

134 FERC ¶ 61,024  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

January 14, 2011

In Reply Refer To:  
California Pacific Electric Company  
Docket No. ER11-2325-000

Davis Wright Tremaine LLP  
1919 Pennsylvania Avenue NW  
Suite 800  
Washington, DC 20006-3401

Attention: Brian R. Gish  
Attorney for California Pacific Electric Company

Reference: Electric Service Agreement with Pacific Gas and Electric Company

Dear Mr. Gish:

1. On December 9, 2010, as amended on December 16, 2010, you submitted for filing on behalf of California Pacific Electric Company, LLC (CalPeco), an electric service agreement (Service Agreement) between CalPeco and Pacific Gas and Electric Company (PG&E). CalPeco states that the Service Agreement facilitates the upcoming transfer of a part of Sierra Pacific Power Company's (Sierra) California Service territory to CalPeco (Transaction).<sup>1</sup> CalPeco states that the closing of the Transaction (closing date) is anticipated to occur on or about January 1, 2011, although there is still some uncertainty as to the exact date. CalPeco notes that once the Transaction closes, CalPeco must begin to provide the service thereunder to PG&E to prevent a lapse in service since Sierra will no longer own the facilities needed to provide this service. Therefore, CalPeco requests waiver of the Commission's notice requirements to allow an effective date for the Service Agreement coincident with the closing date. CalPeco also requests various waivers and authorizations.

---

<sup>1</sup> See *Sierra Pacific Power Company and California Pacific Electric Company, LLC*, 133 FERC ¶ 61,017 (2010). Additionally, in order to effectuate the Transaction, Sierra has also filed a notice of cancellation of its electric service agreement with PG&E in Docket No. ER11-2129-000 to become effective upon the closing date of the Transaction.

2. Notices of CalPeco's filings were published in the *Federal Register*, 75 Fed. Reg. 79,358 (2010) and 75 Fed. Reg. 81,597 (2010), with comments, protests and interventions due on or before December 20, 2010 and December 23, 2010. No comments or protests were filed.

3. CalPeco states that under the Service Agreement, it will provide the same power service to PG&E as Sierra has been providing under its electric service agreement with PG&E. Specifically, CalPeco will continue to provide to PG&E up to 2.5 MW of power on a cost-of-service basis, for a term of one year, and year-to-year thereafter until cancelled by either party upon sixty days prior notice. CalPeco states that almost all of the power it will sell to PG&E will be purchased under a Power Purchase Agreement with Sierra.<sup>2</sup> Accordingly, the Demand Charge and Energy Charge under CalPeco's service to PG&E will consist of a direct pass-through of the Demand, Transmission, and Energy Rates CalPeco pays to Sierra. Finally, CalPeco states that the only component of the rate to PG&E that is not a pass-through from Sierra is a fixed charge designed to recover costs associated with CalPeco's use of its own distribution facilities to supply power to PG&E.

4. We will accept CalPeco's Service Agreement with PG&E effective on the closing date of the Transaction. Additionally, we note that the effective date herein is intended to coincide with the effective date of Sierra's cancellation of its electric service agreement with PG&E in Docket No. ER11-2129-000 to ensure that there will be no lapse in service to PG&E.<sup>3</sup> CalPeco is directed to submit a compliance filing and revised rate schedule in this docket within thirty (30) days of the closing date which will designate the actual closing date as the effective date for the Service Agreement.

5. In addition to the Service Agreement, CalPeco requests waiver of the accounting, reporting, and other requirements of Parts 41, 101, and 141 of the Commission's regulations. CalPeco also requests waiver of the filing requirements of Part 35, Subparts B and C, of the Commission's regulations, except for the transmittal requirements of sections 35.12(a) and 35.13(b), and waiver of the notification of succession and cancellation of service requirements of sections 35.15 and 35.16, with respect to the Rate Schedule. Lastly, CalPeco requests that it be subject to only the abbreviated filing requirements with respect to interlocking directorates under Part 45. In support of these waiver requests, CalPeco notes that the Commission has granted these waivers for those entities with market-based rates and for public utilities that have only limited

---

<sup>2</sup> The Power Purchase Agreement was filed with the Commission by Sierra in Docket No. ER10-1719-000 and accepted by letter order dated August 24, 2010.

