

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services	Docket Nos. EL00-95-194
Investigation of Practices of the California Independent System Operator and the California Power Exchange	EL00-98-178
Investigation of Anomalous Bidding Behavior and Practice in the Western Markets	IN03-10-026
Fact-Finding Investigation Into Possible Market Manipulation of Electric and Natural Gas Prices	PA02-2-040
Williams Energy Services Corporation	EL03-179-006
AES Southland, Inc. Williams Energy Marketing & Trading Inc.	IN01-3-004

ORDER GRANTING MOTION FOR CHANGE IN STATUS

(Issued June 21, 2007)

1. By this order, the Commission grants the motion of El Paso Marketing, L.P. (El Paso) to participate in the Williams Settlement¹ as a Settling Participant entitled to a cash distribution, as discussed below.

¹ The Williams Settlement is the Settlement Agreement and Release of Claims filed by the Williams Companies, Inc., Williams Power Company, Inc. (collectively, Williams), Pacific Gas & Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas and Electric Company (SDG&E) on April 24, 2007,
(continued)

Background

2. Under the Williams Settlement, El Paso is listed in Attachment 3 as a Participant—*i.e.*, one of certain market participants in the California Independent System Operator, Inc. (CAISO) and California Power Exchange (CalPX) markets that had the option to become a Settling Participant in the Williams Settlement.² Participants that wished to opt-in to the Williams Settlement were to notify the Commission on or prior to the settlement’s effective date; otherwise, they would “have no right to participate in the settlement”³ The Williams Settlement’s effective date was determined by the dates on which certain necessary approvals were obtained from the Commission and the California Public Utilities Commission.⁴

3. El Paso is also listed under the Williams Settlement as a Participant that would qualify as a Deemed Distribution Participant.⁵ The Williams Settlement defines a Deemed Distribution Participant as, generally, a Settling Participant that owes amounts to the CalPX or the CAISO markets for 2000 and 2001.⁶ Thus, rather than receiving in cash any funds due to it under the Williams Settlement, a Participant that opted in to become a Settling Participant and that also qualified as a Deemed Distribution Participant would receive those funds as a credit against any amounts it owed to the CalPX or the CAISO.

and approved by the Commission on July 2, 2004 in *San Diego Gas & Electric Co. v. Sellers of Ancillary Serv.*, 108 FERC ¶ 61,002 (2004), *order on reh’g*, 111 FERC ¶ 61,186 (2005).

² Williams Settlement section 12.1 provides that “any Participant that elects to be bound by [the Williams Settlement] may become a Settling Participant and be bound by its terms, including all releases set forth in herein, by notifying [the Commission] that the Participant wishes to become a Settling Participant or that the Participant does not oppose the application of [the Williams Settlement] to that Participant.”

³ Williams Settlement section 12.1.

⁴ *See* Williams Settlement sections 1.9, 1.29 and 14.1. The Commission approved the Williams Settlement on July 2, 2004. El Paso’s motion states that its notice of election to opt-in was originally due to be filed by July 12, 2004.

⁵ Williams Settlement Attachment 1.

⁶ *See* Williams Settlement section 1.8.

4. On April 2, 2007, El Paso filed with the Commission a notice of election to become a Settling Participant to the Williams Settlement. In its notice of election, El Paso stated that “[a]lthough this election was originally due to be filed by July 12, 2004, Williams, PG&E, SCE, and SDG&E granted El Paso a waiver to elect to opt-in to the Williams Settlement past the election deadline and have authorized El Paso to make the representations contained herein.”⁷

Motion for Order Granting Change in Status

5. On April 23, 2007, El Paso filed a motion requesting that the Commission issue an order authorizing El Paso to participate in the Williams Settlement as a Settling Participant entitled to a cash distribution, and not as a Deemed Distribution Participant.⁸ El Paso states that Williams and each of the California Utilities (PG&E, SCE, and SDG&E) have authorized El Paso to report that they consent to the relief sought herein.

6. El Paso explains that section 6.2 of the El Paso Settlement⁹ provides that “El Paso shall receive a distribution, in cash or as a Deemed Distribution as appropriate, in accordance with the terms of each of the respective Global Settlement Agreements upon the effectiveness of its opt-in to each such settlement.” El Paso states that, subsequent to filing its April 23, 2007 notice of election to become a Settling Participant to the Williams Settlement, the necessary parties—El Paso, Williams, and the settling claimants to the Williams Settlement (*i.e.*, the California Utilities)—each agreed to convert El Paso from a Deemed Distribution Participant to a cash participant under the Williams Settlement.

7. El Paso states that, because Williams and the California Utilities have agreed to El Paso’s requested change in status from a Deemed Distribution Participant to a Settling Participant entitled to a cash distribution, the Commission should promptly grant this motion. El Paso also states that no party will be prejudiced as a result of this change in status, and that good cause exists for the Commission to grant this motion because it will expedite payment to El Paso under the Williams Settlement and because it is unopposed by Williams and the settling claimants to the Williams Settlement.

⁷ El Paso April 2, 2007 Notice of Election to Become a Settling Participant to the Williams Settlement, Docket Nos. EL00-95-194, *et al.*, at 2.

⁸ No parties filed responses to El Paso’s motion.

⁹ The El Paso Settlement is the settlement filed with the Commission on April 2, 2007 by El Paso, SDG&E and PG&E, in Docket Nos. EL00-95-191, *et al.*

Commission Determination

8. The Commission will grant El Paso's motion to participate in the Williams Settlement as a Settling Participant entitled to a cash distribution, rather than as a Deemed Distribution Participant. The necessary parties—Williams and the California Utilities—have agreed to El Paso's status change. No parties have filed responses to the motion or contested the status change. Moreover, the Commission supports El Paso's decision to opt in to the Williams Settlement in order to avoid further litigation over matters arising from the California energy crisis of 2000 and 2001.

The Commission orders:

El Paso's motion to participate in the Williams Settlement as a Settling Participant entitled to a cash distribution rather than as a Deemed Distribution Participant is hereby granted.

By the Commission. Commissioner Spitzer not participating.

(S E A L)

Kimberly D. Bose,
Secretary.