

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeem G. Kelly.

City of Azusa, California	Docket Nos. EL03-14-000
City of Anaheim, California	EL03-15-000 EL03-15-002
City of Riverside, California	EL03-20-000 EL03-20-002
City of Banning, California	EL03-21-000 (Consolidated)

ORDER ON SETTLEMENT AND ESTABLISHING HEARING PROCEDURES

(Issued December 18, 2003)

1. On July 18, 2003, the Cities of Anaheim, Azusa, Banning, and Riverside, California (the Cities) filed, on behalf of the Sponsoring Parties,<sup>1</sup> an Offer of Settlement in the above-referenced dockets, which included a Settlement Agreement and Explanatory Statement (Settlement Agreement) pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602 (2003). The Settlement Agreement resolves all issues concerning the Transmission Revenue Requirements (TRRs) for the Cities of Azusa and Banning. The Settlement Agreement also conditionally resolves all issues concerning the TRRs for the Cities of Anaheim and Riverside, subject to the establishment of evidentiary hearing procedures to address and resolve whether the TRRs of the Cities of Anaheim and Riverside should include costs associated with those Cities' entitlements in facilities referred to as the Northern Transmission System and the Southern Transmission System, and related transmission agreements between those Cities and the Los Angeles Department of Water and Power

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<sup>1</sup> The Sponsoring Parties are the Cities, the California Independent System Operator Corporation [CA ISO], Pacific Gas & Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company.

(LADWP).<sup>2</sup> This order accepts the uncontested settlement and establishes hearing procedures to resolve the outstanding issues concerning the Cities of Anaheim and Riverside.

## **BACKGROUND**

2. On October 18, 2002, the Cities of Azusa and Anaheim filed petitions for a declaratory order requesting a determination by the Commission that their respective TRRs, as approved by their respective rate-setting body, are acceptable for the purpose of becoming Participating Transmission Owners (PTOs) in the CA ISO. The parties asserted that, upon becoming PTOs, they would turn operational control of their transmission entitlements over to the CA ISO and would be reimbursed by the CA ISO based on their TRRs through the CA ISO's collection of its Transmission Access Charge (TAC) and Wheeling Access Charge rates for transmission service provided to the CA ISO's customers. On October 29, 2002, the Cities of Riverside and Banning filed similar petitions requesting the same relief. In an order issued on December 23, 2002,<sup>3</sup> the Commission consolidated these proceedings with proceedings involving the City of Vernon, California<sup>4</sup> that raised similar issues and initiated settlement proceedings to provide the parties the opportunity to resolve the matters at issue. In a February 6, 2003 order,<sup>5</sup> the Commission clarified that the TRR filings of the Cities are effective January 1, 2003, subject to refund and the outcome of the settlement proceedings directed in the December Order. The Cities filed the Settlement Agreement on July 18, 2003.

3. On July 30, 2003, initial comments in support of the Settlement Agreement were filed by Commission Trial Staff, the Cities of Anaheim, Azusa, Banning and Riverside, California and the California Department of Water Resources.<sup>6</sup> No reply comments were

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<sup>2</sup> The settled issues for the City of Anaheim and the City of Riverside have been reassigned to Docket Nos. EL03-15-002 and EL03-20-002 respectively.

<sup>3</sup> City of Azusa, California, et al., 101 FERC ¶ 61,352 (2002) (December Order), order on clarification, 102 FERC ¶ 61,153 (2003).

<sup>4</sup> On May 20, 2003, the Chief Administrative Law Judge issued an order temporarily terminating settlement proceedings as to the City of Vernon.

<sup>5</sup> City of Azusa, California, et al., 102 FERC ¶ 61,153 (2003) (Order on Clarification).

<sup>6</sup> The Offer of Settlement states that the Sponsoring Parties are authorized to represent that the California Department of Water Resources State Water Project and the California Public Utilities Commission support the Settlement Agreement. In addition,

(continued...)

filed. On August 29, 2003, the settlement judge certified the Settlement Agreement to the Commission as uncontested.