<sup>3</sup> See *Sierra Pacific Power Company*, 134 FERC ¶ 61,026 (2011).

jurisdictional activities. CalPeco argues that this transaction represents limited jurisdictional activity and notes that the Commission has previously declared CalPeco's distribution facilities to be non-jurisdictional.<sup>4</sup>

6. Although the Commission has granted these waivers to power marketers with market-based rates, it has generally denied these waivers to public utilities with cost-based rates.<sup>5</sup> Here, however, CalPeco, under the proposed Service Agreement, is charging PG&E a pass-through of power costs it incurs and a charge for distribution service that results in less than \$100,000 of annual revenues. Based on these facts, and in light of the Commission's action on similar requests granted to utilities with limited jurisdictional activities,<sup>6</sup> we grant CalPeco's request for waiver of Subparts B and C of Part 35 of the Commission's regulations requiring the filing of cost-of-service information, except for the sections 35.12(a), 35.13(b), 13.15 and 35.16. Also, we grant CalPeco's request for waiver of Part 41, Part 101, and Part 141 of the Commission's regulations concerning accounting and reporting requirements, with the exception of 18 C.F.R. §§ 141.14 and 141.15.<sup>7</sup> Notwithstanding the waiver of the accounting and reporting requirements here, CalPeco is expected to keep its accounting records in accordance with generally accepted accounting principles.

---

<sup>4</sup> See *California Pacific Electric Company, LLC*, 133 FERC ¶ 61,018 (2010).

<sup>5</sup> See *Ameren Energy Generating Company*, 93 FERC ¶ 61,024 (2000), *reh'g denied*, 95 FERC ¶ 61,009 (2001); *accord DeSoto County Generating Company, LLC*, 103 FERC ¶ 61,337 (2003); *PSEG Fossil, LLC, PSEG Nuclear, LLC, and PSEG Energy Resources and Trade LLC*, 97 FERC ¶ 61,211 (2001), *reh'g denied*, 98 FERC ¶ 61,169 (2002).

<sup>6</sup> See, e.g., *Alloy Power, L.L.C.*, 117 FERC ¶ 61,167 (2006); *Dominion Retail, Inc.* 104 FERC ¶ 61,091 (2003); *Cliffs Electric Service Company*, 32 FERC ¶ 61,372 (1985) (granting waivers for companies whose principal business is not the sale of electricity at wholesale, and where sales were occasional, opportunity sales of excess energy); *St. Joe Mineral Corporation*, 21 FERC ¶ 61,323 (1982), *order on reh'g*, 22 FERC ¶ 61,211 (1983) (granting waivers for an industrial company that sells excess energy not needed for its principal business, zinc smelting).

<sup>7</sup> *Citizens Energy Corp.*, 35 FERC ¶ 61,198 (1986); *Citizens Power and Light Corp.*, 48 FERC 61,210 (1989) (*Citizens Power*); *Enron Power Marketing, Inc.*, 65 FERC ¶ 61,305 (1993), *order on reh'g*, 66 FERC ¶ 61,244 (1994) (Enron).

7. Further, in Order No. 664, the Commission stated that it will no longer grant waivers of the full requirements of Part 45 in its orders granting market-based rate authority.<sup>8</sup> Thus, we deny this waiver request. Consistent with Order No. 664, CalPeco is required to comply with the full requirements of Part 45.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

---

<sup>8</sup> *Commission Authorization to Hold Interlocking Positions*, Order No. 664, FERC Stats. & Regs. ¶ 31,194, at P 34 (2005), *order on reh'g*, Order No. 664-A, 114 FERC ¶ 61,142 (2006).