

168 FERC ¶ 61,109
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur and Richard Glick.

San Diego Gas & Electric Company

Docket Nos. EL00-95-291

v.

Sellers of Energy and Ancillary Services Into Markets
Operated by the California Independent System Operator
Corporation and the California Power Exchange

Investigation of Practices of the California Independent
System Operator and the California Power Exchange

EL00-98-263

ORDER GRANTING MOTION TO INTERVENE OUT OF TIME

(Issued August 23, 2019)

1. In this order, we grant El Paso Electric Company's (El Paso) motion to intervene out of time for good cause shown, as discussed below.

I. El Paso's Late Motion to Intervene

2. In its motion, El Paso explains that has not previously intervened in this proceeding because it believed its refund status for the period at issue had been fully resolved in another Commission proceeding in Docket Nos. EL02-113-000 and EL02-113-002.¹ El Paso explains that as a result of that settlement, it paid a refund of \$15.5 million and, as implemented, the refunded amounts were specifically directed to the benefit of California ratepayers.²

¹ El Paso Motion at 2.

² *Id.* at 3.

3. According to El Paso, however, the current draft settlement overlay calculations do not appear to account for the refund amounts already paid by El Paso in Docket Nos. EL02-113-000 and EL02-113-002. Accordingly, El Paso concludes that it has an interest in the outcome of this proceeding, ensuring that the amounts El Paso has already paid be accounted for.³ El Paso commits to accept the record as it currently stands in this proceeding and argues that there will be no disruption to the proceeding, nor will any party be disadvantaged, by its late intervention.⁴ El Paso states good cause exists to grant this motion to intervene out of time in this proceeding.⁵

4. On May 1, 2019, the California Parties⁶ filed an answer to El Paso's motion. The California Parties state that they do not oppose El Paso's late intervention, so long as El Paso accepts the record as it currently stands. The California Parties also argue that El Paso mischaracterizes its refund liability, pointing to language in El Paso's earlier settlement in Docket No. EL02-113 explaining that the settlement did not release claims that other parties, including the investor-owned utilities in California, may have against El Paso, and that the settlement specifically referenced this proceeding.⁷

II. Commission Determination

5. We find that El Paso has demonstrated there is good cause to grant its motion to intervene out of time. El Paso's interests may be affected in the ongoing settlement overlay process, which justifies permitting El Paso to intervene at this stage of the proceeding. El Paso also states that it accepts the record of the proceeding as it stands. We therefore expect that there will be no disruptions to the proceeding or additional burdens placed on existing parties as a result of permitting El Paso to intervene out of time. The California Parties also do not oppose El Paso's late motion to intervene. Accordingly, we grant El Paso's motion to intervene out of time for good cause.

6. Finally, our decision to grant El Paso's motion to intervene out of time is solely to make El Paso a party to this proceeding. We do not make any other finding at this time,

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ For purposes of this pleading, the California Parties are the California Public Utilities Commission, Southern California Edison Company, and Pacific Gas and Electric Company.

⁷ California Parties Answer at 2-3.

including whether and to what extent El Paso may have any refund liability in this proceeding.

The Commission orders:

El Paso's late motion to intervene is hereby granted for good cause shown, as discussed in the body of this order.

By the Commission. Commissioner McNamee is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.