

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

**California Independent System) Docket No. RT01-85-000
Operator Corporation)**

**RESPONSE OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO PROTESTS AND COMMENTS ON SUBMISSION
DESCRIBING PROGRESS TOWARD FORMATION OF
REGIONAL TRANSMISSION ORGANIZATION**

On January 16, 2001, the California Independent System Operator Corporation (“CAISO”) submitted its filing explaining the status of its efforts to comply with Order No. 2000¹ (“RTO Filing”). In that filing, it quoted the Commission’s finding that “[b]ecause of the complex jurisdictional issues involved and the benefits of avoiding litigation, a specified period of additional time is warranted to attempt a mutually agreeable solution” to governance issues fundamental to the form of the CAISO, and of any Regional Transmission Organization (“RTO”) in which it may participate. *San Diego Gas & Electric Co. v. Sellers of Energy, et al.*, 93 FERC ¶ 61,294 at 62,013 (2000). The CAISO also noted that these negotiations were not yet complete, and were “at a stage where filing of an RTO proposal with the Commission might be counterproductive, and would certainly be premature.” RTO Filing at 5. The CAISO stated that once

¹ *Regional Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (Jan. 6, 2000), FERC Stats. & Regs., Regs. Preambles ¶ 31,089 (Dec. 20, 1999), *order on reh’g*, Order No. 2000-A, 65 Fed. Reg. 12088 (Mar. 8, 2000), FERC Stats. & Regs., Regs. Preambles ¶ 31,092 (Feb. 25, 2000).

these governance negotiations *were* complete, it expected to be in a position to make a further filing to advance the development of an RTO in the West.

In response to the RTO Filing, numerous parties have filed protests and comments with the Commission.² Many of these observe that the RTO Filing lacks detail and substantive information, and that any Commission action on the filing would be premature. *See, e.g.,* Mirant at 5; Dynegy at 2. Several note that the current situation in California has created a level of uncertainty that makes a more detailed RTO filing impossible or unproductive at this time. *See, e.g.,* Electric Power Supply Assoc. at 2; Avista et al. at 2.

Given the uncertainty, incomplete negotiations, and rapidly changing situation with which the CAISO is faced, it would be just as unproductive at this time for the CAISO to answer the various substantive points raised by the parties

² Comments, protests, and/or other filings were submitted by: the American Forest & Paper Association; Avista Corporation; Bonneville Power Administration; BP Energy Company; California Electricity Oversight Board; Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency; The Cogeneration Association of California; Duke Energy North America, LLC and Duke Energy Trading and Marketing, LLC; Dynegy Inc.; El Paso Merchant Energy, L.P.; Electric Power Supply Association; The Energy Producers and Users Coalition; Enron Power Marketing, Inc.; Idaho Power Company; Industrial Consumers; Metropolitan Water District of Southern California; Mirant California, LLC, Mirant Delta, LLC, and Mirant Potrero, LLC; Modesto Irrigation District; Montana Power Company; Morgan Stanley Capital Group Inc.; Nevada Power Company; Northern California Power Agency; Pacific Gas and Electric Company; PacifiCorp; PG&E National Energy Group; Portland General Electric Company; Public Power Council; Puget Sound Energy Inc.; Reliant Energy Power Generating, Inc. and Reliant Energy Services, Inc.; Sacramento Municipal Utility District; San Diego Gas & Electric Company; Shell Energy Services Company; Sierra Pacific Power Company; Southern California Edison Company; Tractebel Energy Marketing, Inc. and Tractebel Power Inc.; Transmission Agency of Northern California; and The Williams Companies.

Some of the parties commenting on the RTO Filing do so in portions of their pleadings variously styled as “Comments,” “Protests,” or “Comments and Protest,” without differentiation. There is no prohibition on the CAISO responding to the assertions in these pleadings. The CAISO is entitled to respond to these pleadings and requests notwithstanding the labels applied to them. *Florida Power & Light Co.*, 67 FERC ¶ 61,315 (1994). In the event that any portion of this filing is deemed a response to protests, the CAISO requests waiver of Rule 213 (18 C.F.R. § 385.213) to permit it to make this filing. Good cause for this waiver exists here given the nature and complexity of this proceeding and the usefulness of this filing in ensuring the development of a complete record. *See, e.g., Enron Corp.*, 78 FERC ¶ 61,179, at 61,733, 61,741 (1997); *El Paso Electric Co.*, 68 FERC ¶ 61,181, at 61,899 & n.57 (1994).

as it would be to make a full RTO filing now. Thus, the CAISO is in agreement with those parties that recognize that Commission action on the CAISO filing at this point would be premature.

This observation is particularly applicable to the protests and comments that insist that the Commission order the CAISO or the California investor-owned utilities to join either the Desert Star RTO or RTO West. See Williams at 3-4; Industrial Consumers at 2; Electric Power Supply Assoc. at 3. First, neither Desert Star nor RTO West yet exist; thus, there is nothing for the CAISO to join as yet. See Avista et al. at 5 (“there is still a great deal of work to be done before RTO West can be implemented”). Second, just as the CAISO is currently in flux, these RTO concepts still require further definition and would likely be disrupted by the forced inclusion of an entity from outside the geographical areas they are being designed to serve, especially if that entity is still undergoing rapid evolution. Third, as it discussed in its RTO Filing, the CAISO takes the position that a comprehensive Western RTO has a better chance of success if regional RTOs are allowed to form and stabilize first, then gradually merge as a result of work on eliminating seams between them. See RTO Filing at 4; Avista et al. at 4. Fourth, Order No. 2000 contemplates a *voluntary* RTO process, at least at this point. Such a process would be inconsistent with forcing the CAISO into an RTO not of its choosing. See *Regional Transmission Organizations*, Regs. Preambles ¶ 31,089, Order No. 2000, at 31,043. Fifth, California law requires the CAISO to obtain the approval of the California authorities before it joins an RTO outside California. California Assembly Bill No. 5, 2001-2002 Session, 1st Ex. Sess.

(2001). Finally, it is unlikely that the policies and approaches being formulated by either Desert Star or RTO West include the specific provisions needed to address the unique and urgent problems currently being faced by California. Nor would either Desert Star or RTO West likely welcome the requirement that they introduce such special and potentially disruptive and expensive provisions to accommodate an out-of-region entity.

CONCLUSION

While the CAISO sympathizes with the impatience of market participants attempting to form or participate in RTOs, it would be premature for the Commission to take any substantive action on the CAISO's RTO status for the time being.

Respectfully submitted,

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