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September 10, 2004

## **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 No. ER04-1087-\_\_\_**

Dear Secretary Salas:

Enclosed please find the Motion for Leave to File Answer Two Days Out of Time and Answer of the California Independent System Operator Corporation to Motions to Intervene, Comments, and Protests, submitted in the captioned docket.

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

Respectfully submitted,

/s/ Bradley R. Miliauskas  
Bradley R. Miliauskas

Counsel for the California  
Independent System Operator  
Corporation

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

California Independent System            )  
Operator Corporation                        )     Docket No. ER04-1087-\_\_\_\_

**MOTION FOR LEAVE TO FILE ANSWER TWO DAYS OUT OF TIME AND  
ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION TO MOTIONS TO INTERVENE, COMMENTS, AND  
PROTESTS**

**I. INTRODUCTION AND SUMMARY**

On August 3, 2004, the California Independent System Operator Corporation (“ISO”)<sup>1</sup> filed Amendment No. 62 to the ISO Tariff in the above-captioned proceeding (“Amendment No. 62”). Amendment No. 62 proposed to:

- (1) Provide reasonable compensation for generating units during start-up and shut-down by (a) changing the definition of “Start-Up Costs” to allow a generating unit owner to bill the ISO for all costs incurred from the times boiler fires are lit through the time the generating unit reaches its minimum operating level, and (b) providing Generating Units with conditional exemptions from Uninstructed Deviation Penalties (“UDP”) during certain portions of their start-up and shut-down sequences;
- (2) Suspend any financial settlement of UDP until the first day of the month that begins two months after the ISO’s Real-Time Market Application (“RTMA”) and UDP are put into service;

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

- (3) Specify that the ISO shall use the maximum ramp rate specified for a unit in the ISO's Master File for a generating unit when a Scheduling Coordinator fails to submit an operational ramp rate function for that generating unit; and
- (4) Change the number of ramp rate segments that can be specified in the operational ramp rate function from ten to nine to recognize that RTMA uses one of these segments itself.

A number of parties have submitted motions to intervene, comments, and protests concerning Amendment No. 62.<sup>2</sup> The ISO does not oppose the interventions of parties that have sought leave to intervene in the proceeding. Moreover, a number of the parties explain that they support some or all of the principles contained in Amendment No. 62, the specific proposals in Amendment No. 62, or both.<sup>3</sup> However, some parties also raise concerns and protests with regard to certain aspects of Amendment No. 62. Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213, the ISO hereby requests leave to file an answer, and files its answer, to

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<sup>2</sup> The following entities filed timely motions to intervene, comments, and/or protests: the California Department of Water Resources State Water Project; California Electricity Oversight Board ("CEOB"); Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency; Cogeneration Association of California and the Energy Producers and Users Coalition; Duke Energy North America LLC and Duke Energy Trading and Marketing L.L.C. (together, "Duke"); Mirant Americas Energy Marketing, LP, Mirant California LLC, Mirant Delta LLC, and Mirant Potrero LLC; Modesto Irrigation District; Powerex Corp.; Reliant Energy Power Generation, Inc. and Reliant Energy Services, Inc. (together, "Reliant"); Southern California Edison Company; and West Coast Power LLC, El Segundo Power, LLC, Long Beach Generation LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, and Williams Power Company, Inc. (collectively, "WCP/Williams"); The Public Utilities Commission of the State of California submitted a notice of intervention.

<sup>3</sup> See CEOB at 2; Duke at 1; WCP/Williams at 6, 7, 10.

the comments and protests submitted in this proceeding.<sup>4</sup> The ISO believes this answer will assist the Commission in considering the issues in Amendment No. 62 and respectfully requests permission to submit this answer two days out of time.<sup>5</sup> As explained below, the Commission should accept Amendment No. 62 in its entirety, except for the limited modifications noted below.

## II. ANSWER

### A. The ISO's Proposal Regarding Suspending UDP During Start-Up and Subtracting the Uninstructed Imbalance Energy Payment is Reasonable

Reliant protests the ISO's proposal to subtract any payments for Imbalance Energy from the Start-Up Costs the ISO proposes to pay from the time the Generating Unit is synchronized until the time the Generating Unit reaches its minimum operating level or its maximum start-up time elapses, whichever occurs first. Reliant asserts that the ISO's proposal is not just and reasonable and not consistent with Commission precedent. Reliant at 4. Reliant's conclusion that the ISO's proposal is not just and reasonable is based on its assertion that the ISO is "commandeering" capacity through the must-offer obligation without contracting for the capacity through a Reliability Must-Run

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<sup>4</sup> To the extent this answer is deemed an answer to protests, the ISO requests waiver of Rule 213 (18 C.F.R. § 385.213) to permit it to make this answer. Good cause for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case. See, e.g., *Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002); *Duke Energy Corporation*, 100 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Company*, 93 FERC ¶ 61,098, at 61,259 (2000).

