

December 14, 2000

Secretary William Richardson  
United States Department of Energy  
1000 Independence Ave, S.W.  
Washington, DC 20585

Dear Secretary Richardson:

I am writing to request that you exercise your authority under section 202(c) of the Federal Power Act and issue an emergency order for the delivery of electric energy upon request of the California ISO ("ISO").<sup>1</sup> The requested order should apply to all entities within the region covered by the Western Systems Coordinating Council.<sup>2</sup> The reasons for my request are described below.

Under the Department's regulations, an "Emergency" is defined as an unexpected inadequate supply that may result from various causes, including unexpected outages, a sudden increase in demand, an inability to obtain adequate fuel supply, regulatory action which prohibits the use of certain electric power facilities or other causes.<sup>3</sup> Moreover, an Emergency can result from "extended periods of insufficient power supply as a result of inadequate planning or the failure to construct necessary facilities."<sup>4</sup> Unfortunately, during the last six months California has experienced, and currently is experiencing, each of the above conditions to one degree or another.

From May 2000 through December 14, 2000, the ISO has issued 70 warnings and has declared 49 Stage One Emergencies, 32 Stage Two Emergencies, and 1 Stage Three Emergency.<sup>5</sup> Of these declared emergencies, 17 Stage One Emergencies, 15 Stage Two Emergencies, and the Stage Three Emergency occurred in the last six weeks.

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<sup>1</sup> Under the ISO's Tariff approved by FERC, the ISO, in contracting for energy or ancillary services, does not act as principal but acts as agent for, and on behalf of, Scheduling Coordinators. Scheduling Coordinators are required to submit schedules to the ISO that include the demand of the customers they represent (this encompasses the demand in California).

<sup>2</sup> The WSCC is a sub-region of North American Electric Reliability Council and covers the western part of the continental United States (California, Oregon, Washington, Idaho, Utah, Montana, Colorado, Nevada, Arizona, most of New Mexico and parts of South Dakota and western Nebraska), and portions of Canada (British Columbia and Alberta) and Mexico (Baja California, Mexico).

<sup>3</sup> 10 C.F.R. § 205.371

<sup>4</sup> *Id.*

<sup>5</sup> To comply with WSCC minimum operating criteria, the ISO is required to maintain Operating Reserves equal to 5% of the demand to be met by generation from hydroelectric resources plus 7% of the demand to be met by generation from all other resources. In real time, when Operating Reserves are forecast to be less than these amounts, a Stage One Emergency is declared. If after dispatching all available resources, Operating Reserves are forecast to fall below 5%, a Stage Two Emergency is declared. At this point, large commercial customers that have signed up to voluntarily curtail power will be asked to do so. If Operating Reserves are forecast to fall below 1.5%, a Stage Three Emergency is declared. At this point, involuntary curtailments of firm Load, including "rotating blackouts," are possible. The ISO declared the first Stage Three emergency in its history on December 7, 2000.

## Emergency Conditions – Summer 2000

The emergency condition facing the ISO is a supply shortage and is the result of a combination of factors. The demand for energy in California and the West has increased dramatically over the last several years and there has not been an increase in supply to meet this demand. The increase in demand within the region also has reduced the amount of imports historically available to California. Moreover, during the past summer the scarcity of available generation was exacerbated by high temperatures, a further reduction in the amount of imported power, and low amounts of hydroelectric power usually available to California. These conditions led to a high usage of all the generating units in California in the past summer.

## Emergency Conditions – Fall 2000

Much of the generating capacity in California is gas-fired and most of these units are over 30 years old. As a result of the strain put on these and other generating units during the summer, there has been an increase in the amount of generating unit outages (planned and unplanned) during the fall. During the last several weeks, planned outages have averaged approximately 4000MWs while unplanned outages have averaged approximately 7,000MWs. See, **Attachment A**, Generation Outage Report for December 8 through December 28, 2000. Despite having relatively mild demands compared to the summer, the 11,000 MWs of unavailable Generation and reduced imports have jeopardized the ISO's ability to secure the amounts of Operating Reserves needed to maintain system reliability.

Recently, due to the increase in production costs (principally the price of natural gas), some environmental limits, and a reduction in generation bid into the ISO markets, ISO operations personnel were forced to negotiate commercial terms in real time, jeopardizing the ISO's ability to manage the system and maintain reliability. On Friday December 8, 2000, the ISO filed, and the FERC approved, an amendment to the ISO Tariff that gave generating unit owners the opportunity to submit bids that will ensure recovery of their operating costs. In short, the amendment allows generation owners to bid a price and to be paid "as bid" subject to cost review by the FERC. The filing had immediate and beneficial effects, more generation was bid into and scheduled with the ISO, and operations personnel no longer were negotiating commercial terms in real time.

However, despite the beneficial effects of the amendment, a number of factors continue to place the ISO in an emergency situation where California is confronted with the possibility of rotating blackouts. First, internal transmission constraints in California have limited the amount of generation capable of serving Northern California. Second, significant generating resources that could serve northern California are unavailable or available at reduced output. These resources include a nuclear plant, a large pumped-storage hydroelectric facility, and several "qualifying facilities" (QFs) under the Public Regulatory Policies Act of 1978. Third, imports available to the ISO from the Northwest have dwindled to very small amounts.

