change the existing effective period from December 31, 2010 to December 31, 2013. In addition, section 3-B of the Settlement provides: “If the PX is in existence after the end of 2010, any PX Market Participant has the right to reopen the issue of allocation of Going Forward costs for periods in 2011 and beyond in response to a PX filing to recover such Going Forward costs. In no event shall any such reopening result in any change to the allocation percentages for the Historical or Going Forward Costs agreed to herein through December 31, 2010.” In the Petition, CalPX proposes to substitute “2013” for “2010” and “2014” for “2011” in section 3-B.

3. Notice of the Petition was issued in the *Federal Register*, 75 Fed. Reg. 14589 (2010), on March 26, 2010, with comments, protests, or motions to intervene due on or before Thursday, April 8, 2010. Timely motions to intervene were filed by the City of Santa Clara, California. Pursuant to Rule 214 of the Commissions Rules of Practice and Procedure, 18 C.F.R. § 385.214, the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Because no protests have been filed, the extension of the Settlement proposed in the Petition will be treated as an uncontested settlement pursuant to Rule 602.⁶

4. As noted above, CalPX is proposing an extension of a settlement, which none of the market participants oppose, and which maintains the status quo regarding the terms and conditions of the existing settlement, other than the date of the effective period. Pursuant to Rule 602 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.602 (g), the Commission finds that the proposed extension is fair and reasonable

⁴ Petition at 4.

⁵ *Id.* at 5.

⁶ 18 C.F.R. § 385.602(g) (2009).

and in the public interest. The extension is therefore approved. The Commission's approval of the extension of this settlement does not constitute a precedent regarding any principle or issue in this proceeding.

By direction of the Commission.

Kimberly D. Bose,
Secretary.