

101 FERC ¶ 61, 190  
UNITED STATE OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

November 21, 2002

In Reply Refer to:  
Duke Energy Oakland LLC and  
Duke Energy South Bay LLC,  
Docket Nos. ER02-10-000,  
ER02-10-001, ER02-10-002 and  
ER02-10-003  
Duke Energy South Bay LLC  
ER98-496-000, ER02-239-000,  
ER02-239-001, ER02-239-002,  
And ER02-239-003  
Duke Energy Oakland LLC  
Docket Nos. ER02-240-000,  
ER02-240-001, ER02-240-002,  
ER02-240-003, ER02-1478-000,  
ER02-1478-001 and ER02-1478-002  
(Not consolidated)

Dickstein, Shapiro, Morin  
& Oshinsky LLP  
ATTN: Steven L. Miller, Esq.  
2101 L Street, N.W.  
Washington, D.C. 20037-1526

Dear Mr. Miller:

1. On July 25, 2002, (Docket Nos. ER02-10-000 and ER98-496-000) and on September 26, 2002, (Docket Nos. ER02-10-001 and ER02-239-003<sup>1</sup>), you filed offers of settlement between Duke Energy South Bay LLC (DESB), San Diego Gas & Electric Company (SDG&E), and the California Independent System Operator Corporation

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<sup>1</sup>DESB initially made a rate filing in Docket Nos. ER02-239-000, ER02-239-001, and ER02-239-002 on November 1, 2001, November 29, 2001, and December 11, 2001. The Commission accepted and nominally suspended these rate filings, subject to the outcome of Docket No. ER02-10-000 and subject to refund, effective January 1, 2002 on February 1, 2002. See Duke Energy South Bay LLC, 98 FERC ¶ 61,110 (2002).

(California ISO) (DESB Settlements). The Settlements resolve: (1) all outstanding issues relating to the rates and terms of DESB's Year 2002 updates to its Reliability Must Run Agreement with the California ISO and (2) one of the reserved issues left open by a previous settlement in California Independent System Operator Corporation, 87 FERC ¶ 61,250 (1999). The Public Utilities Commission of the State of California filed comments in support of the September 26, 2002, offer of settlement. No other comments were filed.

2. On October 22, 2002, (Docket Nos. ER02-10-002, ER02-240-002 and ER02-1478-001<sup>2</sup>), you filed an offer of settlement between Duke Energy Oakland LLC (DEO), PG&E, and the California ISO resolving all issues relating to DEO's Year 2002 updates to its Reliability Must Run Agreement with the California ISO (DEO Settlement). The Public Utilities Commission of the State of California filed comments in support of the DEO Settlement. No other comments were received.

3. The subject settlements are in the public interest and are hereby approved. The Commission's approval of the settlements does not constitute approval of, or precedent regarding, any principle or issue in these proceedings. The Commission retains the right to investigate the rates, terms and conditions under the just and reasonable and not unduly discriminatory or preferential standard of Section 206 of the Federal Power Act, 16 U.S.C. § 824e (2000).

4. Separately, on September 26, 2002, (Docket Nos. ER02-10-001 and ER02-239-003) and on October 22, 2002, (Docket Nos. ER02-10-003, ER02-240-003 and ER02-1478-002), DESB and DEO filed revised rate schedule sheets implementing their respective settlements. These rate filings were noticed on October 1, 2002, and October 25, 2002, with comments, protests or interventions due on or before October 17, 2002, and November 12, 2002, respectively. The California ISO filed a motion to intervene out-of-time in the September 26, 2002 rate filing in Docket Nos. ER02-10-001 and ER02-239-003. No protests or adverse comments were received. We will grant the Cal ISO's untimely intervention, given the early stage of these proceedings, its interest in the proceedings, and the absence of any undue prejudice or delay. See 18 C.F.R.

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<sup>2</sup>DEO made its rate filing in Docket Nos. ER02-240-000 and ER02-240-001, and supplemented these filings in Docket No. ER02-1478-000 on November 1, 2001. The Commission accepted and nominally suspended these rate filings, subject to the outcome in Docket No. ER02-10-000 and subject to refund, effective January 1, 2002, on December 19, 2001 in Duke Energy Oakland LLC, 97 FERC ¶ 61,283 (2001) and on May 31, 2002, in Duke Energy Oakland LLC, 99 FERC ¶ 61,231 (2002).

§ 385.214(d). Your rate schedule designations are accepted as filed to be effective January 1, 2002.

5. DESB and DEO ask that the revised rate schedule sheets be made effective January 1, 2002. Waiver of the notice requirements under section 35.1 is granted because the revisions incorporate the parties' agreements in the offers of settlement. The revised rate schedule sheets therefore are accepted effective January 1, 2002. See Central Hudson Gas & Electric Corp., 60 FERC ¶ 61,106 at 61,338 (1992), reh'g denied, 61 FERC ¶ 61,089 (1992). .

6. Within thirty (30) days from the date of this letter order, any amounts collected in excess of the settlement rates levels shall be refunded together with interest computed under section 35.19a (18 C.F.R. § 35.19a (2002)). Within fifteen (15) days after making such refunds, DESB and DEO shall file with the Commission a refund compliance report showing monthly billing determinants, revenue receipt dates, revenues under the prior, present, and settlement rates, the monthly revenue refund, and the monthly interest computed, together with a summary of such information for the total refund period. DESB and DEO shall furnish copies of the report to the affected customers and each state commission within whose jurisdiction the wholesale customers distribute and sell energy at retail.

7. Our approval of the settlements and acceptance of the rate schedules in this order also resolves the following dockets: Docket Nos. ER02-10-000, ER02-10-001, ER02-10-002, ER02-10-003, ER02-239-000, ER02-239-001, ER02-239-002, ER02-239-003, ER02-240-000, ER02-240-001, ER02-240-002, ER02-240-003, ER02-1478-000, ER02-1478-001, and ER02-1478-002. Docket No. ER98-496-000 is not terminated by

our action in this order. New subdockets will be assigned upon receipt of the required compliance filings.

By direction of the Commission.

Linwood A. Watson, Jr.,  
Deputy Secretary.

cc: All parties

State of California Public Utilities  
Commission  
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