

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

San Diego Gas & Electric Company,)	
Complainant,)	
)	
v.)	Docket Nos. EL00-95-291
)	
Sellers of Energy and Ancillary Services into)	EL00-98-263
Markets Operated by the California)	
Independent System Operator Corporation and)	
the California Power Exchange Corporation,)	
Respondents.)	

**REPORT OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR,
CALIFORNIA POWER EXCHANGE, AND CALIFORNIA PARTIES
CONCERNING SETTLEMENT OVERLAY PROCESS**

Pursuant to the July 10, 2018 Order¹ of the Federal Energy Regulatory Commission (“FERC” or “Commission”), and the Joint Reports submitted pursuant to that Order on October 9, 2018 and April 1, 2019,² the California Independent System Operator Corporation (“ISO”), the California Power Exchange Corporation (“PX”), and the California Parties³ submit the following report on the status of the California Parties’ settlement overlay process.

Although substantial progress has been achieved, the settlement overlay process is not yet complete. The California Parties propose that the Commission establish a new date of January 31, 2020, by which time they intend to file the settlement overlay as well as a proposed process for the final clearing of the ISO/PX markets or submit an updated report.

As more fully explained in the October 9, 2018 Joint Report, the California Parties, the ISO, and the PX had at that time, with one exception, resolved all disputed issues identified in the July 10, 2018 Order. The ISO and California Parties believe they have now resolved the single remaining unresolved issue (which concerned the treatment of certain ISO accounts and interest amounts). The parties have agreed that the resolution of this issue may be reflected in the settlement overlay filing, rather than being

¹ *San Diego Gas and Elec. Co.*, 164 FERC ¶ 61,019 (2018) (“July 10, 2018 Order”).

² Report of the California Independent System Operator, California Power Exchange, and California Parties Concerning Settlement Overlay Process and Outstanding Disputed Issues, Docket Nos. EL00-95, *et al.*, October 9, 2018 (“October 9, 2018 Joint Report”); Report of the California Independent System Operator, California Power Exchange, and California Parties Concerning Settlement Overlay Process and Outstanding Disputed Issues, Docket Nos. EL00-95, *et al.* April 1, 2019 (“April 1, 2019 Joint Report”).

³ For purposes of this pleading, the California Parties are the People of the State of California, *ex rel.* Xavier Becerra, Attorney General, the Public Utilities Commission of the State of California, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company.

addressed afterwards. Because this agreement was reached before the overlay calculations were completed, the overlay filing will be a comprehensive proposal for the clearing of the ISO/PX markets and accounts relating to these proceedings.

Below is a report on the ongoing process.

I. CALIFORNIA PARTIES'⁴ REPORT ON SETTLEMENT OVERLAY

A. PURPOSE OF SETTLEMENT OVERLAY PROCESS

The California Parties have entered into over 60 settlements with suppliers and other market participants.⁵ As previously described, the reason for the settlement overlay process is that the amounts recorded on the ISO and PX books do not reflect all of the compromises reached in those settlements, so there is a need to revise the ISO and PX accounts to match the agreements reached in settlement. The settlement overlay process will adjust those accounts accordingly.

Additionally, the ISO and PX calculated refunds owed and owing, by or to each market participant, with respect to the overall market based on the MMCP methodology, without regard to any settlements. Because the California Parties have settled with virtually all of the sellers, virtually all of the refund amounts owed and owing throughout the markets need to be adjusted so that they are consistent with the settlements.

Adjustment of refunds will be done in the settlement overlay process.

⁴ The ISO and PX take no position regarding this section, including the description of settlement agreements, the overlay, and the process for preparing the overlay, and reserve all rights regarding these issues.

⁵ The only Refund Period net sellers in the ISO/PX markets with which the California Parties have not settled are Hafslund Energy Trading, Sierra Pacific Industries, and El Paso Electric Co.

