

168 FERC ¶ 61,052  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

July 24, 2019

In Reply Refer To:  
California Power Exchange Corporation  
Docket No. ER19-1649-000

Holland & Knight LLP  
800 17<sup>th</sup> Street, NW  
Washington, DC 20006

Attention: F. Alvin Taylor

Dear Mr. Taylor:

1. On April 22, 2019, you submitted for filing, on behalf of the California Power Exchange Corporation (CalPX), a Petition pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure.<sup>1</sup> The Petition proposes to amend the existing wind-up charge settlement agreement approved by the Commission in Docket No. ER05-167-000 (Settlement) by extending its terms for three years, i.e., through December 31, 2022.<sup>2</sup>

2. Among other things, the Settlement resolved cost allocation among CalPX's market participants for winding up CalPX's costs associated with certain limited services it was providing in connection with the "California Refund Proceeding" in Docket No. EL00-95 and other proceedings related to the Western energy crisis of 2000-2001. The Settlement was in effect for an initial term expiring December 31, 2007. However, because the California Refund Proceeding had not (and still has not) concluded, CalPX has periodically sought from the Commission three-year extensions of its Settlement, which the Commission has approved. Most recently, the Commission approved CalPX's request to extend the Settlement through December 31, 2019.<sup>3</sup>

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<sup>1</sup> 18 C.F.R. § 385.207(a)(5) (2018).

<sup>2</sup> *Cal. Power Exch. Corp.*, 113 FERC ¶ 61,017 (2005).

<sup>3</sup> *Cal. Power Exch. Corp.*, 155 FERC ¶ 61,218 (2016) (approving extension of the Settlement from December 31, 2016 to December 31, 2019).

3. In this Petition, CalPX states that it requests a further three-year extension because the California Refund Proceeding in Docket No. EL00-95 and its related wind-up functions are ongoing. CalPX surmises that the California Refund Proceeding and related dockets will not be concluded until well after December 31, 2019, noting that the Commission has not yet issued orders approving the refund calculations in that proceeding.<sup>4</sup> CalPX asserts that the proposed extension will permit it to continue its wind-up functions upon the same terms that have been in effect for over 13 years.<sup>5</sup>

4. The Petition proposes to maintain all of the terms of the existing Settlement, including the provision that the currently effective rates will continue to apply. However, to effectuate the extension, CalPX proposes to modify section 3 of the Settlement (“Effective Period”), so that the existing effective period will be extended for additional three years. Specifically, section 3 will be modified to change the existing effective period from December 31, 2019 to December 31, 2022. In addition, CalPX proposes a modification to section 3-B of the Settlement (“Post-Effective Period – Optional Reopener”) to reflect the three-year extension.<sup>6</sup>

5. Notice of the Petition was published in the *Federal Register*, 84 Fed. Reg. 18,017 (2019), with interventions and protests due on or before May 13, 2019. The Modesto Irrigation District and the City of Santa Clara, California filed timely motions to intervene.

6. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Because no protests have been filed, the extension of the Settlement proposed in the Petition will be treated as an

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<sup>4</sup> Petition at 2.

<sup>5</sup> *Id.* at 9.

<sup>6</sup> Specifically, CalPX proposes to substitute “2022” for “2019” and “2023” for “2020” in section 3-B of the Settlement. As modified, section 3-B of the Settlement will provide as follows: “If the [Cal]PX is in existence after the end of 2022, any [Cal]PX Market Participant has the right to reopen the issue of allocation of Going Forward costs for periods in 2023 and beyond in response to a [Cal]PX filing to recover such Going Forward costs. In no event shall any such reopening result in any change to the allocation percentages for the Historical or Going Forward Costs agreed to herein through December 31, 2022.”

uncontested settlement pursuant to Rule 602 of the Commission's Rules of Practice and Procedure.<sup>7</sup>

7. As noted above, CalPX is proposing an unopposed extension of the Settlement, which will maintain the status quo regarding the terms and conditions of the existing Settlement, other than the date of the effective period. Pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602(g), the Commission finds that this proposed extension of the Settlement appears to be fair and reasonable and in the public interest, and is therefore approved. The Commission's approval of the extension of this Settlement does not constitute a precedent regarding any principle or issue in this proceeding.

By direction of the Commission. Commissioner McNamee is not participating.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>7</sup> 18 C.F.R. § 385.602(g) (2018).