

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

AES Redondo Beach, LLC

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Docket No. ER98-2843-009

**ANSWER OF  
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION  
TO MOTIONS TO INTERVENE AND REPLY COMMENTS**

On October, 19, 1999, the California Independent System Operator Corporation ("ISO") submitted the "Report on Redesign of California Real-Time Energy and Ancillary Services Markets," on behalf of the Market Surveillance Committee of the ISO ("MSC") in the above-captioned docket.<sup>1</sup> Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213, the ISO hereby submits its Answer to Motions to Intervene and Reply Comments to comments submitted in response to the October 19<sup>th</sup> filing.

The ISO does not oppose any of the motions to intervene, but seeks to respond to some of the comments submitted in order to clarify the ISO's position on certain matters and to note that some issues raised in those comments have either already been addressed in existing proceedings before the Commission or will more properly be addressed in proceedings that will be initiated when the ISO submits certain filings to the Commission in the near future.

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<sup>1</sup> For ease of reference, the Report on Redesign of California Real-Time Energy and Ancillary Services Markets is referred to hereafter as the "October 19 Report" or the "Report."

## **I Introduction**

As explained in the ISO's October 19 transmittal letter in this proceeding, the Report was prepared in compliance with a number of Commission orders, including *AES Redondo Beach, L.L.C., et al.*, 85 FERC ¶ 61,123 (1998), *order on reh'g*, 87 FERC ¶ 61,208 (1999) and *California Independent System Operator Corp.*, 86 FERC ¶ 61,059 (1999). The October 19 Report reviews the performance of the California ISO's real time Energy and Ancillary Services markets over the past 18 months (since the ISO commenced operations), with particular emphasis on the relative performance of these markets during the summer of 1999 versus the summer of 1998.<sup>2</sup> The Report contains a number of specific findings and recommendations for improving the overall efficiency of California's wholesale energy markets. The Report also includes preliminary assessments of certain reforms instituted by the ISO relating to the ISO's Ancillary Service markets and Reliability Must-Run ("RMR") generation.<sup>3</sup>

## **II. Answer to Interventions**

On October 29, 1999, the Commission issued a Notice of Filing concerning the Report, and on November 8, 1999, the Commission issued a Notice of Extension of Time until November 16, 1999 for filing interventions and protests on the October 19 Report. A notice of intervention and comments were filed by the Public Utilities Commission of the State of California ("CPUC"), and

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<sup>2</sup> Capitalized terms not otherwise defined herein are used in the sense given in the Master Definitions Supplement, Appendix A to the ISO Tariff.

<sup>3</sup> A more extensive summary of the October 19 Report is included in the ISO's comments on the Report filed in this proceeding on November 16, 1999.

motions to intervene were filed by several parties.<sup>4</sup> In addition, a number of parties, including the ISO, filed motions to intervene and comments or other pleadings commenting on the October 19 Report.<sup>5</sup> The ISO does not oppose any of the Motions to Intervene.

### **III. Reply Comments<sup>6</sup>**

#### **A. The Commission Should Accept the October 19 Report**

The comments submitted on the October 19 Report were generally favorable. Most parties submitting comments treat the Report as a useful review of the development of the ISO's markets, and many support recommendations made in the Report. For example, Cities/M-S-R urges the Commission to accept the Report as being in substantial compliance with the FERC Orders.<sup>7</sup> The Oversight Board states that it is "impressed with the depth and scope of the . . . Report and agrees with many of its findings and recommendations."<sup>8</sup>

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<sup>4</sup> Timely motions to intervene were filed by the Modesto Irrigation District and the Transmission Agency of Northern California.

<sup>5</sup> The following parties filed pleadings commenting on the October 19 Report: the California Electricity Oversight Board ("Oversight Board"); Duke Energy North America, LLC ("DENA"); El Segundo Power, LLC and Long Beach Generation LLC ("El Segundo"); the Metropolitan Water District of Southern California ("MWD"); Reliant Energy Power Generation ("Reliant"); the Northern California Power Agency ("NCPA"); the Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency ("Cities/MSR"); Sempra Energy ("Sempra"); Southern California Edison Company ("SCE"); the California Department of Water Resources ("DWR"); and the Sacramento Municipal Utility District ("SMUD").

<sup>6</sup> Most of the parties commenting on the Report do so in pleadings entitled "Comments." One intervenor, SMUD, submits a pleading that includes a section entitled "Comments and Protest." There is no prohibition on the ISO's responding to the comments in these pleadings, notwithstanding the label applied to them. *Florida Power & Light Company*, 67 FERC ¶ 61,315 at 62,092 (1994). In the event that any portion of this answer is deemed an answer to protests, the ISO requests waiver of Rule 213 (18 C.F.R. § 385.213) to permit it to make this answer. Good cause for this waiver exists here given the nature and complexity of this proceeding and the usefulness of this answer in ensuring the development of a complete record. *See, e.g., Enron Corporation*, 78 FERC ¶ 61,179 at 61,733, 61,741 (1997); *El Paso Electric Company*, 68 FERC ¶ 61,181 at 61,899 & n.57 (1994).