To clear the markets, it also will be necessary to calculate and apply interest. For the interest calculations to proceed correctly, the settlement-related adjustments described above first have to be made. It will then be necessary to compute and allocate the “interest shortfall,” which reflects the fact that funds (hundreds of millions of dollars) have been held in escrow at the PX for many years, earning far less than the FERC interest rate, thus creating a shortfall. Calculation and allocation of the interest shortfall has now been completed and will be part of the overlay filing submitted to the Commission.

These calculations/allocations nominally affect all market participants, but many market participants, through their settlements, transferred their market positions to the California Parties, and will therefore be indifferent to the results.

B. STATUS OF PROCESS

The California Parties, with the assistance of the ISO and PX, have been working diligently on performing the calculations and determining the accounting adjustments necessary for the settlement overlay. On March 29, 2019, the California Parties shared the results of their calculations and adjustments as of that date with market participants who may owe or be owed money as a result of those calculations and adjustments. The main purpose of distributing the calculations was to resolve as many issues as possible **prior** to the overlay compliance filing at FERC. Consequently, the April 1, 2019 Joint Report proposed a revised schedule and anticipated a compliance filing date of October 1, 2019. The California Parties received comments from several market participants and worked with those participants to explain the calculations and address issues they raised.

The revised schedule was also necessary to allow time to perform additional calculations that were not reflected in the March 29, 2019 distribution. The final settlement overlay filing will reflect the interest shortfall, as well as true-ups and other transfers required by the various settlements, so that participants will be able to see their overall amount owed or owing, after consideration of the various settlements, and thus will be able to determine on an overall basis the amounts that they owe, or are owed. Those calculations took longer than expected, and the California Parties filed and served notices⁶ to market participants advising them of the status.

On September 30, 2019, the California Parties distributed revised calculations that reflected interest shortfall calculations, and settlement true ups. The September 30, 2019 distribution also reflected adjustments based on the earlier discussions with market participants, allocations of expected PX costs that will be incurred through the financial clearing and ultimate closure of the PX, allocations of a Default Fund that will pre-fund potential defaults from market participants who owe money to the market in the financial clearing, and a discussion of the anticipated financial clearing process.

As was true of the March 29, 2019 distribution of various overlay calculations, the goal of the September 30, 2019 distribution is to narrow or eliminate disputes with as many participants as possible who may still have a financial stake in the refund

⁶ Notice Concerning ISO/PX Settlement Overlay Process, Docket Nos. EL00-95, *et al.* (Dec. 21, 2018) (Accession No. 20181221-5456); Notice Concerning ISO/PX Settlement Overlay Process, Docket Nos. EL00-95-291, *et al.* (June 28, 2019) (Accession No. 20190628-5328); Notice Concerning ISO/PX Settlement Overlay Process, Docket Nos. EL00-95-291, *et al.* (July 31, 2019) (Accession No. 20190731-5221); Notice Concerning ISO/PX Settlement Overlay Process, Docket Nos. EL00-95-291, *et al.* (Aug. 30, 2019) (Accession No. 20190830-5299).

proceedings so that, to the extent feasible, the overlay filing will include an agreed set of calculations of the amounts owed and owing in this proceeding.

C. NEXT STEPS AND TIMELINE

The California Parties currently anticipate the timetable for the settlement overlay process to be as follows:

Share Initial Calculations/Results with Impacted Participants:	March 29, 2019 (complete)
Submit Report to Commission:	April 1, 2019 (complete)
Answer Questions/Resolve Issues concerning Initial Calculations/Results:	April-July 2019 (complete)
Share New and Updated Calculations/Results and Proposed Market Clearing Process with Impacted Participants:	September 30, 2019 (complete)
Answer Questions/Resolve Issues concerning New and Updated Calculations/Results and Proposed Market Clearing Process:	October – November 2019
Prepare FERC Filing:	November 2019 –January 2020
File overlay at FERC:	January 31, 2019
Finalize Calculations and ISO and PX Flow Cash: ⁷	After FERC Ruling(s) and after PG&E and PX Bankruptcy Courts approve

II. CONCLUSION

For the foregoing reasons, the ISO, PX, and the California Parties respectfully request that the Commission accept this report and ask that the Commission establish a new due date of January 31, 2020, by which time the settlement overlay should be filed or a further report should be submitted.