<sup>5</sup> See 18 C.F.R. § 385.213(d)(1). Good cause exists for the Commission to accept this answer, both because it will assist the Commission as described in footnote 4, above, and because no party will be prejudiced by the Commission's acceptance of the answer.

("RMR") Contract. Reliant further explains that in PJM, units that are required to run for local reliability recover their variable costs plus a 10 percent adder to the unit's variable cost. Reliant also argues that the proposal is inconsistent with the Commission's order on rehearing issued in the proceeding concerning Amendment No. 54 to the ISO Tariff ("Amendment No. 54 Rehearing Order"). Reliant at 5-7.<sup>6</sup>

The Amendment No. 54 Rehearing Order was released in draft format on July 27, 2004, just a week before Amendment No. 62 was tendered for filing on August 3, 2004, and the Amendment No. 54 Rehearing Order was not issued in final format until August 5, 2004. In that order, the Commission rejected the ISO's proposal in Amendment No. 54 to treat minimum operating level Energy as Instructed Imbalance Energy, pay that Energy the Instructed Imbalance Energy price and pay an uplift to ensure the unit recovers its Minimum Load Costs.<sup>7</sup> Though the ISO is seeking clarification of the Amendment No. 54 Rehearing Order, that order appeared to direct the ISO to continue the practice of making two separate payments for the minimum operating level Energy – one payment for the Minimum Load Costs and a second payment at the Uninstructed Imbalance Energy price. After several Market Participants asked the ISO if it intended to modify the Tariff revisions proposed in Amendment No. 62 to reflect the draft Amendment No. 54 Rehearing Order, the ISO noted the issue in the

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<sup>6</sup> *California Independent System Operator Corporation*, 108 FERC ¶ 61,142 (2004).

<sup>7</sup> *See id.* at PP 76-78.

Amendment No. 62 transmittal letter (at page 8)<sup>8</sup> but could not make any changes in Amendment No. 62 because those changes had not been discussed with Market Participants or approved by the ISO Governing Board.

If the Commission clarifies that the ISO is to pay twice for minimum operating level Energy as a contribution to fixed costs, the Commission may also direct the ISO to pay twice for Start-Up Costs as well. Reliant indicates that a Generating Unit is entitled to a 10 percent adder on its variable costs as a contribution to fixed costs in PJM. In 2003, the ISO paid a total of approximately \$125 million in Minimum Load Costs, plus an additional amount of \$53.9 million in Uninstructed Imbalance Energy payments. In contrast to PJM's 10 percent adder, those additional payments by the ISO amount to a 43 percent premium over variable costs just for the minimum operating level Energy. Suppliers also earned recovery on fixed costs through the Market Clearing Price paid for Imbalance Energy above the minimum operating level.

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<sup>8</sup> The relevant discussion in the Amendment No. 62 transmittal letter reads:

The ISO notes that in the Draft A-54 Order, the Commission directed the ISO to pay both Minimum Load Costs and the Uninstructed Imbalance Energy payment for the same Energy produced by a unit operating at its minimum operating level in accordance with the must-offer obligation. See Draft A-54 Order at PP 76-78. Prior to the issuance of this order, during the stakeholder discussions on the modifications proposed in the instant amendment, no Market Participant questioned the ISO's stated intention to subtract Imbalance Energy payments for Energy produced from synchronization to the minimum operating level from any invoices submitted for start-up costs to avoid double payment for the same amount of Energy. After the Draft A-54 Order was issued, however, several Market Participants asked if the ISO intended to modify the instant filing to reflect the principles of that order to both pay for Imbalance Energy produced by a Generating Unit during start-up between synchronization and reaching its minimum operating level and to allow a Generating Unit owner to separately invoice the ISO for the costs incurred to produce that same Energy during that start-up. Such changes were not discussed with stakeholders, nor discussed with or approved by the ISO Governing Board, and are not included in the instant filing.

