

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System)
Corporation) Docket No. ER99-1971-002

**ANSWER OF CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO COMMENTS ON COMPLIANCE FILING**

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213, the California Independent System Operator Corporation (“ISO”) submits its Answer to the Comments of Modesto Irrigation District (“Modesto”) filed on September 9, 1999.¹

I. BACKGROUND

On March 1, 1999, the ISO filed Amendment No. 14 to the ISO Tariff in Docket No. ER99-1971-000. Amendment No. 14 included a series of proposed revisions to the ISO Tariff that principally constitute Phase I of the ISO’s comprehensive redesign of its Ancillary Service markets, in compliance with the Commission’s October 28, 1998 order in Docket Nos. ER98-2843 *et al.*² The proposed revisions were products of an extensive process through which all interested stakeholders were involved in assessing the problems that had arisen in those markets during the first year of the ISO’s operation and in developing

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

² *AES Redondo Beach, L.L.C., et al.*, 85 FERC ¶ 61,123 (1998).

proposals to address them. Amendment No. 14 also included several other proposed changes to the ISO Tariff.

On May 26, 1999, the Commission issued its order in Docket No. ER99-1971 and Docket Nos. ER98-2843 *et al.* which accepted Amendment No. 14 with certain modifications.³ In the May 26 Order, the Commission directed the ISO to make certain modifications to the Amendment No. 14 Tariff revisions.

On June 25, 1999, the ISO filed a Request for Rehearing, Motion for Clarification and Conditional Motion for Partial Stay in this proceeding. In that pleading, the ISO requested rehearing on an aspect of the May 26 Order related to a modification of the ISO's proposal to base charges for Ancillary Services on metered Demand. In the May 26 Order, the Commission approved this modification (referred to as the "buy-back" proposal) but rejected its application in circumstances where self-provided Ancillary Services are withdrawn at the instruction of the ISO. The Commission stated:

We will reject the buy back proposal *as it applies to self-provided capacity* that is withdrawn involuntarily by the [Scheduling Coordinator] on instruction from the ISO. . . . [A]pplying the proposal to involuntary withdrawals is inconsistent with the ISO's argument that *self-provided* capacity should represent a binding commitment.⁴

On July 2, 1999, the ISO submitted its compliance filing in this proceeding. The compliance filing did not address the May 26 Order's limitation on the buy-back proposal due to the pending request for rehearing and conditional motion for partial stay.

³ *AES Redondo Beach, et al.*, 87 FERC ¶ 61,208 (1999) ("May 26 Order").

⁴ *Id.* at 61,814 (emphasis added).

On July 26, 1999, the Commission issued its Order Granting Rehearing for Purpose of Further Consideration, Denying Rehearing in Part, and Denying Stay in this proceeding.⁵ In the July 26 Order, the Commission denied the ISO's request for rehearing on the buy-back limitation, denied the ISO's motion for partial stay of this portion of the May 26 Order, and directed the ISO to perform manual work-arounds to implement the buy-back limitation as necessary.⁶

In light of the Commission's denial of rehearing, the ISO submitted additional revised tariff sheets to comply with the Commission's rejection of the buy-back proposal, as applied to involuntary withdrawals of self-provided Ancillary Service capacity, together with its Answer to the Motion to Intervene, Comments and Protests, filed in this proceeding on August 6, 1999.

In comments filed on September 9, 1999, Modesto argued that "[t]he ISO still has not got it right."⁷ It contended that the *all* involuntary withdrawals of Ancillary Service capacity – whether self-provided or sold to the ISO – should be exempted from the buy-back requirement.⁸

II. DISCUSSION

As supplemented on August 6, 1999, the ISO's compliance filing responds directly and completely to the Commission's directives in the May 26 Order regarding the buy back proposal. As noted above, the May 26 Order was explicit that the Commission was rejecting the buy-back proposal *only* "as it applies to

⁵ *AES Redondo Beach, L.L.C., et al.*, 88 FERC ¶ 61,096 ("July 26 Order").

⁶ July 26 Order, 88 FERC ¶ 61,096, slip op. at 4-5. The Commission deferred action on the ISO's request for rehearing and motion for clarification on other issues.

⁷ Modesto Comments at 4.

self-provided capacity that is involuntarily withdrawn.”⁹ The Commission explained that its decision was based in part on its acceptance of the ISO’s position that “*self-provided capacity* should represent a binding commitment.”¹⁰ In seeking rehearing of this limitation, the ISO pointed out that the May 26 Order afforded protection to Scheduling Coordinators who choose to self-supply Ancillary Services that those who participate in the ISO’s Ancillary Services markets do not enjoy, thereby biasing Scheduling Coordinators against participating in those markets. The Commission was therefore aware that the May 26 Order treated Scheduling Coordinators who self-supply Ancillary Service capacity differently than those who buy and sell capacity in the ISO’s Ancillary Service markets when it declined in the July 26 Order to modify its earlier ruling.

It is accordingly clear that the ISO’s compliance filing, as supplemented, properly implemented the directive issued in the May 26 Order and confirmed in the July 26 Order that the buy-back proposal exclude involuntary withdrawals of self-provided Ancillary Service capacity. Modesto’s arguments to the contrary do not go to the adequacy of the ISO’s compliance filing, but amount to a collateral attack on the May 26 and July 26 Orders. As such, they constitute an untimely and improper request for rehearing, which is not appropriately considered at this stage of this proceeding.

⁸ *Id.* at 5.

⁹ May 26 Order, 87 FERC at 61,814.

¹⁰ *Id.* (emphasis added).

III. CONCLUSION

For the foregoing reasons, the Commission should accept the ISO's compliance filing in this docket, as supplemented.

Respectfully submitted,

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Dated: September 24, 1999

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, D.C. this 24th day of September, 1999.

Sean A. Atkins