

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

MMC Energy, Inc.)	
)	
v.)	Docket No. EL08-46-000
)	
California Independent System Operator)	
Corporation)	

**JOINT MOTION OF MMC ENERGY, INC. AND
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO DEFER ACTION ON PENDING REQUESTS FOR REHEARING**

Pursuant to Rule 212 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.212, MMC Energy, Inc. (“MMC”) and the California Independent System Operator Corporation (“CAISO”) (collectively, “Movants”) hereby request that the Commission defer action on Movants’ pending requests for rehearing filed on July 7, 2008 of the Commission’s Order on Complaint issued in the above-captioned proceeding on June 6, 2008.¹

Movants have reached a settlement in principle that will resolve all issues in this proceeding and are currently engaged in preparing an offer of settlement to be filed promptly with the Commission. Movants submit that their ability to finalize and document their settlement will benefit from maintenance of the status quo. Moreover, the offer of settlement, if approved by the Commission, will obviate the need for Commission action on the rehearing requests and conserve Commission resources. Accordingly, Movants respectfully request that the Commission defer action on their

¹ *MMC Energy, Inc. v. California Independent System Operator Corporation*, 123 FERC ¶ 61,251 (2008) (the “June 6 Order”).

pending rehearing requests in this proceeding until such time as those rehearing requests can be withdrawn as part of the comprehensive settlement.

In support of this motion, Movants state as follows:

I. BACKGROUND

A. MMC'S COMPLAINT, THE JUNE 6 ORDER AND MOVANTS' REHEARING REQUESTS

On March 13, 2008, MMC filed a complaint against the CAISO in this proceeding. On April 14, 2008, CAISO filed an answer denying the allegations in the complaint. Several additional pleadings were filed by both MMC and CAISO. In the June 6 Order, the Commission denied, in part, MMC's Complaint, and established hearing and settlement judge procedures regarding the amount of certain payments to be made by CAISO related to No Pay charges accrued prior to and including September 18, 2008 and whether MMC was entitled to any additional relief regarding the CAISO's No Pay charges accruing after September 18, 2006. On July 7, 2008, MMC filed its Request for Rehearing and Clarification of the June 6 Order and CAISO filed its Request for Rehearing of the June 6 Order. On August 6, 2008, the Commission issued an order granting rehearing for further consideration to allow additional time for it to consider Movants' rehearing requests.

B. SETTLEMENT NEGOTIATIONS

Pursuant to the June 6 Order, Movants have been engaged in settlement discussions with the assistance of Administrative Law Judge H. Peter Young acting as Settlement Judge. A settlement conference was held on June 24, 2008. Additional information was exchanged and conference calls were held among the parties throughout July and August. A second settlement conference was held on September 9 at which time

the parties reported to the Settlement Judge that they had reached a general framework for a comprehensive settlement. After the September 9 settlement conference, the parties continued their discussions and have now reached a settlement in principle and are working to finalize and document their agreement and submit a formal offer of settlement to the Commission.

II. MOTION TO DEFER COMMISSION ACTION

MMC and CAISO believe that the most promising approach to resolving the issues between them is via the comprehensive settlement that the parties are now finalizing and which will resolve all issues between them and terminate further proceedings in this Docket No. EL08-46-000. The comprehensive settlement will also obviate the need for Commission action on the Movants' pending rehearing requests and conserve Commission resources. Accordingly, MMC and CAISO request the Commission to defer action on their pending rehearing requests to allow them time to finalize, document and file their comprehensive settlement.

III. CONCLUSION

In accord with its policy favoring settlement, the Commission has urged the parties in this proceeding to settle this matter among themselves.² Accordingly, for good cause shown, Movants respectfully ask the Commission to defer action on their pending rehearing requests in order to allow the Movants time to finalize, document and file their agreed-upon settlement.

Respectfully submitted,

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September 23, 2008

² See June 6 Order at P 96.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC, this 23rd day of September, 2008.

s/ Jennifer L. Hong

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