⁷Some participants will be required to make payments to the ISO/PX, rather than receive payments from the ISO and PX. As part of the overlay filing, the California Parties will propose a phased schedule for payment flows so that cash will not flow out until the payments owed to the ISO and PX have been received.

Respectfully submitted,

/s/ Michael Kunselman

Michael Kunselman
Alston & Bird LLP
The Atlantic Building
950 F Street, N.W.
Washington, D.C. 20004

Roger E. Collanton
General Counsel
Burton Gross
Deputy General Counsel
Daniel J. Shonkwiler
Lead Counsel
The California Independent System
Operator Corporation
250 Outcropping Way
Folsom, CA 95630

*Attorneys for the California
Independent System Operator
Corporation*

/s/ F. Alvin Taylor

F. Alvin Taylor
Holland & Knight, LLP
800 17th Street, NW
Washington, DC 20006
Suite 1100
Telephone: 202/469-5110
Facsimile: 202/955-5564
E-Mail: Al.Taylor@hkllaw.com

/s/ Susan D. Rossi

Susan D. Rossi
California Power Exchange Corporation
Legal & Regulatory Affairs
201 South Lake Avenue, Suite 409
Pasadena, CA 91101
Telephone: 626/685-9857
Facsimile: 626/796-5332
E-Mail: sdrossi@calpx.com
*Counsel for
California Power Exchange Corporation*

/s/ James R. Dean, Jr.

James R. Dean, Jr.
Covington & Burling LLP
One City Center
850 Tenth Street, NW
Washington, DC 20001

*Attorney for
San Diego Gas & Electric Company*

/s/ Richard L. Roberts

Richard L. Roberts
Jane I. Ryan
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036

Russell C. Swartz
Russell A. Archer
Southern California Edison Company
2244 Walnut Grove Avenue
Rosemead, CA 91770

*Attorneys for
Southern California Edison Company*

/s/ Stan Berman

Stan Berman
Eric Todderud
Berman and Todderud LLP
701 Fifth Avenue, Suite 4200
Seattle, WA 98104

Mark D. Patrizio
Joshua S. Levenberg
Pacific Gas and Electric Company
77 Beale Street, B30A
Post Office Box 7442
San Francisco, CA 94120

*Attorneys for
Pacific Gas and Electric Company*

/s/ Iryna A. Kwasny

Arocles Aguilar, General Counsel
Christopher E. Clay
Iryna A. Kwasny
Public Utilities Commission of the
State of California
505 Van Ness Avenue
Fifth Floor
San Francisco, CA 94102

*Attorneys for the
Public Utilities Commission of the
State of California*

/s/ Danette E. Valdez

Xavier Becerra
Attorney General of the State of
California
Matthew Rodriguez
Chief Assistant Attorney General
Martin Goyette
Senior Assistant Attorney General
Danette E. Valdez
Supervising Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004

/s/ Kevin J. McKeon

Kevin J. McKeon
Judith D. Cassel
Whitney E. Snyder
Melissa A. Chapaska
Hawke McKeon & Sniscak LLP
Harrisburg Energy Center
100 North Tenth Street
P.O. Box 1778
Harrisburg, PA 17101

*Attorneys for the
People of the State of California ex rel.
Xavier Becerra, Attorney General*

October 1, 2019

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the ListServ established in Docket No. EL00-95 and on Ms. Celine Setsaas, Head of Legal for Hafslund E-CO AS.

Dated at Seattle, Washington, this 1st day of October, 2019.

/s/ Eric Todderud
Berman and Todderud LLP
701 Fifth Ave., Suite 4200
Seattle, WA 98104
(206) 262-7682
eric@btlawllp.com