

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Philip D. Moeller,  
and Jon Wellinghoff.

San Diego Gas & Electric Company

Docket No. EL00-95-000

v.

Sellers of Energy and Ancillary Services  
Into Markets Operated by the California  
Independent System Operator Corporation  
and the California Power Exchange

Investigation of Practices of the California  
Independent System Operator Corporation  
And the California Power Exchange

Docket No. EL00-98-000

ORDER DENYING WITHDRAWAL

(Issued May 25, 2007)

1. The Commission issued an order on March 1, 2007, approving a Joint Offer of Settlement and Settlement and Release of Claims Agreement filed by APX, Inc. (APX) and other parties<sup>1</sup> on January 5, 2007, as amended by the APX/California Parties Term

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<sup>1</sup> Parties include: APX; American Electric Power Service Corp.; Avista Energy, Inc.; Calpine Energy Services, L.P.; El Paso Marketing, LP; UC Davis Medical Center, owned and operated by the Regents of the University of California; Merrill Lynch Capital Services, Inc.; BP Energy Company; Tractebel Energy Marketing Inc.; Aquila Merchant Services, Inc.; Salt River Project Agricultural Improvement and Power District; Allegheny Energy Supply Company, LLC; TransAlta Energy Marketing (US) Inc.; Sempra Energy Solutions LLC; Constellation NewEnergy, Inc.; Commonwealth Energy Corporation; Sacramento Municipal Utility District; Morgan Stanley Capital Group Inc.; Enron Energy Services, Inc.; Enron Power Marketing, Inc.; and Sierra Pacific Industries. Coral Power, L.L.C., Puget Sound Energy, Inc. and Avista were Supporting Parties.

Sheet filed on February 7, 2007 (collectively, Settlement).<sup>2</sup> On May 11, 2007, APX filed notice of its withdrawal of all of its pleadings, comments, and petitions in the above-captioned proceedings. APX clarified, however, that its notice “does not affect its participation in the Settlement itself or in any filings made pursuant to the Settlement, including the compliance filing submitted by APX on April 24, 2007.” The Commission will deny APX’s notice of withdrawal, without prejudice to refiling with a demonstration that the withdrawal would not adversely affect the Commission and other parties to these proceedings.

2. Pursuant to Rule 216 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.216 (2006), the withdrawal of any pleading is effective at the end of 15 days from the date of filing of a notice of withdrawal, if no motion in opposition to the notice of withdrawal is filed within that period and if the Commission does not issue an order disallowing the withdrawal within that period. Rule 216(c) provides that, in order to prevent prejudice to other participants, the Commission may condition the withdrawal of any pleading upon a requirement that the withdrawing party leave material in the record or otherwise make material available to other participants.

3. The Commission finds that in the present case, seven years into this proceeding, requiring APX to leave material in the record for use by the Commission and other participants, is appropriate. In the course of making determinations in the above-captioned proceedings, the Commission has relied on APX representations and data that are not otherwise available in the record. Accordingly, in order to prevent prejudice to other participants, in the absence of a showing of no adverse affect on the Commission or other parties to these proceedings, the Commission denies without prejudice to refiling the withdrawal so as to leave in the record APX’s pleadings, comments and petitions in the above-captioned proceedings. The Commission clarifies that although APX’s submittals will remain available for reference by the Commission and other participants in this proceeding, APX is not required to continue to participate in these proceedings.

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<sup>2</sup> *San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services*, 118 FERC ¶ 61,168 (2007).

The Commission orders:

APX's notice of withdrawal is hereby denied, as discussed in the body of this order.

By the Commission. Commissioner Spitzer not participating.

( S E A L )

Kimberly D. Bose,  
Secretary.