In contrast to the \$125 million in Minimum Load Costs for 2003, total start-up costs paid out for the most recent 12-month period for which the deadline for submitting start-up invoices to the ISO has passed<sup>9</sup> were \$2.8 million. Some parties will view this cost as so small relative to the Minimum Load Costs that the Commission should just direct the ISO to double pay for the Energy produced during a start-up, too. Other parties will likely say that a 43 percent premium on Minimum Load Costs as a contribution to fixed costs is already far too high and there is no reason to double pay for start-up Energy, too. As stated the ISO's motion for clarification of the Amendment No. 54 Rehearing Order, the ISO believes there are better ways to provide fixed cost recovery than paying twice for the same product.<sup>10</sup> The ISO only requests that the Commission clearly direct the ISO whether it is to pay twice for the Energy produced during start-up and provide a clear reason for its actions.

The CEOB, on the other hand, asserts that the ISO's proposal to compensate Generating Units during start-up is ambiguous and should be clarified to exclude payments to Generating Units starting up under bilateral contracts so that those Generating Units are not paid twice for the Energy they produce during start-up – once by the ISO and once from the bilateral contract. CEOB at 3-4.

Prior to Amendment No. 62, all Generating Units were paid the Uninstructed Imbalance Energy price for the Energy produced from the time the

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<sup>9</sup> September 2002 through August 2003.

Generating Unit was synchronized to the grid to the time the unit reached its minimum operating level. A Generating Unit starting under the must-offer obligation was additionally paid the cost of fuel and auxiliary power consumed by the Generating Unit from the time of first fire until the time the Generating Unit was synchronized to the grid.

Amendment No. 62 was intended to maintain the pre-UDP compensation for start-ups after UDP was put into service. Amendment No. 62 proposed to provide guaranteed cost recovery over the duration of the start-up by increasing the time over which start-up costs were payable from first fire to synchronization to first fire to reaching the minimum operating level. At the same time, the ISO proposed to subtract any Imbalance Energy payments from this guaranteed cost recovery so that the Generating Unit would not be paid twice for the Energy produced during start-up. This compensation would be provided only to Generating Units started up at the ISO's direction. Amendment No. 62 also proposed to suspend UDP from the time the unit was synchronized to the earlier of (1) the time the Generating Unit reached its minimum operating level and (2) when the Generating Unit's maximum start-up lead time elapsed. As a result, a Generating Unit starting up under a bilateral contract received exactly what they had received prior to Amendment No. 62 – the Imbalance Energy price for the Energy produced between synchronization and minimum operating level.

Under Amendment No. 62, a Generating Unit started up at the ISO's direction would receive guaranteed start-up cost recovery from first fire to

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<sup>10</sup> See Motion for Clarification of the California Independent System Operator Corporation,



minimum load, whereas prior to Amendment No. 62, that same Generating Unit would receive guaranteed start-up cost recovery only up to synchronization, and would receive the Imbalance Energy payment for the Energy produced from synchronization to minimum operating level. In effect, Amendment No. 62 guarantees full start-up cost recovery for Generating Units started at the ISO's direction, while prior to Amendment No. 62, start-up costs were guaranteed to be recovered only up to synchronization. Before Amendment No. 62, the Imbalance Energy payment for the Energy produced from synchronization to minimum operating level might be more than the costs incurred by the Generating Unit during that time, but it could also be less. Amendment No. 62 provides greater certainty for Generating Units starting up at the ISO's direction while maintaining the *status quo* for Generating Units starting up under a bilateral. As such, the ISO requests that the Commission adopt the ISO's proposal without modification.

Should the Commission decide to modify or reject the ISO's proposal, the ISO suggests that the Commission require the ISO to maintain the *status quo* by (1) restoring the existing definition of Start-Up Costs as those costs incurred from first fire to synchronization, (2) paying the Imbalance Energy Price for Energy delivered from synchronization to minimum operating level, and (3) suspending UDP from synchronization to (a) the time the Generating Unit reaches its minimum operating level or (b) the maximum start-up time specified for that Generating Unit elapses, whichever is first. There is no justification for the ISO to pay both the fuel cost from first fire to minimum operating level and pay the

Market Clearing Price for Energy delivered between synchronization and the minimum operating level.

