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UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System ) Docket No. ER98-3760-000  
Operator Corporation )  
  
California Independent System ) Docket Nos. EC96-19-000  
Operator Corporation ) and ER96-1663-000  
)  
) [Not Consolidated]

JOINT REPLY BRIEF ON ISSUE L.3 OF THE  
CITIES OF REDDING, SANTA CLARA,  
VERNON, ANAHEIM, AZUSA, BANNING,  
COLTON AND RIVERSIDE, CALIFORNIA,  
AND THE M-S-R PUBLIC POWER AGENCY,

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May 8, 2000

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CITIES OF REDDING, SANTA CLARA,  
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COLTON AND RIVERSIDE, CALIFORNIA,  
AND THE M-S-R PUBLIC POWER AGENCY,

The City of Redding, California ("Redding"), the City of Santa Clara, California ("Santa Clara"), the M-S-R Public Power Agency ("M-S-R") (collectively "Cities/M-S-R"), the City of Vernon, California ("Vernon"), and the Cities of Anaheim, Azusa, Banning, Colton and Riverside, California ("Southern Cities") (all collectively "Joint Proponents"), file their Joint Reply Brief in the above-captioned proceedings and say as follows:

I. PRELIMINARY STATEMENT AND EXECUTIVE SUMMARY <sup>2/</sup>

1. This Joint Reply Brief is filed in accordance with the Federal Energy Regulatory Commission's ("FERC" or "Commission") Orders of April 28, 1999, and January 20, 2000. California Independent System Operator

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<sup>2/</sup> Terms which are capitalized herein have the same meaning as reflected in the Master Definitions Supplement which is a part of the California Independent System Operator Corporation ("ISO") Tariff.

Corporation, 87 FERC ¶ 61,102 (1999) and 90 FERC ¶ 61,051 (2000). In their Initial Brief, the Joint Proponents raised four concerns with the Neutrality Adjustment. None of the ISO's responses fully satisfies these concerns. First, with respect to the appropriateness of formula rate treatment for the Neutrality Adjustment, the ISO has failed to establish that the Neutrality Adjustment computation is a formula which can be applied mechanically using easily identifiable and verifiable data inputs. Formula rate treatment is not appropriate for the Neutrality Adjustment. Second, in response to the Joint Proponents' proposal for a cap of two mills per kWh for the Neutrality Adjustment, the ISO proposes a cap of \$0.095/MWh and that the cap be able to be modified by a vote of the ISO Board. The initial level for the cap of \$0.095/MWh is acceptable to the Joint Proponents, however, no protection is afforded by a cap which can be modified by a vote of the ISO Board. The cap should be modified only by an appropriate filing under Section 205 or 206 of the FPA. Third, the ISO argues that the Unaccounted for Energy ("UFE") component of the Neutrality Charge is appropriate. To the contrary, the UFE, as defined by the ISO in its Answering Brief, clearly is primarily related to retail service and the Joint Proponents absorb all UFE which occurs on their systems. Fourth, with respect to the study requested by the Joint Proponents respecting the computation and allocation of the Neutrality Adjustment, the Joint

Proponents will accept the Neutrality Adjustment study currently in preparation by the ISO provided that study is properly prepared and its scope is expanded to include matters raised by the Joint Proponents herein which seem beyond the scope of the current study.

## II. ARGUMENT

### L.3. With respect to the ISO's Neutrality Adjustment:

- a. Is the ISO's Neutrality Adjustment sufficiently defined and should it be included as a formula rate in the ISO Tariff?
- b. Should there be a cap on the amounts that can be collected?
- c. What items are properly included in the Neutrality Adjustment?
- d. How should the charges be allocated?

[Issue Nos. 204, 208, 229, and 304, Docket Nos. EC96-19-021 and ER96-1663-022, and Issue No. 403, Docket No. ER98-3760-000. Proponents - Dynegy, Southern Cites, Cities/M-S-R, and City of Vernon, California ("Vernon")]

2. The Joint Proponents raised four matters respecting the ISO's Neutrality Adjustment. First, the Neutrality Adjustment should not be accepted as a formula rate since the Neutrality Adjustment proposed by the ISO cannot be applied mechanically and does not utilize easily identifiable and verifiable data inputs. Second, if accepted at all, the Neutrality Adjustment should be subject to a cap. Third, not all amounts reflected in the Neutrality Adjustment are properly charged to municipal

customers, in particular, the UFE. Fourth, the Joint Proponents suggested that the ISO prepare a study which identifies the level of the Neutrality Adjustment, the utilities in whose service areas the Neutrality Adjustment's costs are being incurred and an equitable allocation of such costs on a cost causation basis. The ISO purported to respond to each matter in its April 10, 2000 Answering Brief.<sup>2/</sup>

3. The ISO takes a rather curious tack with respect to the appropriateness of the use of a formula rate for the Neutrality Adjustment. Rather than arguing that the formula for calculating the Neutrality Adjustment is appropriate, accurate and easy to apply, the ISO argues that the ISO "is a non-profit customer service organization whose role in the settlement process is primarily as a clearinghouse for Market Participants." See id. at 297. The Joint Proponents respectfully suggest that the nature of the entity which is utilizing the formula rate is irrelevant to the correct inquiry whether the formula accurately and clearly accounts for the charges the ISO seeks to impose on Market Participants, including the Joint Proponents.

