

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

**California Independent System)
Operator Corporation)** **Docket No. ER01-3047-000**

**ANSWER OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION TO MOTIONS TO INTERVENE,
COMMENTS, PROTESTS, AND REQUESTS FOR NOMINAL SUSPENSION
AND NON-PRECEDENTIAL TREATMENT**

I. INTRODUCTION AND SUMMARY

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.213 (2001), the California Independent System Operator Corporation (“ISO”) hereby submits its Answer to Motions to Intervene, Comments, Protests, and Requests for Nominal Suspension and Non-Precedential Treatment submitted in the above-captioned docket.¹ For the reasons described below, the Commission should find that the cost allocation methodology employed in the Summer 2001 Demand Relief Program is reasonable, that the ISO has provided sufficient

¹ Terms used with initial capitalization and not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

Motions to intervene, comments, protests, and/or requests for nominal suspension and non-precedential treatment were submitted by the California Electricity Oversight Board; Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency (“Cities/M-S-R”); The Metropolitan Water District of Southern California (“Metropolitan”); Modesto Irrigation District (“MID”); Reliant Energy Power Generation, Inc. and Reliant Energy Services, Inc. (“Reliant Companies”); Transmission Agency of Northern California (“TANC”); San Diego Gas & Electric Company (“SDG&E”); and Turlock Irrigation District.

Because SDG&E states that the Summer 2001 Demand Relief Program is a “robust, useful program that holds the prospect of mitigating the shortage of generation capacity in California,” and makes recommendations only as to any Demand Relief Program that the ISO might offer during Summer 2002 (see SDG&E at 1-2), the ISO does not address SDG&E’s comments at this time.

notice and background information concerning the program, and therefore that the program should be accepted without further procedures.

II. ANSWER

A. The Cost Allocation Methodology Employed In the Summer 2001 Demand Relief Program Is Reasonable

As a number of intervenors note, the Commission found the cost allocation methodology employed in the Summer 2000 Demand Relief Program to be reasonable.² However, intervenors fail to explain that the Commission approved the cost allocation methodology even after the Commission considered arguments similar to some of those that intervenors raise in the present proceeding. In the Amendment No. 28 Order, the Commission stated that it approved the cost allocation methodology for the following reasons:

First, the proposed formula simply tracks the manner in which the obligations of each Scheduling Coordinator for Operating Reserve and Regulation are determined under the ISO Tariff. Thus, similar costs will be assessed in a similar fashion.

Second, we agree with the ISO that maintenance of grid reliability benefits *all* loads that rely on the ISO Controlled Grid and, therefore, that allocation of program costs on a system-wide basis (i.e., to all Scheduling Coordinators) is reasonable.

....

Third, as the ISO points out, its proposal is the result of a collaborative effort between the ISO and various stakeholders, and is limited in duration to a trial period of four months. Thus, we believe that the ISO's proposal – including the Demand Relief Program's cost allocation mechanism – is a reasonable attempt to provide a temporary solution to potential capacity deficits for the upcoming peak demand season.

² Cities/M-S-R at 10; MID at 9; TANC at 9 (all citing *California Independent System Operator Corporation*, 91 FERC ¶ 61,256, at 61,897 (2000) (“Amendment No. 28 Order”)).

Finally, we are not convinced by Intervenors' arguments that the ISO's proposed Tariff section [i.e., Tariff Section 2.3.5.1.8] is overly broad with respect to certain contracts. That sections contains language which we believe reasonably limits the assessment of program costs to specific circumstances not otherwise covered by the ISO Tariff, and, therefore, we agree with the ISO that the proposed section is not universally applicable as claimed by Intervenors.³

These four stated rationales for the Commission's acceptance of the Summer 2000 Demand Relief Program's cost allocation methodology are equally applicable to the similar methodology employed in the Summer 2001 Demand Relief Program.⁴ They provide an ample basis for approving the Summer 2001 methodology. Given the Commission's recognition of the reasonableness of the methodology, intervenors' position that the methodology entails "severe problems" and is in need of "correction" (involving a "nominal suspension" of the Summer 2001 Demand Relief Program and possibly a refund obligation) is inexplicable.⁵ Intervenors do not give sufficient consideration to the legal

³ Amendment No. 28 Order at 61,897-98 (citation omitted) (emphasis in original).

⁴ The first, second, and final rationales stated above apply to terms of the Summer 2000 Demand Relief Program that are substantially similar to terms of the Summer 2001 Demand Relief Program. The third rationale stated above (i.e., that the ISO's proposal is the result of a collaborative effort between the ISO and various stakeholders, and is temporary in duration) also holds true for the Summer 2001 Demand Relief Program. In the transmittal letter describing the Summer 2001 Demand Relief Program, the ISO described the collaboration between the ISO, Load participants, aggregators, and the Investor-Owned Utilities that resulted in the design of that program. Transmittal Letter for Summer 2001 Demand Relief Program Filing, Docket No. ER01-3047-000 (Sept. 12, 2001), at 3-4 ("Transmittal Letter"). To provide more details concerning the development and specifics of the Summer 2001 Demand Relief Program, the ISO referred the reader to pages on the ISO Home Page and to a then-forthcoming ISO filing, the First Quarterly Report of the California Independent System Operator Corporation, Docket Nos. EL01-114-000 (Sept. 14, 2001) ("First Quarterly Report"). See *id.* at 4-5. Moreover, the Summer 2001 Demand Relief Program, like the Summer 2000 Demand Relief Program, ran only for a duration of four months. See *id.* at 5. Therefore, intervenors overstate their case in asserting that the Summer 2000 Demand Relief Program "has now continued for an additional year." See MID at 8-9; TANC at 9.

