

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

California Independent System)
Operator Corporation) Docket No. ER01-313-004

Pacific Gas and Electric Company) Docket No. ER01-424-004

**ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO THE MOTION TO CLARIFY
THE SCOPE OF THE PROCEEDING
OF THE
MODESTO IRRIGATION DISTRICT**

**To: The Honorable Bobbie J. McCartney
 Presiding Administrative Law Judge**

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") hereby submits its Answer to the "Motion to Clarify the Scope of the Proceeding" of the Modesto Irrigation District ("MID") in the above-identified proceeding.

1. MID filed its Motion on December 10, 2004.
2. In its Motion, MID seeks a determination that the scope of the

proceeding permits consideration of the issue:

whether the exemption from the CAS charge to recognize the more limited impact of behind-the-meter load on the CAISO-Controlled Grid should be as MID has proposed, which is on the basis of the customer with behind-the meter load's highest monthly demand

placed on the CAISO-Controlled Grid, if no more than 50 percent of behind-the-meter load is served from the CAISO-Controlled Grid.

3. MID asserts that the November 16 Order, *California Independent System Operator Corporation*, 109 FERC ¶ 61,162 (2004) (“November 16 Order”), establishing this proceeding, permits such consideration because it was broadly concerned with establishing an exemption from charging the Grid Management Charge to Control Area Gross Load; because it only stated that it “subscribed” to the concept of exempting Load served by generators which are not modeled by the ISO in its regular performance of transmission planning and operation; because it discussed administration of the exemption; and because it indicated that the list of issues it identified was not exclusive.

4. MID’s arguments are based on a fundamental misreading of the November 16 Order and should be rejected.

5. In the November 16 Order, the Commission stated, “Opinion No. 463-A created an exemption from assessment of CAS charge based on CAGL for ‘generators which are not modeled by the ISO in its regular performance of transmission planning and operation[.]’” November 16 Order at P 13 (brackets in original).

6. The Commission went on to note, “[T]he Commission sua sponte established *this* exemption from CAGL *based on load served by behind-the-meter generators that are not modeled by the ISO*. In their briefs before the Commission, as in the proceedings before the presiding judge, the parties were split into two camps on the CAGL issue: those who favored CAGL, i.e., charges

assessed on a gross load basis, and those favoring customers being charged on a net metered basis. Therefore, the parties did not introduce evidence bearing on *the exemption adopted by the Commission.*” *Id.* at P 14 (emphasis added).

7. In light of these observations, the Commission concluded, “Having reviewed the requests for rehearing on this issue, the Commission continues to subscribe to the concept of *an exception from CAGL based on whether the generator and associated behind-the-meter load are modeled by the ISO.* However, the requests for rehearing and clarification have made clear that questions concerning *the exemption [i.e., the Commission’s exception from CAGL based on whether the generator and associated behind-the-meter load are modeled by the ISO],* as well as the manner in which it [*i.e., the Commission’s exemption*] would be administered, present issues of material fact that cannot be resolved based on the record before us, and are more appropriately addressed in the trial-type evidentiary hearing ordered below.” November 16 Order at P 15 (emphasis added).

8. It is therefore apparent that the Commission’s references to “the exemption” and the “manner in which it would be administered” are, contrary to MID’s arguments, specifically limited to the exemption specified in Opinion No. 463-A.

9. If there could be any doubt about the matter, the Commission removes in it paragraph 16 of the November 16 Order. Therein, the Commission states, “The Commission emphasizes that the hearing is limited to the CAGL exemption issue *as set forth in Opinion No. 463-A* and shall not be treated as an

opportunity for the parties to relitigate any other aspect of our decision with respect to CAGL (or any other issue).” (Emphasis added.) Of course, the CAGL exemption set forth in Order No. 463-A is the Commission’s exception from CAGL based on whether the generator and associated behind-the-meter load are modeled by the ISO.

10. For these reasons, although the list of issues of material fact identified by the Commission is not exclusive, the scope of the hearing is limited to issues of material fact relevant to the Commission’s exception from CAGL based on whether the generator and associated behind-the-meter load are modeled by the ISO.

Wherefore, the ISO respectfully requests that the Presiding Judge deny MID’s Motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 17th day of December in the year 2004 at Folsom in the State of California.

/s/ Stephen A.S. Morrison
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