4. With respect to the accuracy of the formula, the clarity of its application and the ease of identifying

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<sup>2/</sup> See ISO Answering Brief at 293-301. The ISO covered Issue L.3(c) in its argument respecting Issue L.5. See id. at 305-317.

data inputs, the ISO effectively simply says, you can figure it out under the ISO Tariff. See id. The Joint Proponents disagree. The Neutrality Adjustment is intended to quantify and correctly allocate (1) Control Area inadvertent Energy interchange, (2) real time Inter-Zonal Congestion, (3) differences in calculation of Transmission Losses on imports in formulae for Imbalance Energy and UFE, (4) imbalance in forward market schedules and (5) differences in settlements due to price calculations for instructed and uninstructed deviations. See ISO Amendment No. 6 at 70-71. The derivation of each of these arcane amounts requires the use of data held by the ISO, and in many cases developed by the ISO. See Joint Proponents' Initial Brief at 7-10.

5. The ISO's protestations to the contrary, the derivation of the Neutrality Adjustment does not lend itself to formula treatment since, under the formula, the exercise of judgment is required respecting the choice and interpretation of input data by the ISO which then is applied to an intricate formula. The ISO should not be permitted to apply the Neutrality Adjustment as a formula rate in these circumstances.

6. With respect to the cost cap, the ISO has narrowed the divide between the contestants by proposing in its Amendment No. 27 filing a cost cap for the Neutrality Adjustment of \$0.095/MWh. See ISO Answering Brief at 299. Thus, the ISO is not opposed conceptually to price caps.

Further, the Joint Proponents do not object to the amount of \$0.095/MWh as an initial price cap.

7. Where the Joint Proponents and the ISO part ways is with regard to the actions needed to alter the level of the price cap, either up or down. The ISO proposes that the ISO Board have the authority to modify the cap by a simple Board vote whereas the Joint Proponents submit that the cap should be able to be modified only by a Section 205 filing under the FPA.

8. If the ISO's proposal is accepted, we have the fox guarding the hen house. If the ISO perceives that the cost cap is or will inhibit the collection of the Neutrality Adjustment, it simply votes to increase the cap. The ease of this process results in little discipline being imposed on the ISO to maintain its charges respecting the Neutrality Adjustment within the cap. If, however, the ISO must make a Section 205 filing, the ISO must justify to this Commission the level of the Neutrality Adjustment and the need to increase the cap. Joint Proponents obtain protection through this regulatory discipline.

9. Rather than have a self-opening cap, the ISO should be required to seek and obtain the Commission's approval for a change in the cap.

10. Turning to the issue of whether certain costs, particularly UFE, should be included in the Neutrality Adjustment, the ISO has covered that matter in

Part L.5 of its Answering Brief. The Joint Proponents agree that these issues are referenced in related fashion respecting the issue in Part L.5. However, they submit additional arguments here respecting the propriety of the charges included in the Neutrality Adjustment in the arena of this Issue L.3.

11. In Part L.5 of its Initial Brief, the ISO makes three primary arguments in support of the inclusion of UFE in the Neutrality Charge. First, it asserts that it is making strides respecting the lowering of UFE Charges. Second, the ISO argues that the UFE treatment complained of by the Joint Proponents and others has been in the ISO Tariff since its June 6, 1997 proposal. Finally, the ISO argues that the Joint Proponents can remedy their complaints respecting UFE by becoming a UDC. See id. at 305-315.

12. However, of greatest significance in the ISO's arguments is its description of UFE. The ISO describes UFE as follows:

UFE is defined as the difference in Energy between the net Energy delivered into the UDC Service Area (adjusted for UDC Service Area Transmission Losses) and the total metered Demand within the UDC Service Area (adjusted for distribution losses). *Id.* If there is a difference, the difference is attributable to meter measurement errors, power flow modeling errors, Energy theft, statistical Load profile errors, and distribution loss deviations. *Id.*

Id. at 306.



13. The Joint Proponents' systems are separated from the ISO Controlled Grid by revenue quality meters and associated breakers, etc. The significance of that physical configuration is that all Energy losses which occur once power crosses that meter are incurred by the independent utility owner and not by other users of the ISO Controlled Grid.<sup>3/</sup> Distribution meter measurement error<sup>4/</sup> occurs at the retail distribution level. No power flow modeling occurs with respect to the Joint Proponents; thus, no UFE is incurred here. Energy thefts obviously occur at the retail level and the Joint Proponents bear the costs for energy thefts on their systems. There is no statistical Load profiling for the Joint Proponents, thus, no errors can occur in this area. Finally, distribution loss deviations, as self-defined, occur at the distribution level.

