

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

**FP& L Energy**

)

**Docket No. EL03-155-000**

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION TO MOTION TO DISMISS SHOW CAUSE PROCEEDING**

On August 29, 2003, Commission Trial Staff ("Staff") filed a Motion To Dismiss Show Cause Proceeding ("Motion"), in resolution of all issues related to FP&L Energy ("FP&L") set for hearing in *American Electric Power Service Corp., et al.*, 103 FERC ¶ 61,345 (2003) ("the Gaming Show Cause Order" or "Order"). Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213, and to the Commission's "Notice of Extension of Time" in this docket, dated September 8, 2003, the California Independent System Operator Corporation ("CAISO") timely submits this answer to the Motion.

**I. Background**

The Gaming Show Cause Order required FP&L to show cause why it should not be found to have engaged in Circular Scheduling, or "Death Star," as that practice is described in the Order. In the Motion, Staff requested that FP&L be dismissed from the Show Cause proceeding established by the Order, that this docket be terminated, and that FP&L be relieved from further obligation with respect to this docket.

## **II. Discussion**

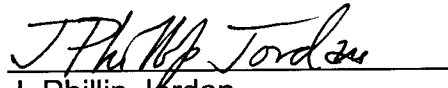
The CAISO does not object to relieving FP&L of any obligation to respond further concerning the practice of Circular Scheduling. As noted in the Motion, the dismissal relates only to matters raised in this docket, see Motion at ¶ 4.3; it does not affect any other proceeding, any pending rehearing or clarification requests with respect to the Order, or the possibility of subsequent proceedings against FP&L based on the outcome of those requests, or on different time periods, different practices or different transactions.

The CAISO respectfully suggests that, on balance, and contrary to the request in the Motion, see Motion at ¶ 4.1, it is preferable not to close the docket or to relieve FP&L of all further obligations. Rather, the docket should remain open until all of the Show Cause proceedings have been concluded, and FP&L should remain subject to discovery as a party if it has information relevant to potential gaming by others. There would be no prejudice to FP&L, and it would serve the interests of efficiency, especially in light of the short discovery periods in these proceedings, to avoid the cumbersome process of obtaining discovery from a non-party.

## **III. Conclusion**

The CAISO does not object to relieving FP&L of further obligation to respond to the Gaming Show Cause Order. However, the docket should remain open and FP&L should be subject to discovery as a party.

Respectfully submitted,

A handwritten signature in cursive script, reading "J. Phillip Jordan", is written over a horizontal line.

J. Phillip Jordan

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Dated: September 26, 2003

## CERTIFICATE OF SERVICE

In accordance with the order issued by the Presiding Administrative Law Judge I hereby certify that I have this day served the foregoing document by posting an electronic copy on the Listserv for this proceeding, as maintained by the Commission.

Dated at Washington, DC, on this 26<sup>th</sup> day of September, 2003.

  
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J. Phillip Jordan