

120 FERC ¶ 61,159
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation,
California Electricity Oversight Board,
Public Utilities Commission of the State of California,
Pacific Gas and Electric Company,
San Diego Gas & Electric Company, and
Southern California Edison Company

v.

Docket No. EL02-15-003

Cabrillo Power I LLC,
Cabrillo Power II LLC,
Duke Energy South Bay, LLC,
Geysers Power Company, LLC, and
Williams Energy Marketing and Trading Company

California Independent System Operator Corporation,
California Electricity Oversight Board,
Public Utilities Commission of the State of California, and
San Diego Gas & Electric Company

v.

Docket No. EL03-22-002

Cabrillo Power I LLC

ORDER GRANTING COMPLAINANTS' MOTION TO TERMINATE
PROCEEDINGS

(Issued August 14, 2007)

1. In this order we grant the motion filed by the California Independent System Operator Corporation (CAISO), and others (collectively, Complainants)¹ to terminate the proceedings in the above-captioned dockets.

¹ In Docket No. EL02-15-000, the other complainants are: California Electricity Oversight Board, Public Utilities Commission of the State of California, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E) and Southern
(continued...)

Background

2. On November 13, 2001, in Docket No. EL02-15-000 Complainants filed a complaint under section 206 of the Federal Power Act² against Cabrillo Power I LLC, Cabrillo Power II LLC, Duke Energy South Bay, LLC, Geysers Power Company, LLC and Williams Energy Marketing and Trading Company (Williams) (collectively, Generators). Complainants asked the Commission to investigate the current Fixed Option Payments under each Generator's Reliability Must Run (RMR) contract with CAISO.
3. On October 30, 2002, CAISO, SDG&E, the Public Utilities Commission of the State of California and the California Electricity Oversight Board filed a complaint in Docket No. EL03-22-000 asking the Commission to investigate the Fixed Option Payment contained in an RMR contract between CAISO and Cabrillo Power I LLC (Cabrillo I) with respect to Unit 4 of the Encina generating plant in Carlsbad, California. The complaint states that since the filing of the complaint in Docket No. EL02-15-000, the Encina 4 Unit was identified as needed for local area reliability and eligible to be designated as a "must-run" unit. The complaint sought the same relief as in Docket No. EL02-15-000.
4. The Commission dismissed the complaints stating that the complaints provided no basis for initiating an investigation into the Fixed Option Payments for RMR units in California operating under Condition 1.³
5. Complainants then filed petitions for review of the Commission's orders before the U.S. Court of Appeals for the D.C. Circuit.⁴ On May 18, 2006, the Commission moved to hold the case in abeyance and remand the record for further consideration by the Commission. The Court granted the motion on June 19, 2006.
6. On August 25, 2006, following the remand of these proceedings, Complainants filed a motion asking the Commission to dismiss one respondent from the proceedings and to defer action on the remand so that Complainants could pursue settlement

California Edison Company (SoCal Edison). In Docket No. EL03-22-000, the other complainants are the California Oversight Board, the Public Utilities Commission of the State of California, and SDG&E.

² 16 U.S.C. § 824e (2000).

³ *California Independent System Operator Corporation v. Cabrillo Power I, LLC*, 111 FERC ¶ 61,358 (2005), *reh'g denied*, 112 FERC ¶ 61,157 (2005).

⁴ *Pacific Gas and Electric Company v. FERC*, No. 05-1374 (D.C. Cir. Filed Sep. 23, 2005).

discussions with the remaining two respondents: (1) Cabrillo Power I and II and (2) Geysers Power Company LLC (Geysers). On December 28, 2006, the Commission approved an uncontested settlement with respect to Geysers.⁵ On May 14, 2007, the Complainants filed a motion to dismiss this proceeding against the remaining respondents Cabrillo Power I and II, effective the date the Commission approves the settlement filed in Docket No. ER07-291-000. Complainants also moved to terminate these proceedings, stating that upon approval of the settlement in Docket No. ER07-291-000, there will be nothing left to decide in these dockets and “terminating the proceedings will close out dockets which have now been concluded.”⁶ On June 26, 2007, the Commission approved the settlement in Docket No. ER07-291-000.⁷

Discussion

7. Because, as Complainants point out, there is nothing left to decide in these dockets, we will grant Complainants’ motion to terminate these proceedings.

The Commission orders:

The Complainants’ motion to terminate these proceedings is granted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁵ *Los Esteros Critical Facility*, 117 FERC ¶ 61,350 (2006).

⁶ Complainants’ May 14, 2007, motion at 3.

⁷ *Cabrillo Power II LLC*, 119 FERC ¶ 61,312 (2007).