

March 30, 2005

Via Electronic Filing

The Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: California Independent System Operator Corporation
Docket Nos. ER05-405-____ and ER05-407-____
(Not Consolidated)**

Dear Secretary Salas:

Enclosed please find the Motion for Clarification of the California Independent System Operator Corporation, submitted in the captioned dockets.

Feel free to contact the undersigned with any questions. Thank you for your attention to this matter.

Respectfully submitted,

/s/ Bradley R. Miliauskas
Michael E. Ward
Bradley R. Miliauskas

Counsel for the California
Independent System Operator
Corporation

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

California Independent System)	Docket Nos. ER05-405-___
Operator Corporation)	ER05-407-___
)	(Not Consolidated)

**MOTION FOR CLARIFICATION OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION**

Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.212, the California Independent System Operator Corporation ("ISO")¹ respectfully submits this motion for clarification of the Order on Proposed Rate Schedules issued on February 28, 2005 in the above-captioned dockets, 110 FERC ¶ 61,196 ("February 28 Order"). The March 4, 2005 Order addressed issues raised in the complaint proceeding initiated by Williams Power Company, Inc. ("Williams"). As explained below, the ISO seeks clarification as to a misstatement of the ISO's position about certain charges that the Commission made in that order.

I. REQUEST FOR CLARIFICATION

In Paragraph 9 of the February 28 Order, the Commission correctly states:

Under the proposed Operating Agreements, the CAISO charges Turlock and Modesto for the transmission of power over non-CAISO-Controlled Grid Facilities that are in the CAISO Control Area. Specifically, CAISO will bill Turlock and Modesto for its Grid Management Charge plus charges for ancillary services, imbalance energy, and losses to the extent these are not self-procured or self-provided. CAISO will not assess other charges to Turlock and

¹ Capitalized terms not otherwise defined herein are used in the sense given the Master Definitions Supplement, Appendix A to the ISO Tariff.

Modesto, including charges for Startup, Emissions, and Minimum Load Cost Compensation, “contrary to the ISO Tariff and Commission orders which require that these charges be assessed to Control Area Gross Load and exports to other control areas within California.” This exception, CAISO states, was agreed to as part of the overall settlement of issues raised by Western’s joining the SMUD control area.

February 28 Order at P 9 (citation omitted). As quoted above, pursuant to the “overall settlement of issues raised by Western’s joining the SMUD control area,” the ISO will not assess “other charges to Turlock and Modesto, including charges for Startup, Emissions, and Minimum Load Cost Compensation, ‘contrary to the ISO tariff and Commission orders’” In fact, but for the overall settlement of issues raised by Western’s joining the SMUD control area, the “other charges” *would have* been assessed to Turlock and Modesto pursuant to the ISO Tariff and Commission orders.

Later in the February 28 Order, however, the Commission misstates part of the ISO’s argument (in response to SCE) regarding the exception with regard to the “other charges” that is provided under the “overall settlement of issues” described above:

SCE protests the exemption of Modesto and Turlock from the charges for Startup, Emissions, and Minimum Load Cost Compensation, claiming among other things that these exemptions are contrary to the CAISO Tariff. Indeed, upon review of section 6.3 of the Agreements at issue here, the Commission finds that the Agreements do provide an exemption to Modesto and Turlock for charges related to Startup, Emissions, and Minimum Load Cost Compensation.

CAISO answers SCE by arguing that the cost allocation of [the “other charges”] has already been decided by the Commission in its acceptance of the [overall settlement of issues]. CAISO states that the [overall settlement of issues] exempted Western and its customers from [the “other charges”] *because this capacity is not*

under CAISO operational control and does not utilize the CAISO controlled grid. However, with respect to capacity of Modesto or Turlock that, in fact, does use the CAISO grid, all applicable CAISO tariff charges apply.

February 28 Order at PP 25-26 (citations omitted) (emphasis added). Contrary to the Commission's statement, at no point did the ISO that *all* of the "other charges" – including charges related to Startup, Emissions, and Minimum Load Cost Compensation – were for "capacity [that] is not under CAISO operational control and does not utilize the CAISO controlled grid." Instead, these words were directed to specific charges only. The ISO stated:

Making the same error that it made in its protest in Docket No. ER05-155, SCE again fails to recognize that this Agreement concerns capacity that is not under ISO Operational Control and that is not part of the ISO Controlled Grid. For this reason, the Access Charge, Congestion, Neutrality, and UFE will not apply because the ISO Controlled Grid is not used.

ISO Answer, Docket No. ER05-405-000 (filed Feb. 7, 2005), at 4 (emphasis added); ISO Answer, Docket No. ER05-407-000 (filed Feb. 7, 2005), at 3-4 (emphasis added). Thus, it is the Access Charge, Congestion, Neutrality, and UFE that will not apply because the ISO Controlled Grid is not used. The ISO never stated that the charges related to Startup, Emissions, and Minimum Load Cost Compensation "will not apply because the ISO Controlled Grid is not used."

Under the ISO Tariff and relevant Commission orders, Startup, Emissions, and Minimum Load Cost Compensation charges are assessed to Control Area Gross Load and Demand within California outside of the ISO Control Area that is served by exports from the ISO Control Area. See ISO Tariff, §§ 5.11.6.1.4, 11.2.13; *San Diego Gas & Electric Co.*, 97 FERC ¶ 61,293, at 62,363, 62,370

(2001). As explained above, as stated in Paragraph 9 of the February 28 Order, the reason an exception was provided with regard to those charges was that it was agreed to as part of the overall settlement of issues raised by Western's joining the SMUD control area.

The Commission should therefore clarify that its discussion in Paragraph 26 of the February 28 Order misstated the ISO's position and the responsibility for Start Up, Emissions, and Minimum Load Cost Compensation charges under the ISO Tariff.

II. CONCLUSION

WHEREFORE, for the above-stated reasons, the ISO respectfully requests that the Commission grant the request for clarification provided above.

Respectfully submitted,

Charles F. Robinson
General Counsel
John Anders
Corporate Counsel
The California Independent
System Operator Corporation
Tel: (916) 351-4499
Fax: (916) 608-7296

/s/ Bradley R. Miliauskas
J. Phillip Jordan
Michael E. Ward
Bradley R. Miliauskas
Swidler Berlin LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Tel: (202) 424-7500
Fax: (202) 424-7643

Dated: March 30, 2005

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list for the captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California, on this 30th day of March, 2005.

/s/ John Anders
John Anders