

179 FERC ¶ 61,093  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

May 5, 2022

In Reply Refer To:  
California Independent System Operator  
Corporation  
Docket No. ER22-963-000

Davis Wright Tremaine LLP  
1301 K Street, NW  
Suite 500 East  
Washington, DC 22201

Attention: Michael Kunselman, Esq.

Dear Mr. Kunselman:

1. On January 31, 2022, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure,<sup>1</sup> you filed, in the above-referenced proceeding, an uncontested Settlement Agreement among the California Independent System Operator Corporation (CAISO), Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SoCal Edison) (together, the Applicants), and among the Applicants and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities). According to the Applicants, the Settlement Agreement resolves the issues presented in Six Cities' petition for review pending before the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit)<sup>2</sup> that relate to Amendment No. 60 to the CAISO Tariff (the Litigation).<sup>3</sup>

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<sup>1</sup> 18 C.F.R. § 385.207(a)(5) (2021).

<sup>2</sup> Case No. 20-1236.

<sup>3</sup> The proceedings on Amendment No. 60 involve the allocation of certain types of costs under CAISO's then-existing Tariff. These proceedings have an extensive history before the Commission and are also the subject of petitions for review before the D.C. Circuit brought by Six Cities and others. *See generally Cal. Indep. Sys. Operator Corp.*, Docket Nos. ER04-835-000, *et seq.* (Amendment No. 60 proceedings).

2. The Settlement Agreement provides that, within seven business days after the date of expiration of all deadlines for rehearing or appeal of a Commission order approving the Settlement Agreement, Six Cities will file motions with the D.C. Circuit to dismiss the Litigation along with any other pending petition(s) for review filed by Six Cities regarding any Commission orders issued in Docket Nos. ER04-835, EL04-103, and EL14-67.<sup>4</sup> If the D.C. Circuit grants such motions, Six Cities will file a notice of withdrawal of all pending protests, requests for rehearing, and other pleadings in Docket No. ER04-835.<sup>5</sup> Once Six Cities' notice of withdrawal described above becomes effective, then CAISO will issue Recalculation Settlement Statements that contain settlement charges to PG&E and SoCal Edison and credits to Six Cities.<sup>6</sup> The Applicants assert that nothing in the Settlement Agreement will prejudice or harm any other CAISO market participants, as the only commitments and obligations under the Settlement Agreement are those that will be borne by the parties thereto.<sup>7</sup>

3. Notice of the January 31 filing was published in the *Federal Register*, 87 Fed. Reg. 7165 (Feb. 8, 2022), with interventions or protests due on or before February 22, 2022. Six Cities filed a timely motion to intervene and comments.

4. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2021), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

5. In its comments, Six Cities states that approval of the Settlement Agreement would avoid the uncertainty associated with further litigation while resolving longstanding issues addressed in the Litigation. Six Cities asserts that Commission approval will result in a just and reasonable resolution of the Amendment No. 60 proceedings.<sup>8</sup>

6. Article 5.1 of the Settlement Agreement provides the following standard of review:

The standard of review for any proposed change sought by any of the Settling Parties to the terms of this Settlement Agreement shall be the

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<sup>4</sup> Settlement Agreement § 3.2.

<sup>5</sup> *Id.* § 3.3.

<sup>6</sup> *Id.* § 3.4.

<sup>7</sup> CAISO January 31 Filing at 3-4.

<sup>8</sup> Six Cities February 18, 2022 Comments at 3.

“public interest” application of the just and reasonable standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956), and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956). With respect to proposed changes to the terms of the Settlement Agreement sought by a third party other than a Settling Party or the Commission acting *sua sponte*, the standard of review shall be the ordinary just and reasonable standard.<sup>9</sup>

7. The Settlement Agreement resolves all issues in dispute in the Litigation and is uncontested. The Settlement Agreement appears to be fair and reasonable and in the public interest, and is hereby approved. Commission approval of the Settlement Agreement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding.

By direction of the Commission.

Kimberly D. Bose,  
Secretary.

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<sup>9</sup> Settlement Agreement § 5.1.