⁵ See Cities/M-S-R at 11-12 & n.3; MID at 9-10 & n.6; TANC at 9-10 & n.7. See also MWD at 7. Tellingly, intervenors provide no evidence that any problems (severe or otherwise) actually resulted from the use of the cost allocation methodology employed in the Summer 2000 Demand Relief Program. In light of the reasonableness of the cost allocation methodology, the

principle that the methodology, and other features of the Summer 2001 Demand Relief Program, need only fall within the zone of reasonableness in order to gain Commission approval.⁶

Intervenors, in discussing the cost allocation methodology, fail to note the four rationales related above, and instead mention only the Commission's statement that it accepted the Summer 2000 Demand Relief Program "based *in part* on the ISO's commitment that subsequent studies would be undertaken to determine whether the cost allocation methodology should be modified in the future."⁷ As the ISO has explained, the cost allocation methodology that is part of the Summer 2001 Demand Relief Program was adopted after collaboration with Load participants, aggregators, and the Investor-Owned Utilities, and the ISO has committed to complete a study based on the information resulting from both the Summer 2000 and Summer 2001 Demand Relief Programs.⁸ Therefore, the statement cited above concerning the study in no way affects the reasonableness of the cost allocation methodology.

Additionally, the Commission, in the Amendment No. 28 Order, found that "the assessment of Demand Relief Program costs for *all* hours during the program period is reasonable insofar as it is consistent with the ISO's existing

Commission should not adopt the statements that intervenors recommend concerning the methodology. See *Cities/M-S-R* at 12; *MID* at 10; *TANC* at 10.

⁶ See, e.g., *New England Power Company*, 52 FERC ¶ 61,090, at 61,336 (1990), *aff'd*, *Town of Norwood v. FERC*, 962 F.2d 20 (D.C. Cir. 1992) (rate design proposed need not be perfect, it merely needs to be just and reasonable), citing *Cities of Bethany, et al. v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir.), *cert. denied*, 469 U.S. 917 (1984) (utility needs to establish that its proposed rate design is reasonable, not that it is superior to all alternatives).

⁷ Reliant Companies at 5 (citing *California Independent System Operator Corporation*, 95 FERC ¶ 61,037, at 61,103 (2001) (emphasis added) ("April 12 Order")). See also *Cities/M-S-R* at 8; *MID* at 6; *MWD* at 9; *TANC* at 6-7.

⁸ Transmittal Letter at 3-5.

methodology for allocating Ancillary Service capacity costs.”⁹ Thus, the Commission has already approved the allocation of costs for all hours during the program period, which allocation MWD protests in the instant proceeding.¹⁰

B. The ISO Has Provided Sufficient Notice and Background Information Concerning the Summer 2001 Demand Relief Program

Contrary to the assertions of intervenors,¹¹ the ISO has provided sufficient notice and background information concerning the Summer 2001 Demand Relief Program. The Transmittal Letter explains that the first participant workshop regarding the program was held in September 2000, and that the ISO worked in extensive collaboration with Load participants, aggregators, and the Investor-Owned Utilities to finalize the program design.¹² The Transmittal Letter also provides an introduction to the Summer 2001 Demand Relief Program, explains some of the differences between the Summer 2000 and Summer 2001 Demand Relief Programs, and refers the reader to the “Demand Response Program Information Page” (found on the ISO Home Page), as well as to the First Quarterly Report, for more details.¹³ The Demand Response Program Information Page contains a large amount of information concerning the development and specifics of the Summer 2001 Demand Relief Program.¹⁴ The

⁹ Amendment No. 28 Order at 61,897 (emphasis in original).

¹⁰ See MWD at 8-9.

¹¹ See MID at 5; Reliant Companies at 4-6; TANC at 4.

¹² Transmittal Letter at 4.

¹³ *Id.* at 4-5.

¹⁴ For example, the Demand Response Program Information Page contains a link titled “CAISO Notice of Request for Bid.” The link contains the notice which, on December 4, 2000, the ISO circulated to all Market Participants concerning the Summer 2001 Demand Relief Program Request for Bid. Among other things, the notice states that more information concerning the Summer 2001 Demand Relief Program is available in a memorandum provided to the ISO Governing Board dated November 17, 2000, to which the notice provides a link. Under the heading in the memorandum titled “Cost Allocation,” it is explained that, “[s]imilar to the Summer

First Quarterly Report provides additional details and, among other things, explains that the Summer 2001 Demand Relief Program was developed much earlier than was the Summer 2000 Demand Relief Program to allow sufficient time for the marketing, provision of bids, and finalization of the Summer 2001 program.¹⁵ Thus, no intervenor can justifiably complain that it has not been provided with sufficient notice and information concerning the Summer 2001 Demand Relief Program.

Moreover, as the ISO has previously explained, the ISO also apprised the Commission of the status of the Summer 2001 Demand Relief Program.¹⁶ Based on this information, the Commission determined that the program is of the type that the Commission has taken action to encourage.¹⁷ Therefore, Reliant Companies' assertions about the ineffectuality of the program are contradicted by the Commission's own findings.¹⁸

2000 program," costs under the Summer 2001 program are "to be spread to all Scheduling Coordinators (SCs) based on loads and exports."

¹⁵ First Quarterly Report at 28.

¹⁶ Transmittal Letter at 5.

¹⁷ April 12 Order at 61,103 n.4.

¹⁸ See Reliant Companies at 6.

III. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission accept the Summer 2001 Demand Relief Program without further procedures.

Respectfully submitted,

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