14. Thus, substantially all UFE, as defined by the ISO, occurs at the retail level. Due to the metering/breaker configuration, all UFE which occurs on the independent utilities' systems occurs past the point where the ISO-delivered power is received. Thus, substantially

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<sup>3/</sup> Certain UFE-related costs such as mismatches in intertie schedules may be contributed to by entities such as the Joint Proponents. The identification of such limited costs should be facilitated by the preparation of the UFE study urged by the Joint Proponents in paragraphs 19-22, infra.

<sup>4/</sup> The revenue quality meters utilized at the interface of the ISO and the independent utility should experience no substantial meter error.

all UFE attributable to the independent utilities is absorbed within such independent utilities' systems. The majority of the UFE experienced by the ISO is not caused by the Joint Proponents and an allocation of a substantial portion of the UFE to those entities is improper.

15. The Joint Proponents also submit the following additional comment on the points raised by the ISO in its Answering Brief concerning UFE.

16. First, the Joint Proponents applaud the ISO's efforts to reduce UFE. It appears that current UFE levels are lower than those experienced in the early stages of ISO operation and the Joint Proponents hope these levels decrease even further. However, since no UFE, as defined by the ISO, is caused by the Joint Proponents, any assessment of UFE costs against them is improper.

17. Second, the ISO correctly points out that UFE has been part of the ISO's Tariff since June 6, 1997. See ISO Answering Brief at 307. However, as noted by the ISO, "Proponents are correct that the original intent of the neutrality adjustment was to collect for cash imbalances due to rounding." See id. at 295. Thus, it is understandable that Market Participants had no substantial concerns respecting the UFE until the UFE charges began being assessed under the Neutrality Adjustment after the ISO became operational on March 31, 1998. Those charges were substantial, giving rise to the Joint Proponents' concerns.

18. Third, the ISO suggests that the Joint Proponents can avoid UFE charges if they execute a UDC agreement. See id. at 312-314. The Joint Proponents (except Anaheim), for a variety of reasons, have chosen to not execute a UDC. In effect, the ISO says sign a UDC Agreement to avoid UFE charges. The Joint Proponents submit that there should be no quid pro quo for the ISO not assessing UFE on the Joint Proponents. As shown above, assessing the UFE on the Joint Proponents is unjust, unreasonable and in violation of the FPA since the UFE on the Joint Proponents' systems is borne totally by the Joint Proponents and does not cause UFE on the ISO Controlled Grid. The propriety of the assessment of UFE on the Joint Proponents should stand or fall on its own merits before the Commission and not be tied to the resolution of other concerns which are independent of the matters before the Commission in this arena.

19. Finally, the Joint Proponents suggested in their Initial Brief that the ISO should be required to perform a study, akin to the study being undertaken with respect to the Grid Management Charge, regarding the allocation of Neutrality Charges. See Joint Proponents' Initial Brief at 16-17. That study would identify the level of the Neutrality Adjustment, the utilities in whose service areas the Neutrality Adjustment's costs are being incurred,

the categories of costs and a proposal for an equitable allocation of such costs on a cost causation basis.

20. In response, the ISO states that "it has already committed, as part of Unresolved Issues settlement concerning the resolution of Unresolved Issue No. 243, to undertake a review of what actions can be undertaken to reduce the neutrality adjustment." See ISO Answering Brief at 300.

21. The Joint Proponents have no intention of having the ISO duplicate a report on the Neutrality Adjustment. However, as described above by the ISO, the report envisioned in implementing the settlement of Issue No. 243 is substantially narrower than the study requested by the Joint Proponents. The Issue No. 243 study is limited to actions the ISO can take to reduce the Neutrality Adjustment. The Joint Proponents' requested study includes the additional matters described in the preceding paragraphs, e.g., the levels and categories of costs as well as a proposal for equitable allocation of those costs on a cost causation basis.

22. The Joint Proponents urge the Commission to expand the scope of the Issue No. 243 study to include the additional matters suggested by the Joint Proponents.

23. Lastly, a brief response must be made to the comments of the California Public Utilities Commission ("CPUC") in its Answering Brief at page 3 wherein the CPUC

charges that a number of issues presented to the Commission reflect efforts by Existing Contracts holders (i.e., municipal systems) to avoid paying their fair share of ISO-related costs.

24. The CPUC confuses the Joint Proponents' proposal to apply principles of cost causation and reasonable cost allocation with an effort at improper cost avoidance. It is totally appropriate and fair for wholesale customers to suggest that they should be responsible for sharing in the payment responsibility only for those ISO costs which they cause, in whole or in part. Indeed, the link between cost causation and payment responsibility is a fundamental principle of the Commission's transmission pricing policy and the CPUC provides no justification for ignoring that principle in allocating responsibility for payment of the ISO's costs.

### III. CONCLUSION

WHEREFORE, for the foregoing reasons and for the reasons set forth in the Joint Proponents' Initial Brief, the Joint Proponents respectfully request that the

Commission amend the ISO Tariff and Protocols and implement  
the proposals made by the Joint Proponents.

Dated: May 8, 2000

Respectfully submitted,

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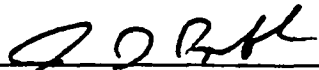
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the service list compiled by the Secretary in this proceeding by U.S. Mail. Dated at Washington, D.C., this 8th day of May 5, 2000.

  
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