

105 FERC ¶ 61,329
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Power Exchange Corporation

Docket No. ER04-111-000

ORDER ON COMPLIANCE AND
ACCEPTING SPECIAL PURPOSE RATE SCHEDULE

(Issued December 22, 2003)

1. On October 31, 2003, the California Power Exchange Corporation (CalPX) submitted for filing its proposed amendment to its Rate Schedule No. 1 to recover expenses projected for the period January 1, 2004 through June 30, 2004, to be effective January 1, 2004, pursuant to the order issued in Docket No. ER02-2234-000.¹ In this order, the Commission accepts the CalPX's filing. This order benefits the public by ensuring that the CalPX will have an effective rate schedule for recovering the expenses of its operations to wind-up its business affairs.

Background

2. On July 3, 2002, as amended on July 10, 2002, the CalPX proposed a rate schedule that was intended to provide it with a means of funding its ongoing activities while it winds-up its affairs. In the August 8 Order, the Commission found that the proposed rate schedule, subject to condition, was an appropriate mechanism to allow the CalPX to fund its continuing operations. The Commission accepted the CalPX's proposed six-month budget of approximately \$6.3 million, with a matching reserve from the Settlement Clearing Account, for the initial six-month period, and required the CalPX to renew its request for subsequent six-month periods.

3. In subsequent orders, the Commission provided additional clarification and directives with respect to the CalPX's rate filings for the first, second, and third six-month periods.²

¹California Power Exchange Corp., 100 FERC ¶ 61,178 (2002) (August 8 Order).

²See California Power Exchange Corp., 101 FERC ¶ 61,330 (2002) (December 20 Order); 101 FERC ¶ 61,403 (2002) (December 31 Order); 102 FERC ¶ 61,208 (2003) (February 25 Order); 103 FERC ¶ 61,220 (2003) (May 22 Order); 104 FERC ¶ 61,005 (2003) (July 1 Order).

CalPX's Filing

4. In its October 31, 2003 filing, the CalPX submitted its proposed rate schedule sheet for the fourth six-month period. CalPX states that its projected wind-up expenses for the fourth rate period are \$4,422,692 and the cash shortfall is projected to be \$2,973,533. Among its budgeted expenses, the CalPX projects to spend \$1,800,000 on various legal and regulatory costs; \$586,958 on employee salaries, benefits, and payroll taxes for 7 full-time employees; \$789,000 on contractors and temporary labor; and \$141,000 on IT support systems. CalPX's filing is also supported by the testimony of David K. Gottlieb, the interim chief executive officer of the reorganized CalPX.

5. CalPX also contends that the full filing requirements of Part 35 are not appropriate for the CalPX's unique situation. CalPX therefore requests waiver of all of Part 35 regulations that might otherwise apply and, in particular, requests waiver of Sections 35.13(d) and (h) which deal respectively with cost of service test period requirements and cost of service statements AA through BM.

Notice of Filing and Responsive Pleadings

6. Notice of the filing was published in the Federal Register, 68 Fed. Reg. 64,599 (2003), with motions to intervene and protests due on or before November 21, 2003. The California Electricity Oversight Board, Pacific Gas and Electric Company (PG&E), and Powerex Corp. filed timely motions to intervene. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. PG&E also filed a protest.

PG&E's Protest

7. PG&E argues that the proposed wind-up charges allocate current and future expenses based on past purchases in violation of the filed rate doctrine. PG&E contends that the allocation of the March 13, 2002 account balances (March 13 Account Balances) violates cost causation principles. PG&E claims that the CalPX allocation methodology improperly excludes account balances related to amounts owed by the CalPX to the California ISO. Accordingly, PG&E requests that the Commission reject, or substantially modify the proposed CalPX rate filing.

Discussion

8. The Commission finds that the CalPX's proposed amendment to its rate schedule is in accord with our prior orders in Docket Nos. ER02-2234, ER03-139, and ER03-791, and the rate schedule is hereby accepted. The Commission will deny the protest filed by PG&E. PG&E has raised these arguments on numerous occasions and the Commission has addressed them in the August 8, December 20, and February 25 Orders. Accordingly, PG&E's protest is denied for the reasons discussed in our prior orders.

9. Finally, given the CalPX's unique characteristics, we find that it is not necessary for the CalPX to adhere to the full requirements of Part 35. Accordingly, we hereby grant the requested waivers and accept the CalPX's proposed rate schedule for filing as discussed above.

The Commission orders:

(A) CalPX's proposed rate schedule sheet is hereby accepted for filing, effective for six months beginning January 1, 2004.

(B) CalPX's petition for waiver of the full requirements of Part 35 is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.