4. The subject settlement is in the public interest and is hereby approved. The Commission's acceptance of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Commission retains the right to investigate rates, terms and conditions under the just and reasonable and not unduly discriminatory or preferential standard of section 206 of the Federal Power Act (FPA), 16 U.S.C. § 824e (2000).

5. In the Settlement Agreement, the Cities request that the Commission establish an evidentiary hearing to resolve the issue of whether the Cities of Anaheim and Riverside's TRRs associated with the Northern Transmission System (NTS),<sup>7</sup> Southern Transmission System (STS),<sup>8</sup> and related contracts with the LADWP should be included in the ISO's transmission rates and charges. Consistent with the Cities' request, we will establish hearing procedures to resolve the outstanding issues they have identified.

6. We direct the Chief Administrative Law Judge or his designee to appoint a presiding judge to convene a conference no later than fifteen days from the date of this order.

7. Within 30 days after the date of this order, the Cities shall file revised tariffs sheets in accordance with Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2001). The tariffs filed in the Settlement on July 18, 2003 were not properly designated and did not contain substitute sheet numbers. Additionally, the Cities failed to follow the sample page provided in Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2001).<sup>9</sup>

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the Sponsoring Parties are authorized to state that Commission Trial Staff, the Cities of Redding, Santa Clara, and Palo Alto, California and the M-S-R Public Power Agency, the Northern California Power Agency, the Transmission Agency of Northern California, the Modesto Irrigation District, and the Metropolitan Water District of Southern California do not oppose the Settlement Agreement.

<sup>7</sup> The NTS consists of one 230kv line between the Intermountain Power Project in Utah and the Gonder substation in Nevada and two 345kv lines between the Intermountain Power Project and the Mona substation in Utah.

<sup>8</sup> The STS consists of a single  $\pm$  500kv DC line between the Intermountain Power Project and the Adelanto substation in California.

<sup>9</sup> The Cities failed to include the company name and tariff volume in the left header, and the name of the issuing party was not provided in the left footer.

8. Within 60 days from the date of this order, any amounts collected in excess of the settlement rates shall be refunded together with interest computed pursuant to Section 35.19(a)(2) of the Commission's regulations.<sup>10</sup> In addition, within 15 days after making such refunds, the Cities shall file with the Commission a compliance refund report, showing monthly billing determinants; revenue receipt dates; revenues under the prior, present, and settlement rates; the monthly revenue refund; and the monthly interest computed, together with a summary of such information for the total refund period. The Cities shall furnish copies of the report to any affected wholesale customers, and each state commission within whose jurisdiction the affected wholesale customers distribute and sell energy at retail.

9. This order terminates Docket Nos. EL03-14-000, EL03-15-002, EL03-20-002, and EL03-21-000. The two dockets that will remain open are Docket Nos. EL03-15-000 and EL03-20-000.

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and the Federal Power Act and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter 1), a public hearing shall be held to resolve the outstanding issues concerning the Cities of Anaheim and Riverside, as discussed in the body of this order.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in the proceeding, to be held within approximately 15 days of the designation of the presiding judge in a hearing room of the Federal Energy Regulatory Commission, 888 First St., N.E., Washington, D.C. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

By the Commission. Commissioner Brownell dissenting in part with a separate statement attached.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>10</sup> 18 C.F.R. §35.19(a)(2) (2003).

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(Issued December 18, 2003)

Nora Mead BROWNELL, Commissioner *dissenting in part*:

1. As I explained in my separate statement in Midwest Independent Transmission System Operator, Inc., 105 FERC ¶ 61,073 (2003), I can no longer support making our acceptance of settlement agreements subject to a Commission reservation of authority to make future revisions under the just and reasonable standard, as opposed to the Mobile-Sierra public interest standard--unless, of course, the agreement itself includes language requesting such a reservation. If the Commission has objections to a settlement, we should articulate them when we first review it, instead of approving the settlement with the cloud of uncertainty that we might make subsequent changes under a lower-than-public-interest standard after market participants have come to rely on it. Therefore, I would have accepted this agreement without reserving the option of revisiting it under a just and reasonable standard.

Nora Mead Brownell