

105 FERC ¶ 61,246  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell.

Duke Energy South Bay, LLC

Docket No. ER03-117-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued November 24, 2003)

1. On October 2, 2003, Duke Energy South Bay, LLC (DESB), the California Independent System Operator Corporation (CAISO), and San Diego Gas & Electric Company (SDG&E) (collectively, the Parties) filed an Offer of Settlement that included a Settlement Agreement and an Explanatory Statement pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.602 (2003). On October 23 and November 5, 2003, the Parties filed supplements to the Explanatory Statement. On October 22, 2003, Commission Trial Staff filed comments not opposing the proposed settlement. No other comments were filed. On November 13, 2003, the Chief Judge certified the Offer of Settlement to the Commission as uncontested.
2. In the October 23, 2003, supplement to the Explanatory Statement the Parties stated that they "agree that the [reliability must run] RMR Agreement that is the subject of this proceeding does not have Mobile-Sierra language making it the standard of review. The Parties agree that this proceeding is subject to the just and reasonable standard."
3. The subject settlement is in the public interest and is hereby approved. Any determinations made in this filing are subject to the outcome of Docket No. EL02-15-000. The Commission's approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. 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. DESB also indicates that, contemporaneous with the filing of the Settlement Agreement and in accordance with the terms of the settlement, it submitted revisions to Schedules A and B of its Reliability Must Run Service Agreement with the CAISO. The Commission will consider DESB's proposed tariff revisions in a separate letter order requesting that the revised tariff sheets become effective as of January 1, 2003.

5. Any amounts collected in excess of the settlement rates shall be refunded together with interest computed under Section 35.19a of the Commission's Regulations, 18 C.F.R. § 35.19a, in accordance with the terms of the settlement. Within fifteen (15) days after making such refunds, DESB shall file with the Commission a compliance report documenting such refunds. DESB shall furnish copies of the report to all parties in this proceeding.

6. A new subdocket will be assigned in Docket No. ER03-117-000 upon receipt of the required compliance filing.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.