**B. The ISO Agrees to Suspend UDP from Minimum Operating Level to Disconnection for Those Units that Cannot Disconnect from Their Minimum Operating Level in Less than 20 Minutes**

WCP/Williams assert some Generating Units that cannot disconnect from the grid within two Settlement Intervals (a total of 20 minutes) or less after the Generating Units have reached their minimum operating levels. WCP/ Williams suggest the ISO include the unit's time from minimum operating level until the time the breaker opens in the Resource Data Template and suspend UDP on shut-down for this specified amount of time. WCP/Williams at 7-9. The ISO agrees that if a unit cannot physically disconnect from the grid within two intervals of reaching its minimum operating level that it should not be subject to UDP during that time. The ISO proposes to amend Section 11.2.4.1.2 (v) of the ISO Tariff as indicated below if the Commission so directs:

11.2.4.1.2 (v) The Uninstructed Deviation Penalty shall not apply to positive Uninstructed Imbalance Energy attributable to operation below the Generating Unit's minimum operating level from the time the Generating Unit synchronizes to the grid to the earlier of (1) the Settlement Interval in which the Generating Unit produces a quantity of Energy that represents an average rate of delivery over such Settlement Interval in excess of the Generating Unit's minimum operating level plus the applicable Tolerance Band, or (2) the first Settlement Interval after the expiration of a period of time that begins at the end of the Settlement Interval in which the Generating Unit synchronizes to the grid and ends after the Generating Unit's maximum start-up time as specified in the Master File. The Uninstructed Deviation Penalty shall not apply to any positive Uninstructed Imbalance Energy attributable to operation below the Generating Unit's minimum operating level ~~during the two Settlement Intervals~~ **for a duration equal to the time specified in the Generating Unit's Resource Data Template for the Generating Unit to disconnect from the grid after reaching its minimum operating level** following either (1) the last Settlement Interval of an hour in which the Generating Unit had a non-zero Final Hour-Ahead Schedule or (2) the Settlement Interval in which the

Generating Unit is expected to reach its minimum operating level based on the applicable ramp rate when the ISO instructed the Generating Unit to shut down. The amount of Uninstructed Imbalance Energy exempted from the Uninstructed Deviation Penalty shall not exceed the amount of the Generating Unit's minimum operating level plus the applicable Tolerance Band.

**C. The ISO Agrees to Suspend UDP when Generating Units are Automatically Responding During a System Disturbance**

WCP/Williams suggest that the ISO suspend UDP when Generating Units are automatically and dynamically responding to a system disturbance, such as an underfrequency event caused by the loss of a large generating unit.

WCP/Williams at 9. Generators are required to comply with all applicable WECC standards, including those regarding governor response capabilities (see Section 5.4.1 of the ISO Tariff). The ISO recognizes the value of governor response in recovering from frequency excursions, and agrees that disturbances on the WECC grid can result in governor action that drives a resource off its Dispatch Operating Point. The ISO further agrees that deviations attributable to compliance with such required standards should not incur UDP.

While WCP/Williams appeared to focus on dynamic governor response, a Generating Unit could also incur UDP if it is tripped by a Remedial Action Scheme that is in place to increase transfer capability across some part of the ISO Controlled Grid not directly adjacent to where the Generating Unit is interconnected. The Generating Unit should also be exempt from UDP in that situation. Some Remedial Action Schemes, however, are installed just to allow a Generating Unit to provide its full output to the grid, not necessarily to provide increased transfer capability that benefits other Market Participants beside the Generating Unit. It is this last case that begs the question as to whether UDP

should be suspended due to Remedial Action Scheme action where that protection scheme is only in place to benefit the Generating Unit. Given the complexity of distinguishing between which Remedial Action Scheme actions should be eligible for suspending UDP and which should not, the ISO does not propose to draw such a distinction.

The ISO agrees that any Generating Unit response – including forced shutdown by a Remedial Action Scheme – that benefits grid reliability should be exempt from UDP. Exempting such response from UDP, however, should in no way diminish a Generating Unit's responsibility to notify the ISO if it is tripped, even if it is tripped by Remedial Action Scheme action. That notification would itself provide an exemption from UDP. If a Generating Unit is tripped off-line by Remedial Action Scheme or due to a system disturbance, the Generating Unit should notify the ISO of the outage through the ISO's computer-based scheduling and logging system ("SLIC") web client, and, if the notification is made within 30 minutes of the outage, no UDP will be charged. While the ISO agrees that no UDP should apply in that case, the Generating Unit's Scheduling Coordinator should notify the ISO of the outage through the SLIC web client as soon as possible.

