

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	)	Docket Nos. ER01-313-000
	)	ER01-313-001
Pacific Gas and Electric Company	)	Docket Nos. ER01-424-000
	)	ER01-424-001

**UNOPPOSED MOTION OF THE  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION TO CHANGE PROCEEDING TO A “TRACK III” SCHEDULE,  
WITH MODIFIED BRIEFING AND INITIAL DECISION DATES**

To: Chief Judge Curtis L. Wagner

Pursuant to Rule 212 of the Commission’s rules of practice and procedure, 18 C.F.R. § 385.212, 2000, the California Independent System Operator Corporation (“ISO”) files this Unopposed Motion to request the Chief Administrative Law Judge to change the Grid Management Charge proceeding in the above-captioned docket before Judge Bobbie J. McCartney to a modified Track III schedule. No party to the proceeding objects to this motion.

**I. Background**

The Grid Management Charge (“GMC”) is designed to recover the administrative and operating costs of the ISO. Until this calendar year, the GMC consisted of a bundled formula rate. On November 1, 2000,<sup>1</sup> the ISO filed an unbundled GMC with the objective of allocating costs fairly among all ISO system users, and thus minimizing cost subsidization among Market Participants. The

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<sup>1</sup> The November 1 GMC filing subsequently was supported by a filing of Period II cost data and supporting testimony on December 15, 2000.

current GMC proposal, as more fully described in the November 1, 2000 Transmittal Letter, separates the GMC into three service categories, or “buckets”, that are calculated using three billing determinates. The buckets are: A) Control Area Services / Scheduling, B) Inter-Zonal Scheduling Services, and C) Market Operations / Billing and Settlements.

On November 13, 2000, Pacific Gas and Electric Company (“PG&E”) submitted for filing a proposed pass-through Tariff, intended to allow PG&E to pass-through the unbundled GMC to certain wholesale contract customers. PG&E amended its filing on December 26, 2000 to reflect the Period II cost data and testimony submitted by the ISO on December 15<sup>th</sup>.

The dockets were consolidated by the Commission on December 29, 2000. The dockets were assigned to a Track II schedule by order of the Chief Judge dated January 8, 2001. On April 19, 2001, the ISO filed an unopposed Motion with the Chief Judge requesting that the proceeding be changed to Track III, due in part to the complexity of the case. On April 24, the Chief Judge issued an order extending the date for the hearing to October 16, 2001, but retaining the Track II schedule for the briefing and initial decision phases of the proceeding. Subsequently, the date for the hearing was further extended to November 13, 2001.

The ISO now seeks to have the briefing and initial decision phases of the hearing changed to a modified Track III, due to the complexity of the case, the likely length of the hearing, and the competing demands on many of the parties to this proceeding.

## **II. Complexity of the Case**

Track III schedules are designed for exceptionally complex cases, which the parties to this proceeding now believe this case to be. As noted above, this proceeding deals with both the ISO's Grid Management Charge for 2001, which constitutes a dramatic change from the previous GMC, and the PG&E pass-through of the GMC. In many ways, it is more similar to two separate hearings than to a single, albeit complex, rate case. The parties have developed a Joint Stipulation of Issues for the proceeding, and have found that many issues remain to be resolved, requiring the presentation of many witnesses for cross-examination. As well, the parties have developed estimates of the time required for cross-examining each witness. Based on these estimates, the parties anticipate the hearing lasting more than three weeks. This estimate takes into account the fact that the weeks in question will not all be full weeks, as the Thanksgiving holiday falls in the second week of the hearing.

According to the guidelines for hearing schedules (*see* Attachment A), Track II schedules assume a one-week hearing. If the timeframes for Track II were retained in this proceeding, initial briefs would be due on December 18 (five weeks after the commencement of the hearing). It is possible that the hearing will still be taking place on December 18; it is likely that it will be taking place the week before December 18. That being the case, the Track II timeframe clearly is not practical for this proceeding.

