

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

San Diego Gas & Electric Company)	Docket Nos. EL00-95-000
v.)	
Sellers of Energy and Ancillary Services)	
)	
Investigation of Practices of the California)	Docket Nos. EL00-98-000
Independent System Operator and the)	
California Power Exchange)	
)	

**COMMENTS OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION IN SUPPORT OF
JOINT OFFER OF SETTLEMENT TO AMEND
2009 CONSTELLATION SETTLEMENT**

Pursuant to Rule 602(f) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.602(f) (2016), the California Independent System Operator Corporation (“ISO”) hereby submits its comments on the Joint Offer of Settlement To Amend the 2009 Constellation – California Parties Settlement Agreement (“Settlement Amendment”) between Constellation Energy Commodities Group, Inc. (f/k/a Constellation Power Source, Inc.), Constellation NewEnergy, Inc. (f/k/a AES NewEnergy, Inc.), Exelon Generation Company, LLC, successor-in-interest to CCG and NewEnergy, and the California Parties¹ (collectively, the “Settling Parties”). The Settlement Amendment was filed in the above-captioned proceedings on March 30, 2017.

¹ For purposes of the Settlement Amendment, “California Parties” means, collectively, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, the Public Utilities Commission of the State of California, and the People of the State of California *ex rel.* Xavier Becerra, Attorney General. For purposes of the First Amendment to Settlement and Release of Claims Agreement described herein, “California Parties” means the aforementioned entities as well as the California Department of Water Resources acting solely under the authority and powers created by Assembly Bill 1 of the First

I. COMMENTS

A. The ISO Supports the Settlement Amendment

The ISO has always supported the general principle that settlement is the preferred means for resolving complex disputes, even if the settlement involves only a selected subset of the litigants. In addition, this Commission has consistently encouraged parties to resolve disputes whenever possible through settlement.² Against this backdrop, the ISO continues to support the general principle of settlement as embodied in the Settlement Amendment. The approval of the proposed Settlement Amendment will allow cash to flow sooner than would otherwise be the case and in that respect will clearly benefit Market Participants.

The ISO also notes and supports the inclusion in the Settlement Amendment of a duty to cooperate on the part of the Settling Parties.³ It will be absolutely essential that the cooperation of the Settling Parties be maintained from the ISO's perspective, so that the proper financial adjustments can be made so as to properly implement the Settlement Amendment.

Extraordinary Session of 2001-2002, codified in Sections 80000 through 80270 of the California Water Code ("CERS").

² *Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California v. California Independent System Operator Corporation*, 96 FERC ¶ 61,024, at 61,065 (2001).

³ See, in particular, Section 5.3 of the First Amendment to the Settlement and Release of Claims Agreement (Attachment B to Settlement Amendment).

B. The Commission Should Confirm that the ISO's Directors, Officers, Employees and Consultants Will Continue to Be Held Harmless With Respect to Implementing the Amended Settlement Agreement

As with previous settlements filed in these proceedings, the Commission, in approving the original Settlement Agreement, determined that the PX and the ISO will be held harmless for actions taken to implement the Settlement Agreement. The Settlement Amendment does not amend or otherwise change the nature of the Settlement Agreement in any way that would obviate or negate the Commission's grant of hold harmless protections with respect to the Settlement Agreement.⁴ To the contrary, the factors that justified holding the ISO and PX harmless with respect to the implementation of the Settlement Agreement apply equally to implementation of the Settlement Amendment. As amended, the Settlement Agreement will still require unprecedented accounting adjustments on the part of the ISO, and those adjustments will still be based on estimates of payables and receivables that will not be finalized until the Commission issues a final order in these proceedings. The Settling Parties state that they do not oppose hold harmless provisions for the ISO and PX with respect to the Settlement Amendment.⁵ Therefore, in any order approving this Settlement Amendment, the Commission should confirm that the hold harmless protection that it granted to the ISO and PX with respect to the Settlement Agreement will continue to apply to the amended Settlement Agreement.

⁴ See Section 2.2.5 of the First Amendment to the Settlement and Release of Claims Agreement (Attachment B to Settlement Amendment) (stating that "except as modified by this First Amendment, all of the terms and conditions of the Settlement Agreement shall remain in full force and effect").

⁵ See Joint Explanatory Statement at 10 (Attachment A to Settlement Amendment).

II. CONCLUSION

Wherefore, for the reasons stated above the ISO respectfully states that it supports the Settlement Amendment. The ISO also respectfully requests that the Commission state, in any order approving the Settlement Amendment, that the ISO, along with its directors, officers, employees, and consultants, will continue to be held harmless with respect to the settlement and accounting activities that it will have to perform in order to implement the amended Settlement Agreement.

Respectfully Submitted,

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Dated: April 19, 2017

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this document upon the email listserv established by the Commission for this proceeding.

Dated this 19th day of April, 2017 in Washington, D.C.

/s/ Michael Kunselman

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