



**PG&E National
Energy Group.**

RAMCO, Inc.

Owner PG&E Dispersed Generating Company, LLC

By FedEx & Fax

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September 23, 2002

To: ISO ADR Committee
To: ISO Governing Board
To: Ms. Debbie La Vine
California ISO
151 Blue Ravine Road
Folsom, California 95630
Fax: 916-351-2487

RE: Statement of Claim regarding SRA between RAMCO, Inc. (Chula Vista and Escondido Facilities) and the California Independent System Operator

RAMCO, Inc. ("Ramco") submits the following Statement of Claim pursuant to the California Independent System Operator's ("Cal ISO") FERC Electric Tariff ("ISO Tariff") § 13.2.2. As Mr. Hayes acknowledged in his letter of July 2, 2002, Ramco and the Cal ISO have been unable to resolve the following disputes concerning Ramco's Summer Reliability Agreements ("SRAs") for its Chula Vista and Escondido Facilities ("Facilities"), despite good faith efforts to negotiate and resolve any dispute pursuant to ISO Tariff § 13.2.1. Ramco therefore invokes the dispute resolution procedures set forth in Section 13 of the ISO Tariff.

A. Claims

Ramco asserts the following claims against the Cal ISO under the SRAs:

1. Testing of Contracted Capability: The solicitation and discussion with Cal ISO preceding the execution of the SRAs consistently led us to believe that, consistent with industry practice regarding peaking units, capability demonstrations would be conducted on an annual basis. Cal ISO has wrongfully refused to accept the results of the annual tests for Contracted Capability for 2002, which are equal to or less than the Contracted Capability of 44 Mw

2. Reliability Must Run Dispatch: The entire course of dealing between the parties predating the SRAs and the initial period thereafter also reflects that the Facilities would be dispatched only under statewide emergencies. Cal ISO does not have the right to dispatch the Facilities as Reliability Must Run ("RMR") units under the SRAs. Statewide energy shortages or statewide capacity problems that potentially threaten the Cal ISO controlled grid must exist before the Cal ISO can call on SRA resources. Cal ISO has wrongfully dispatched both the Chula Vista and the Escondido Facilities as RMR units when neither statewide energy problems nor statewide capacity problems existed in violation of the dispatch provisions of the SRAs.

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3. Pending Payments for Summer 2001: Cal ISO has improperly calculated the amounts still due to Ramco for capacity payments and accrued interest for services provided under the SRA during Summer 2001. Cal ISO has also failed to provide any date when Ramco can expect payment, nor has it provided any explanation for what efforts, if any, Cal ISO has expended to collect these outstanding debts.

B. Relief Sought

1. Testing of Contracted Capability: For Summer Period 2002, the contracted capability for Chula Vista should be increased from 38.64 MW to 41.4 MW, and the contracted capability for Escondido should be increased from 38.29 to 41.9 MW. The Fixed Charge for 2002 set forth in Schedule A, Section 4 of the SRAs should be increased by \$1,172,080. Cal ISO should also agree to allow RAMCO to conduct further testing to determine the contracted capability for the Summer Period 2003, in the late spring of 2003.

2. Reliability Must Run Dispatch: Cal ISO should immediately cease dispatching the Facilities as RMR units. In the event that Cal ISO wishes to further utilize the Facilities for RMR purposes, it should enter into RMR Agreements for these Facilities. Any and all transmission plans and RMR studies including those in process for 2003 contracts should acknowledge that the RAMCO units are not available for RMR purposes.

3. Pending Payments for Summer 2001: Cal ISO should accept Ramco's calculation of the amounts still due, and should provide a date certain when Ramco can expect final payment. If such payments are delayed, the Cal ISO should also provide information concerning its efforts to collect the amounts still due.

C. Basis for Each Claim and Grounds for Relief Sought

1. Testing for Contracted Capability: Pursuant to Section 3.3 of the SRAs, Ramco is entitled to test its ability to deliver Contracted Capability on an annual basis. Although the language of Section 3.3 does not specifically refer to annual tests, the custom and practice in the industry is for peaking units to undergo annual tests to determine their capability. This is also consistent with our understanding at the time the SRAs were lengthened from one to three years.