The ISO offers to add the following new Section 11.2.4.1.2 (w) to the ISO Tariff to provide this exemption if the Commission so directs:

11.2.4.1.2 (w) UDP shall not apply to deviations by a Generating Unit that are attributable to any automatic response to a system disturbance in accordance with Applicable Reliability Criteria.

This exemption will prevent any Generating Unit from being penalized for a response that is required by the ISO Tariff, while leaving UDP intact if a supplier's deviation is detrimental to reliability during a system disturbance.

WCP/Williams also suggest that if a Generating Unit trips off-line during a system disturbance, any UDP should not apply during the subsequent start-up until the Generating Unit is capable of meeting its Schedule for the next hour. WCP/Williams at 9. UDP will not apply during the start-up as proposed in Amendment No. 62, regardless of why the Generating Unit is being started. Furthermore, no UDP will apply if the Generating Unit's Scheduling Coordinator notifies the ISO of the outage through the SLIC web client.

**D. While Neither the Minimum nor Maximum Ramp Rate Serves as a Appropriate Default Ramp Rate, Using the Maximum Ramp Rate as the Default Creates the Correct Incentives to Submit Appropriate Ramp Rates**

Duke protests the ISO's proposal in Amendment No. 62 to use the maximum ramp rate as the default if no ramp rate is submitted, on the grounds that the proposal is (1) a threat to reliability, (2) only a data quality issue, and (3) an untimely and impermissible request for rehearing of the Commission's October 22, 2003 order on Phase 1B. Duke at 3-7.

Completely absent from Duke's protest is any admission that the Market Participant can avoid having its maximum ramp rate used as the default if the Market Participant merely bids its operational ramp rates in to the ISO on a daily basis. If a Market Participant diligently follows this process, which is the only viable way to ensure that the ramp rates used are those the Generating Unit can

actually achieve on a given day, then the value of the default ramp rate would not matter. WCP/Williams got it exactly right in their protest when they stated:

Ideally, generators should submit appropriate ramp rates to minimize deviations.

WCP/Williams at 15.

WCP/Williams also got it technically right when they explained that neither using the maximum ramp rate nor using the minimum ramp rate as the default ramp rate is the ideal solution. WCP/Williams at 15-17. Using the maximum ramp rate at the default will over-represent the balancing Energy response available to the ISO. Conversely, using the minimum ramp rate as the default will under-represent the balancing energy response available to the ISO.

WCP/Williams offer a practical compromise solution: use the average of the minimum and maximum ramp rates for a given operating range as the default when no appropriate ramp rate is submitted. WCP/Williams at 17. There is no reason why this compromise ramp rate would accurately reflect the actual operating capability of the Generating Unit on a given day, either, but it would both reduce the Generating Unit's exposure to UDP as well as provide the ISO with a better, though still not completely accurate, idea of the balancing Energy response available to the ISO. Implementing this compromise would not be costless, however. The ISO estimates it would take three person-weeks of time, at a cost of nearly \$20,000, to re-code the RTMA to use the average of the maximum and the minimum ramp rates as the default when a Market Participant fails to submit a realistic and appropriate ramp rate.

Finally, while the ISO agrees with Williams that UDP should not be applied as a game of “gotcha,” the ISO believes there is value in using the maximum value as the default to create the incentive for Market Participants to submit appropriate operational ramp rates. A Market Participant that knows it will be liable for UDP that may accrue because the ISO will dispatch and calculate the Expected Energy from the Generating Unit using the maximum ramp rate should be more diligent in informing the ISO of what its Generating Unit’s real capability is. Again, if Market Participants keep the ISO informed of the actual ramping capability of their Generating Units through their bids and through the SLIC web client, the default ramp rate becomes irrelevant. Furthermore, if Market Participants have submitted realistic maximum and minimum ramp rates for the operating range of their Generating Units to the ISO’s Master File, the exposure from using the maximum ramp rate should not be severe. Only if the maximum ramp rate specified in the Master File is overstated – and that circumstance begs the question as to why the maximum ramp rate would be overstated – will the penalty be relatively large. Arguably, that penalty for an over-stated ramp rate would serve as a further incentive for the Market Participant to provide reasonable operating characteristic data to the ISO, both baseline data in the ISO Master File and current operational data on a daily basis.

