

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

San Diego Gas & Electric Company) Docket No. ER98- 4498- 000

**MOTION TO INTERVENE AND PROTEST OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.211 and 214, and the Commission's September 14, 1998, Notice, the California Independent System Operator Corporation ("ISO"), hereby moves to intervene and submits its protest in the above-entitled proceedings.

I. MOTION TO INTERVENE

The ISO is a non-profit public benefit corporation organized and existing under the laws of the State of California, and authorized to do business therein. The ISO operates a grid comprising the transmission systems of Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company (SDG&E). The ISO is responsible for maintaining the reliability of electric transmission scheduled into and through the ISO control area. To support reliability, the ISO is also responsible for procurement of Ancillary Services, to the extent that they are not self-provided, at a competitive price. The activities of the ISO are subject to the jurisdiction of the Commission.

In the above-entitled docket, SDG&E seeks, inter alia, blanket market-based rate authorization for sales of four Ancillary Services as defined in the ISO Tariff -- Regulation, Spinning Reserve, Non-Spinning Reserve, and Replacement Reserve¹ (collectively, the Regulation and Reserve Services). The ISO currently

¹ The Commission has stated that, inasmuch as Replacement Reserve is not an ancillary service specified in the Commission's orders on Open Access Transmission Tariffs (see *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, 61 Fed. Reg. 21540 (1996), Order on Reh'g, Order No. 888-A, 62 Fed. Reg. 12274, Order on

operates the principal market for Regulation and Reserve Services in California. The ISO has a direct and substantial interest in this proceeding because of the ISO's responsibility for procuring Regulation and Reserve Services to meet the reliability requirements of the ISO control area in accordance with Western Systems Coordinating Council and North American Electric Reliability Council standards. Moreover, the ISO's interests cannot be adequately represented by any other party. Accordingly, the ISO respectfully requests that it be permitted to intervene herein with full rights of a party.

II. COMMUNICATIONS

Please address communications concerning this filing to the following persons, whose names should be entered on the official service list maintained by the Secretary for this proceeding:

Reh'g, Order No. 888-B, 62 Fed. Reg. 64688 (1997), Order on Reh'g , Order No. 888-C, 82 FERC ¶ 61,046 (1998)), a utility may sell Replacement Reserve under a market-based energy and capacity tariff. Because of the Commission's decision in this regard is currently pending rehearing, however, SDG&E has separately sought authority for such sales.

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III. PROTEST

In responses to previous requests for market-based rate authority for Regulation and Reserve Services, the ISO has brought to the Commission's attention the ISO's concerns that the unconditional grant of market-based rate authority to sellers would have extremely serious consequences in the ISO's Regulation and Reserve Services markets, permitting the exercise of market power, and producing extraordinarily high market clearing prices in some hours. The ISO noted that the markets for Regulation and Reserve Services were hourly markets, and asked the Commission to defer granting the requested authorizations, which are not supported by the types of analyses that are required to demonstrate the absence of market power in the discrete markets for Regulation and Reserve Services – i.e., time-differentiated studies. Alternatively, the ISO asked the Commission to condition its approvals upon confirmation of the authority of the ISO to impose price caps or to take other appropriate action to mitigate any exercise of market power.

The ISO's concerns became more acute after a series of Orders in which the Commission granted a number of applicants the authority to sell Regulation and Reserve Services at market-based prices. See *AES Redondo Beach, L.L.C., et al.*, 83 FERC ¶ 61,358 (1998); *El Segundo Power, L.L.C. et al.*, 84 FERC ¶ 61,011 (1998); *Ocean Vista Power Generation, L.L.C. et al.*, 84 FERC ¶ 61,013 (1998). In these Orders, the Commission also reached a broader conclusion with respect to Replacement Reserve, stating:

Replacement Reserve Service, however, is not an ancillary service under Order No. 888. Thus, the Applicants may sell Replacement Reserve Service under their previously-authorized market-based rates and do not require separate authorization here.

83 FERC ¶ 61,358 at 62,446.

Subsequent to these orders, the markets for Regulation and Reserve Services experienced serious price spikes. The enormous impact on California consumers of the market-based rate authority, and the market forces that have engendered this market distortion, were described in the ISO's Emergency Motion for Stay, Notice of Action Taken, Request for Rehearing, And Motion for Clarification regarding those Orders.¹ In response to the ISO's Emergency Motion, the Commission issued a July 17, 1998, Order in *AES Redondo Beach, et al.*, 84 FERC ¶ 61,046 at 61,197, 61,199 (1998), granting the ISO interim authority to place a cap on Ancillary Service bids, including Replacement Reserves.

Recent studies submitted by the ISO's Market Surveillance Committee and the California Power Exchange's Market Monitoring Committee in Docket Nos. ER98-2843-000, *et al.*, demonstrate that there continue to be insufficient bids during certain hours in the Regulation and Reserve Services markets to create a truly competitive market. The ISO therefore remains concerned that its authority to place caps on bids in those markets is only temporary. Should the

¹ To avoid repetition, a copy of the ISO's Emergency Motion is attached as Appendix A and incorporated herein by reference.

Commission terminate that interim authority, the market conditions described in the ISO's attached request for rehearing of the June 30 Order will once again prevail.

In response to the current market conditions and the Commission's July 17 Order, the ISO has undertaken and planned a number of initiatives to move toward a more competitive Ancillary Services market. These initiatives are described in the Comments of the California Independent System Operator Corporation on Reports Regarding Ancillary Services Market Operation, filed in Docket Nos. ER98-2843-000, *et al.*, a copy of which is attached hereto as Appendix B and incorporated herein by reference. Until these initiatives have achieved their intended effect, however, the potential exercise of market-based power remains a reality in the Regulation and Reserve Services markets.

The ISO therefore believes that the Commission should not grant market-based rate authority to SDG&E for the sale of Ancillary Services, including Replacement Reserve, without either requiring a time-differentiated market power study or granting the ISO continued authority to cap bids for Regulation and Reserve Services.

CONCLUSION

The ISO therefore urges the Commission to either (1) require the submittal of a time-differentiated market power study demonstrating SDG&E's lack of market power for Regulation, Spinning Reserve, Non-Spinning Reserve and Replacement Reserve services prior to granting SDG&E market-based rate authority for such services, or (2) condition such authority on the continued authority of the ISO to impose a cap on bids for these services.

Respectfully submitted,

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Date: September 29, 1998

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the forgoing document upon each person designated on the official service list compiled by the Secretary in this Docket No. ER98-4498-000 in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §385.2010 (1997).

Dated at Washington, D.C. on this 29th day of September, 1998.

Michael E. Ward