

FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, D.C. 20426

July 27, 2007

In Reply Refer To:  
Long Beach Generation LLC  
Docket No. ER07-836-000

Skadden, Arps, Slate, Meagher & Flom LLP  
Attn: Donna M. Francescani, Esq.  
1440 New York Avenue, N.W.  
Washington, D.C. 20005

Reference: Power Purchase Agreement

Dear Ms. Francescani:

1. On May 3, 2007, as amended on May 7, 2007, you submitted for filing, on behalf of Long Beach Generation LLC (Long Beach), a Power Purchase Tolling Agreement (PPA) between Southern California Edison Company (SoCal Edison) and Long Beach.
2. Notice of this filing was published in the *Federal Register*, 72 Fed. Reg. 27,113 (2007), with comments, protests or motions to intervene due on or before May 24, 2007. None were filed.
3. Long Beach states that while it has been granted market-based rate authority and the Commission's regulations preclude the filing of agreements like the PPA that are entered into pursuant to market-based rate authority, 18 C.F.R. § 35.1(g), Long Beach requests that the Commission waive that prohibition and accept the PPA. Long Beach explains that the submittal of the PPA results from a Settlement Agreement between Long Beach and Californians for Renewable Energy (CARE), pursuant to which CARE agreed to desist from interfering with Long Beach's attempts to proceed with the PPA, and in return Long Beach agreed to file the PPA with the Commission.

4. Under the Commission's regulations, a PPA such as this may not be filed with the Commission absent a waiver.<sup>1</sup> We do not find good cause to grant a waiver for purposes of considering this a section 205 filing requiring formal rate approval or acceptance by the Commission. However, in light of Long Beach's settlement agreement to voluntarily file the PPA, we will treat the PPA as an informational filing and we herein acknowledge the receipt of the informational filing.<sup>2</sup> Because this PPA is a pre-approved contract pursuant to Long Beach's market-based rate authorization and, accordingly, the Commission has already found it to be just and reasonable as a result of the Commission's earlier finding that Long Beach lacks or has adequately mitigated market power, the effective date of the PPA is August 1, 2007, as agreed upon by the parties to the PPA.<sup>3</sup> We remind Long Beach that its filing of the PPA and the Commission's issuance of this letter order do not relieve Long Beach of its obligation to file Electronic

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<sup>1</sup> See 18 C.F.R. § 35.1(g) (2007) (“[A]ny market-based rate agreement pursuant to a tariff shall not be filed with the Commission”). In the Commission's recent final rule on market-based rates, which was issued subsequent to the notice of Long Beach's filing in this docket, the Commission, citing this regulation, stated that it would continue to direct sellers not to file long-term market-based rate sales contracts, unless otherwise permitted by Commission rule or order. See *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, 72 Fed. Reg. 39,904 (July 20, 2007), FERC Stats. & Regs. ¶ 31,252 at P 969-970 (2007).

<sup>2</sup> We note that although the Commission noticed the PPA filing for comment in the above docket, the Commission's usual practice is not to notice informational filings.

<sup>3</sup> See *Long Beach Generation LLC*, 82 FERC ¶ 61,295 (1998), *Order Accepting Updated Market Power Analyses, Dynegy Power Marketing, Inc.*, 111 FERC ¶ 61,411 (2005).

Quarterly Reports, including information pertaining to this contract, in compliance with Order No. 2001.<sup>4</sup>

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>4</sup> *Revised Public Utility Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31,043 (May 8, 2002), FERC Stats. & Regs. ¶ 31,127 (2002). *See* 18 C.F.R. § 35.10b (2007). Failure to file an Electric Quarterly Report (without an appropriate request for extension), or failure to report an agreement in an Electric Quarterly Report, may result in forfeiture of market-based rate authority, requiring filing of a new application for market-based rate authority if the applicant wishes to resume making sales at market-based rates.