<sup>7</sup> Cities/M-S-R at 13.

<sup>8</sup> Oversight Board at 2.

Two parties that oppose certain recommendations of the MSC set forth in the October 19 Report request that the Commission disregard the Report. These parties claim that the Report does not fully comply with the Commission's directive that the MSC prepare a report because the Report was prepared by Dr. Frank Wolak, Chairman of the MSC, and was only supported by the other members of the MSC.<sup>9</sup> As noted in the ISO's comments on the Report, the other two members of the MSC, Robert Nordhaus and Carl Shapiro, informed the ISO that they concurred in general with the Report's findings and conclusions with respect to the ISO's real time Energy and Ancillary Services markets, and specifically concurred with certain of the Report's recommendations. The support of the other MSC members was explained in a letter dated October 19, 1999 from Robert Nordhaus and Carl Shapiro to Jan Smutny-Jones, Chair of the ISO Governing Board, which was filed with the Commission as an attachment to the Report. The ISO believes that a report prepared by the Chairman of the MSC and whose principal findings are supported by all members of the MSC complies with the Commission's directives.

The same two parties also suggest that the Report should not be considered by the Commission because it lacks a complete analysis of the impact of the ISO's Ancillary Service market reforms on overall market performance due to the limited experience with those reforms and availability of data collected after those reforms were implemented.<sup>10</sup> These comments ignore the fact that the Commission had directed that the MSC prepare a report to be

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<sup>9</sup> DENA at 3-4; Reliant at 4-5.

<sup>10</sup> DENA at 4; Reliant at 5-6.

submitted by October 15, 1999. Given the fact that the Ancillary Services reforms were not implemented until August or later, as the necessary software was developed, installed, and tested, the timetable established by the Commission placed the MSC in a difficult position. The MSC was faced with the need to prepare the best report possible (with the data available) by the deadline indicated in the Commission's orders.<sup>11</sup> In light of these circumstances, the ISO does not believe that Dr. Wolak or the MSC should be faulted for, nor should the Commission disregard, the thorough and substantive analysis presented in the October 19 Report. The ISO therefore urges the Commission to accept the October 19 Report as complying with the orders identified above.

**B. The Commission Should Not Act on Comments Involving Issues Addressed in Other Commission Proceedings**

A number of parties raise issues in their comments that have already been addressed by the Commission in other dockets. The ISO recognizes that the October 19 Report touches on wide range of topics, many of which have previously been addressed by the Commission and some of which the Commission has addressed in orders issued since the Report was filed. The ISO has no objection to parties using their comments on the October 19 Report to present their positions on various issues, as the ISO itself did in its comments submitted in the above-captioned proceeding on November 16. Some parties, however, use comments submitted in the instant docket to request further

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<sup>11</sup> These time pressures necessitated a delay of several days in Dr. Wolak's finalization of the Report, as noted in the letter submitted by the ISO in this proceeding on October 15, 1999. The ISO also understands that time concerns were the reason the Report was submitted on behalf of the Chairman of the MSC, with the other Committee members indicating their support in a separate attachment.

Commission action on matters the Commission has ruled on in other proceedings or attempt to revisit issues more properly addressed in such other proceedings. Comments on the October 19 Report, however, are an inappropriate vehicle for requesting reconsideration by the Commission of decisions in other dockets.

For example, two parties use their comments on the October 19 Report to state their opposition to the ISO Governing Board's determination that a new Congestion Management Zone ("ZP26") should be created.<sup>12</sup> As both these parties acknowledge, their comments in the instant proceeding essentially reiterate positions they had taken in their pleadings on Amendment No. 22 to the ISO Tariff, which included Tariff revisions related to the new Zone. Last week, the Commission issued an order in Docket No. ER99-4545 approving Amendment No. 22. In that order, the Commission explicitly rejected the arguments of these two parties opposing the creation of the new Zone. *California Independent System Operator Corp.*, 89 FERC ¶ 61,229, slip op. at 3-5 (November 24, 1999). Additional action on this issue in the instant proceeding is neither justified nor appropriate.

Numerous parties also submit comments in this proceeding on the ISO's request for an extension of its purchase price cap authority. The positions taken by these parties vary widely: some parties support the extension of that authority, others support the extension but take issue with the ISO's raising of the cap level, and still others oppose any extension.<sup>13</sup> While the strong recommendation of the

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<sup>12</sup> MWD at 5-6; Cities/M-S-R at 9-13.

<sup>13</sup> SCE at 2-12; MWD at 3-4; SMUD at 6-8; DENA at 5.