Furthermore, as a practical matter annual tests would ensure both system reliability and proper payment for the capability provided. Cal ISO has the option to dispatch SRA units between June 1 and October 31 for 500 hours. Under the SRA, the RAMCO units can contract with third parties for the provision of energy at anytime. In satisfying those contractual commitments the units could suffer degradation that could limit the capability of a unit to meet its annual SRA capacity obligations. Thus, it is in Cal ISO's best interest to test each SRA unit annually to determine its capability. Annual testing would thus allow the Cal ISO to better evaluate the capability of its SRA units, and therefore allow it to better ensure system reliability. Annual testing also ensures that the owners of SRA units are properly compensated for the capability they are providing to the system for that year, up to the maximum contracted capability provided in each SRA.

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Finally, Schedule A, Section 4 ("Fixed Charge") separately sets forth the annual payment for each year the SRA is in existence. The SRA therefore contemplates that the annual payment could change each year, including changes in the annual payment based upon annual testing pursuant to Section 3.3.

On May 23, 2002, Ramco informed the Cal ISO that it intended to test the capability of the Chula Vista and Escondido Facilities for the 2002 Summer Period. On June 7, 2002, Ramco tested both Facilities, and obtained results of 41.4 MW for Chula Vista and 41.9 MW for Escondido. The Cal ISO thereafter refused to accept these results, in violation of the terms of the SRAs, and further refused to adjust the Fixed Charges set forth in the SRAs based upon those tests.

2. Reliability Must Run Dispatch: During the course of negotiations of the SRAs, Cal ISO repeatedly emphasized that the purpose of the SRAs was to promote system reliability for the entire ISO Control Area. Cal ISO's August 24, 2000 Request for Bids for Summer Reliability Generation ("RFB") specifically refers to obtaining new generation to "allow the ISO to operate the ISO Control Area to meet Applicable Reliability Criteria." RFB at 2. Nothing in the RFB indicated that the Cal ISO sought to use SRA generation to address local area reliability or zonal congestion mitigation. The August 24, 2000 RFB did seek generation in certain local areas (referred to as "Reliability Areas") and offered to give special consideration to bids involving generation to be located in these areas. None of the Reliability Areas described in the RFB, however, involved the San Diego area, the location of the Chula Vista and Escondido Facilities. Instead, Cal ISO contracted with the Chula Vista and Escondido Facilities to address system-wide reliability.

In Deborah Le Vine's March 30, 2001 presentation to the Cal ISO Board of Governors regarding Summer Reliability Generation Program Cost Recovery, Ms. Le Vine emphasized that Cal ISO solicited SRAs to meet "System-wide need, not local problem." Presentation at 6. Because SRAs were intended to meet system-wide needs, Ms. Le Vine recommended that the costs of SRAs be allocated among all scheduling coordinators. Cal ISO adopted this method of cost recovery, a tacit acknowledgement that the purpose of SRAs was to promote system reliability for the entire ISO Control Area, not local area reliability. If SRAs were intended to address local area reliability, local transmission owners, not all scheduling coordinators, should be responsible for the costs of the SRAs, a position the Cal ISO has not adopted.

Dispatching SRA units as RMR units also significantly alters the economic risks and burdens involved in SRAs. Under its SRAs, Ramco is at risk in the market for its marginal costs. When dispatched by the Cal ISO under the SRA, Ramco receives whatever the market price is at the time of the dispatch. Market prices during a time of system-wide need are likely to be much higher than when the need is only local. If Cal ISO continues to dispatch SRA units to address only local reliability problems rather than limiting the dispatch to times of system-wide need, then Ramco is at a much greater risk that the market price at the time the units are dispatched will be insufficient to cover its marginal costs of running the dispatched generation. That additional risk was not part of the original negotiations between

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Ramco and Cal ISO, and is contrary to the representations that Cal ISO made at the time the parties negotiated and executed the SRAs for Chula Vista and Escondido. RMR units, which are intended to address local area reliability, have different pricing provisions that do not place RMR units at risk in the market.