**E. The Proposed Two-Month UDP Suspension Period is Adequate and Should be Adopted**

WCP/Williams suggest that, instead of a fixed two-month period during which financial settlement of UDP would be suspended, the Commission should instead impose a flexible suspension period in which the ISO, Market

Participants, and Commission Staff will “thoroughly review [the] application of UDP in the real-world . . . and determine whether any software issues remain that require correction.” WCP/Williams at 14. If such issues are found, the UDP suspension would be continued until the issues are resolved. *Id.*

Duke asks that the Commission approve the ISO’s proposal to suspend UDP for two months, but that the Commission also require the ISO to make a compliance filing demonstrating that the software improvements on which the application of UDP are conditioned<sup>11</sup> have been fully tested and found to be accurate. Duke at 2-3.

As the ISO explained in the Amendment No. 62 transmittal letter (at 9), the two-month suspension of UDP is not intended to be a “shakedown” period for final testing of the UDP software:

The ISO expects that the Phase 1-B systems will be fully tested when they are put into service. This two-month hiatus on UDP is not a testing period to ensure the Phase 1-B software performs as designed and approved. The Phase 1-B systems should already be fully tested by this time. This additional two-month period is provided to allow Market Participants to review how their generating units and market software systems perform with

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<sup>11</sup> Though not explicitly stated in the protest, the ISO believes the improvements Duke means are (1) accounting for multiple ramp rates across the operating range of the Generating Unit and (2) providing a means to communicate outages and de-rates in real time and incorporate those outages and de-rates in dispatch instructions. As the Commission has stated:

The Commission commends the CAISO for developing software improvements to receive and incorporate communications on outages, derates, and operating problems in real-time, and will condition approval of penalties for uninstructed deviations on the successful and tested implementation of these software improvements. The Commission will also condition approval of the proposed penalty provision on software improvements that will allow more accurate representation of ramp rates at various operating points of a unit.

*California Independent System Operator Corporation*, 100 FERC ¶ 61,060, at P 141 (2002). The ISO has implemented these improvements. See Transmittal Letter for Amendment No. 54, Docket No. ER03-1046-000 (July 8, 2003), at 8-10, 14-16.



the new ISO software in place and to make any necessary changes to their market software systems. Although the ISO does not expect to need to make any changes to the Phase 1-B software during this period, the ISO will immediately notify the Commission and Market Participants should any concerns arise and take appropriate action thereafter.

Prior to the implementation of the Phase 1B software, the ISO has thoroughly tested and identified instances in which UDP would have been assessed where they were not warranted. These instances have either been resolved within the UDP software itself, or the ISO has developed a process outside of the software to ensure that penalties will not be assessed in those instances where they are not warranted. In the event there are any such issues that are identified after the Phase 1B software is implemented, the ISO will take steps to ensure that UDP will not be assessed inappropriately. In the unlikely event an issue arises that cannot be managed by either software changes or through a separate process, the ISO will consult with Market Participants and the Commission and request the Commission to further suspend UDP as needed. Thus there is no need to further delay imposition of UDP beyond the two-month period at this time.

The two-month suspension of financial settlements for UDP was proposed by Market Participants in the weekly Phase 1B Joint Application Development conference calls and discussed at length prior to the ISO's submission of Amendment No. 62 for filing. The ISO and Market Participants settled on this time frame for suspending UDP as a reasonable amount of time to allow Market Participants to see how UDP would apply to real-world conditions and to adjust their own systems accordingly. Once the Phase 1B systems are put into service,

there is no reason why UDP should be suspended indefinitely. As the ISO has noted, if a problem arises, the ISO will consult with Market Participants (as it has done extensively through the whole Phase 1B development and testing process) and, if the problem warrants, the ISO will request action from the Commission to further suspend UDP as needed. The ISO appreciates Market Participants' concerns that UDP not become financially binding before they have a chance to see what will happen and react accordingly. The two-month period first requested by Market Participants is a sufficient amount of time for that to happen. The ISO requests that the Commission adopt the two-month suspension period secure in the understanding that the ISO will take appropriate action should the need arise.

### III. CONCLUSION

Wherefore, for the foregoing reasons, the ISO respectfully requests that the Commission accept Amendment No. 62 in its entirety, except for the limited modifications noted herein.

Respectfully submitted,

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Date: September 10, 2004

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing documents 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 10<sup>th</sup> day of September, 2004.

/s/ Anthony J. Ivancovich  
Anthony J. Ivancovich