MSC that the ISO retain purchase price cap authority was certainly a significant component of the October 19 Report, the need for Commission action on that aspect of the Report has been mooted by the Commission's recent order in Docket No. ER99-4462. *California Independent System Operator Corp.*, 89 FERC 61,169 (November 12, 1999). In that order, the Commission accepted Amendment No. 21 to the ISO Tariff, extending until November 2000 the ISO's authority to establish a cap on the prices it will pay for Ancillary Services, real time Energy, and Adjustment Bids. Any issues involving the ISO's purchase price cap authority are therefore properly addressed in that docket and not the instant proceeding.

One party's comments include a suggestion that the ISO has ignored a circumstance which the ISO has, in fact, addressed in two separate Commission filings. SMUD claims that the ISO appears content to preserve an Intra-Zonal Congestion Management structure that permits individual generators to submit incremental and decremental bids to manage such congestion that exploit locational market power.<sup>14</sup> The ISO's concern over the exercise of market power in Intra-Zonal Congestion Management was the driving force behind Amendment No. 18 to the ISO Tariff. *California Independent System Operator Corp.*, 88 FERC ¶ 61,146 (1999). The ISO also addressed locational market power concerns related to Intra-Zonal Congestion Management in Amendment No. 23 to the ISO Tariff, which includes a proposal concerning the ISO's authority to dispatch resources to manage Intra-Zonal Congestion where there is an

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<sup>14</sup> SMUD at 14.

insufficient market to competitively manage such congestion. Commission action on Amendment No. 23 is currently pending.

Several parties use their comments on the Report to rehash criticisms of another ISO filing upon which the Commission has already acted, the ISO's proposed new generator interconnection policy.<sup>15</sup> The requests of the ISO and other parties for rehearing of the Commission's order on that proposal, *California Independent System Operator Corp.*, 88 FERC ¶ 61,221 (1999), are currently pending, and the time for submitting pleadings related to that proposal has long-since past. Accordingly, the Commission should afford no weight to comments submitted in this docket which address that proposal.

**C. The Commission Should Not Act on Comments Involving Issues Related to Filings That the ISO has Not Yet Submitted to the Commission**

A number of comments on the October 19 Report also address issues that are not even pending before the Commission at this time, but will be raised in filings that the ISO intends to submit to the Commission in the near future. To the extent these comments seek Commission action on these issues or otherwise attempt to prejudge these issues before the ISO submits the filings, they are premature.

For example, Reliant utilizes its comments on the Report (a report that it contends the Commission should disregard) to present an extensive opposition to a reform related to RMR generation dispatch and scheduling that the MSC supports, but which the ISO has not yet filed with Commission.<sup>16</sup> As noted in the

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<sup>15</sup> Sempra at 4-5; Oversight Board at 9-12.

<sup>16</sup> Reliant at 6-18.



ISO's own comments on the October 19 Report, the ISO has circulated drafts of its proposal to implement such a reform to RMR Owners, in accordance with the procedures outlined in Article VI of the RMR settlement agreement filed in Docket Nos. ER98-441, *et al.*, on April 2, 1999. The ISO anticipates that it will soon finalize this proposal and submit it to the Commission. Once that filing has been made, Reliant and others will, of course, be given an opportunity to comment on the ISO's proposal. The ISO does not believe that there is any need or justification for the Commission to take action on this matter *prior* to submission of that proposal. Once the proposal is filed, the Commission can then determine whether and how to take into account the recommendations of the MSC on that issue.

Another party, MWD, raises an issue that is wholly unrelated to the Report. In its comments, MWD urges the Commission to mandate "time-of-use transmission pricing . . . when it considers the ISO's successor transmission access charge."<sup>17</sup> The ISO has been engaged in an extensive stakeholder process focusing on the transmission access charge. The ISO is actively involved in efforts to finalize its access charge proposal based on stakeholder input and the direction of the ISO Governing Board. Any request of a single party to circumvent or prejudge that process is entirely inappropriate and should therefore be rejected.

Similarly, Sempra uses its comments on the October 19 Report to cast aspersions on the ISO's long-term grid planning proposal.<sup>18</sup> At its November

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<sup>17</sup> MWD at 4.  
<sup>18</sup> Sempra at 4.

meeting, the ISO Governing Board authorized ISO management to submit Tariff revisions implementing this proposal as part of the ISO's fourth quarterly Tariff filing for 1999, to be submitted to the Commission later in December. Parties will have an opportunity to address the merits of the ISO's proposal in the quarterly Tariff proceeding. There is no justification for raising issues related to that proposal in the instant docket.

#### **IV. Conclusion**

The ISO respectfully requests that the Commission accept its Answer to Motions to Intervene and Reply Comments and further requests that the Commission accept the Report on Redesign of California Real-Time Energy and Ancillary Services Markets.

Respectfully submitted,

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Counsel for the California Independent  
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Dated: December 1, 1999

## **CERTIFICATE OF SERVICE**

I hereby certify that I have served the foregoing document upon all parties on the official service list compiled by the Secretary in the above-captioned dockets, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 1<sup>st</sup> day of December, 1999.

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Sean A. Atkins