### **III. Competing Demands on the Time of the Parties**

The difficulties of preparing briefs in a shortened timeframe are exacerbated in this case by the fact that many of the parties to this proceeding also are involved in the refund proceeding before Judge Bruce Birchman in Docket No EL00-95-045.<sup>2</sup> The hearing in the refund proceeding commences on December 17. It would be extraordinarily difficult for the many parties who are involved in both proceedings to turn immediately from one hearing to the next while at the same time preparing their GMC initial briefs.

### **IV. Relief Requested**

As noted above, the ISO seeks to have this proceeding changed to a modified “Track III” schedule. The granting of requests to change procedural schedule tracks is not without precedent. In *Southern Company Services, Inc.*, 93 FERC 63,009 (2000), the Chief Judge allowed a change from Track I to Track II after all parties agreed to the change. In the present matter, all parties and the Commission Trial Staff have had the opportunity to comment on this proposed change, many parties have affirmatively indicated support for the change, and neither Staff nor any party opposes the change. Judge McCartney, as well, has indicated that such a change would meet with her approval.

The ISO seeks a modified Track III because the timeframes presented by the regular Track III schedule are not sufficient to meet the needs of this case. A Track III schedule assumes a two-week hearing. As discussed above, the

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<sup>2</sup> San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange, *et al.*, Docket Nos. EL00-95-045, *et al.* (“refund proceeding”).

parties anticipate that this hearing will take at least three weeks, and possibly longer. That being the case, the timeframes for briefing and writing the initial decision are insufficient. Under a traditional Track III schedule, initial briefs would be due on New Year's Day (or January 2, one assumes). Should the hearing last more than three weeks, this would leave the parties little time to draft their initial briefs. Also weighing against a traditional Track III schedule is the fact that the few weeks permitted for drafting the initial briefs would be during the holiday season.

In light of these concerns, the ISO proposes a modified Track III schedule that takes into account the additional complexity of the case, the additional length of the hearing, and the holiday season. Under this proposal, the dates are as follows:

Initial Briefs	January 11
Reply Briefs	February 8
Initial Decision	April 26

This schedule represents an extension of a week and a half from the date when initial briefs would be due under Track III (January 1), an extension that is probably shorter than the additional length of the hearing compared to the two-week period assumed under Track III. It retains the four-week timeframe for reply briefs, and it provides the Presiding Judge with an additional week in which to write her initial decision (as Track III would dictate a period of ten weeks for

this purpose, and the proposed date would be eleven weeks after the reply briefs are submitted).

In light of the absence of opposition to this Motion, the ISO requests the Chief Judge to waive the requirement for responses to the Motion, in order that the parties may have a ruling as soon as possible. With the hearing fast approaching, a ruling in the immediate future would be of substantial benefit to the parties, and would be greatly appreciated.

## V. CONCLUSION

For the foregoing reasons, the ISO requests that the Chief Judge change this proceeding to a modified Track III schedule. As this motion is unopposed, the ISO requests waiver of responses to this motion to allow for a more rapid ruling.

Respectfully submitted,

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Dated: November 8, 2001

## **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 proceeding, 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, DC this 8<sup>th</sup> day of November, 2001.

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Julia Moore  
(202) 295-8357

November 8, 2001

The Honorable David P. Boergers  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: *California Independent System Operator Corporation,*  
Docket Nos. ER01-313-000 and ER01-313-001**

***Pacific Gas and Electric Company*  
Docket Nos. ER01-424-000 and ER01-424-001**

Dear Secretary Boergers:

Enclosed for filing are one original and 14 copies of the Unopposed Motion of the California Independent System Operator Corporation to change the Proceeding to a Track III Schedule, with Modified Briefing and Initial Decision Dates in the above-referenced proceeding. Two courtesy copies of this filing have been provided to both Chief Judge Curtis L. Wagner, Jr., and Judge Bobbie J. McCartney. Two additional copies of the filing are also enclosed. Please stamp the two additional copies with the date and time filed and return them to the messenger.

Thank you for your assistance in this matter.

Respectfully submitted,

Julia Moore  
(202) 424-7500

Attorney for the California Independent  
System Operator Corporation

CC: Th Honorable Curtis L. Wagner, Jr.  
The Honorable Bobbie J. McCartney  
Service List