Specifically, the dispersion of resources in California is such that most of the available capacity in the state is located in Southern California. In order for the Southern California capacity to be available to serve load in the entire state, that capacity must be transmitted north. Unfortunately, the primary transmission path (Path 15) between Southern and Northern California is limited in the amount of power that it can carry (i.e., has limited transfer capability). This fact, combined with low imports from the Northwest and unavailable QF generation (See **Attachment B**), has raised concerns that the ISO will be unable to satisfy demand in Northern California. This problem is exacerbated by the fact that imports from the Northwest, which can serve load in Northern California, also serves to increase the transfer capability of Path 15 (by creating a counterflow). To the extent that the ISO is able to call on, for example, existing QF capacity in Northern California, the ISO can unload Path 15 and thereby use more Southern California resources to serve Northern California load.

Importantly, the circumstances described above also have led to a significant use of Northern California hydroelectric generation, draining critical water supplies perilously low. In fact, California has already exhausted water supplies that would have otherwise been needed next spring. We believe that the Northwest is in a similar situation. It is therefore imperative that all available thermal generation (e.g., gas, coal, nuclear, QF) in California and West be made available immediately. By making this generation available, California and the West can preserve critical water supplies for use later in the year and next year.

The increase in production costs and the scarcity of generation have led to high region-wide prices for electricity. These prices, in turn, have led suppliers in the Northwest and elsewhere to request credit assurances before supplying energy to California. Suppliers have been unwilling to rely on the credit of the existing investor-owned utilities in California: 85% of the ISO bills also go to, and are therefore dependent on, this credit. The result has been a reduction in the amount of imports being offered to the ISO. See, **Attachments C-1 and C-2**, outlining credit inquiries received by the ISO and credit concerns communicated to the ISO in response to real time requests.

### **Request for An Emergency Order**

It is for the above reasons that I request an emergency order. A draft order should require that all entities in the WSCC with market-based rate authority from the FERC, and all QFs within the California, be ordered to generate, deliver and transmit electric energy to the ISO during such time periods and in such amounts as the ISO requests. The order should include, but not be limited to, the entities listed in **Attachments B and D (Supplier Contact List)**.

As a result of suppliers' ability to be paid "as bid" (described above), the ISO would exercise its authority under the emergency order only if suppliers had not bid into the ISO markets. If suppliers have not submitted a bid and have not been scheduled with the ISO in the Day-Ahead Market, the ISO will forecast the amount of capacity it anticipates it will need and direct the necessary resources to bid into the Hour-Ahead and real-time markets. Such resources would then be compensated according to the provisions of the ISO tariff, as approved in Amendment No. 33 (**Attachment E**). For those entities that do not have a contractual or business relationship with the ISO, the ISO will negotiate appropriate compensation. Therefore, the ISO will ensure that it has procured the necessary capacity at rates that will ultimately be subject to a FERC just and reasonable review. For those entities with native load obligations, the amount of energy to be supplied to the ISO under the emergency order would be that energy available after fulfilling native load requirements.

As noted above, the emergency order would apply to QFs within the California. The ISO currently estimates that 1000-2000 MW of QF generation in California is currently unavailable, the majority of which is located in Southern California. The definition of Emergency under the Department's regulations includes regulatory action which prohibits the use of certain electric power facilities. Recently FERC issued an order waiving certain provisions of its QF regulations to allow QFs to provide more capacity in California. Unfortunately, there are still state regulatory barriers concerning the QFs and the IOUs with which the QFs have contracts. Certain QF generation is unavailable due to the concerns of: (1) the QFs regarding recovery of production costs, and (2) the investor-owner utilities that have contracted with QFs regarding their ability to recover the increased payments to QFs. Your authority under section 202 (c) of the FPA section extends to QFs.<sup>6</sup> Attached is a list of organizational contacts for the QF generators in California to which the emergency order would apply. See **Attachment B**. A detailed list of the QFS will be submitted later.

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<sup>6</sup> See, 18 C.F.R. § 292.307(a)(2).

*December 15, 2000*

I appreciate your consideration of this request and look forward to hearing from you as soon as possible.

Sincerely,

Terry M. Winter  
President & Chief Executive Officer

CC Loretta Lynch President, CPUC  
Michael A. Kahn, Chairman, EOB  
Gary Heath, Executive Director EOB  
James J. Hoecker, Chairman FERC

**The Following Attachments Have Been Omitted  
Due to Confidentiality Restrictions**

**Attachment A**

**Attachment C**

**Attachment D**

**ATTACHMENT B**

**PRIMARY ORGANIZATION CONTACTS FOR  
CALIFORNIA BASED QUALIFIED FACILITIES  
12/14/00**

Dede Hapner  
Pacific Gas & Electric Company  
77 Beale Street, B10A  
San Francisco, CA 94105

John Fielder  
Southern California Edison  
2244 Walnut Grove  
Rosemead, CA 91770

Jan Smutny-Jones  
Independent Energy Producers  
1112 I Street, Suite 380  
Sacramento, CA 95814

Michael Alcantar  
Alcantar & Elseser LLP c/o CAC  
1300 Southwest Fifth, Suite 1750  
Portland, OR 97201

Ann MacLeod  
White & Case c/o CCC  
2 Embarcadero Center, Suite 650  
San Francisco, CA 94111

Bill Reed  
Sempra Energy  
101 Ash Street  
San Diego, CA 92101