Despite the fact that the original negotiations only contemplated dispatching SRA units at times of system-wide need, Cal ISO has now made it clear it intends to dispatch SRA units as RMR units. In Brian Theaker's September 14, 2001 memorandum to the Cal ISO Board of Governors regarding Management Recommendations for RMR Designations for 2002 from the LARS 2002-2004 Process, Mr. Theaker stated: "Some of the SRAs provide the ISO with local reliability service in addition to, or in lieu of, existing RMR Contracts. If the reliability need was a peak summer season requirement, and if the forecast reliability requirement was less than 500 hours, *the ISO has elected to rely on the SRA to provide the required service.*" Mr. Theaker goes on to list both Escondido and Chula Vista as units that can provide local reliability service. Ramco met with Mr. Theaker in September, 2001 and conveyed our objections to the CA ISO's interpretation of SRA contracts and indicated that we intended to bid those units into the 2003 RMR process.

Furthermore, on May 7, 2002, the Cal ISO issued ISO Operating Procedure No. G-237, Summer Reliability Generating (SRG) Units. This Operating Procedure asserts that the Cal ISO has the right to dispatch SRA units to mitigate inter-zonal congestion and to maintain local area reliability criteria. Operating Procedure at 2 (Dispatch Philosophy Under SRA). This Operating Procedure was issued without any prior notice to Ramco.

PG&E Dispersed Generating Company, LLC ("PGEDG") has submitted an RMR bid for 2003 for the Chula Vista and Escondido Facilities. The Cal ISO has rejected that bid, and instead improperly asserted that it has the right to dispatch the Chula Vista and Escondido Facilities as RMR units under the SRA. As set forth above, dispatching these units for RMR purposes under the SRAs is improper. If Cal ISO wants to dispatch these units as RMR, it should execute a contract to do so with PGEDG, and thereby properly compensate PGEDG for the market risks associated with the use of these units as RMR. In the event that Cal ISO continues to refuse to execute an RMR contract for these units, and this claim is resolved in Ramco's favor, Cal ISO will be unable to rely upon these units for RMR purposes in 2003, which could have significant consequences for reliability in the San Diego Area.

3. Pending Payments for Summer 2001: Ramco has calculated the remaining payments and accrued interest owed for Summer 2001, and provided those calculations to the Cal ISO. Though Cal ISO has disputed those figures, it has yet to provide any basis for its contention that Ramco's calculations are inaccurate. Furthermore, Cal ISO has refused to provide any information concerning when those payments may be forthcoming, or to what efforts Cal ISO has gone to collect these payments. The covenant of good faith and fair dealing inherent in any contract requires the Cal ISO to make a good faith effort to collect these payments, even though it is not obligated to make any payments to Ramco until Cal ISO recovers the payments from third party scheduling coordinators. Despite Ramco's repeated requests, Cal ISO has failed to present any evidence that it is complying with its obligations to attempt in good faith to promptly collect these payments.

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D. The Parties to the Dispute

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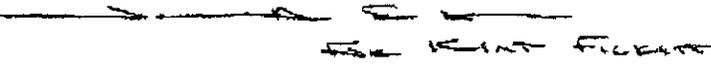
E. Individuals Having Knowledge for Each Claim

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Please feel free to contact me if you have any questions or comments.

Sincerely,


Kent Fickett
RAMCO, Inc.



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Fax Message

Date:	<u>9-23-02</u>	
To:	- <u>DEBBIE LA VINE</u> - <u>ISO ROR COMMITTEE</u> - <u>ISO GOVERNOR BOARD</u>	Facsimile No.: <u>916-351-2487</u> Phone No.: _____
Company:	_____	No. of Pages: <u>4</u> (including this one)
City/State:	_____	
From:	<u>STEVE SANDER /</u> <u>KENT FICKER</u>	Phone No.: <u>415-288-5675</u>
Special Instructions:	_____	
If transmittal is incomplete or illegible, please call (415) 288-_____		

Message:

c: Abernathy, Hayes, Shankwiler, Woertz, Gill, Blatchford

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