

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation)
Docket No. ER01-313-000)
)
)

**ANSWER OF
CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO MOTIONS TO INTERVENE,
COMMENTS, REQUESTS FOR HEARING, REQUESTS
FOR CONSOLIDATION, REQUESTS FOR SUSPENSION,
MOTIONS TO REJECT FILING, AND PROTESTS**

I. INTRODUCTION AND SUMMARY

On November 1, 2000, the California Independent System Operator Corporation (“ISO”) filed an unbundled Grid Management Charge (“GMC”)¹ with the Federal Energy Regulatory Commission (“FERC” or “the Commission”). In accordance with the Notice of Filing issued November 6, 2000, a number of interventions were filed on or before November 22, 2000, some of which included comments on or protests of the proposed GMC.

Pursuant to Rule 213 of the Commission’s rules of practice and procedure, 18 C.F.R. § 385.213, the ISO submits its answer to the Motions to Intervene, Requests for Hearing, Requests for Consolidation, Requests for Suspension, Motions to Reject Filing, Comments, and Protests submitted in the

¹ Capitalized terms not otherwise defined herein are used in the sense given in the Master Definitions Supplement, Appendix A to the ISO Tariff.

above-captioned docket.² As explained below, the ISO does not oppose the intervention of any of the parties that have sought leave to intervene in this proceeding. The opposition to and requests for substantive modifications of some parties to portions of the proposed GMC, however, are unsupported.³ The Commission should accordingly accept the proposed GMC without condition or substantive modification.

II. BACKGROUND

A. November 1 Filing⁴

The current GMC proposal, as more fully described in the ISO's Transmittal Letter of November 1, consists of a division of the ISO's services into three "buckets", or service categories, to be calculated using three billing determinants. The three service categories are A) Control Area Services/Scheduling, B) Inter-Zonal Scheduling Services, and C) Market Operations Services/Billing and Settlements.⁵ Control Area Services include the

² Some of the Intervenor commenters commenting substantively on the GMC filing do so in portions of their pleadings variously styled as "Comments" or "Protest," without differentiation. There is no prohibition on the ISO's responding to the comments in these pleadings. The ISO is entitled to respond to these pleadings and requests notwithstanding the label applied to them. *Florida Power & Light Company*, 67 FERC ¶ 61,315 (1994). In the event that any portion of 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 given the nature and complexity of this proceeding and the usefulness of this answer in ensuring the development of a complete record. See, e.g., *Enron Corporation*, 78 FERC ¶ 61,179 at 61,733, 61,741 (1997); *El Paso Electric Company*, 68 FERC ¶ 61,181 at 61,899 and n. 57 (1994).

³ The ISO does not address every issue raised by the Intervenor commenters in this proceeding, but merely intends to rebut those of greatest significance to the proposed GMC. It should not be assumed that the ISO agrees with any argument not addressed herein.

⁴ The procedural background to the various GMC proceedings has been described in the November 1, 2000 filing.

⁵ The methodology by which the ISO allocated its costs to the service categories is described in the Direct Testimony of Philip R. Leiber, Ex. No. ISO-7, and in an analytical support

ISO's costs, as the Control Area operator, of ensuring reliable, safe operation of the ISO Controlled Grid and the entire Control Area. The billing determinant for Control Area Services is based on Control Area Gross Load and exports.

Inter-Zonal Scheduling Services include the ISO's costs of Congestion Management. The billing determinant for Inter-Zonal Scheduling Services is the absolute value of the net scheduled Energy using inter-zonal flow (excluding Existing Transmission Contract volumes or "ETCs") per transmission path for a given Scheduling Coordinator. Market Operations Services include the ISO's costs of market- and settlement-related services. The billing determinant for Market Operations Services is the proportion of each Scheduling Coordinator's total purchases and sales of Ancillary Services, Supplemental Energy, and Imbalance Energy (both instructed and uninstructed), to the total purchases and sales of all SCs.

B. Interventions

Motions to intervene were filed by a number of parties.⁶ Most Intervenors indicated support for unbundling the GMC. Many of the Intervenors, however,

document appended thereto as Ex. No. ISO-9. Both these exhibits were included in the November 1 filing.

⁶ Timely motions to intervene were filed by California Department of Water Resources ("CDWR"); California Electricity Oversight Board ("Oversight Board"); California Municipal Utilities Association ("CMUA"); California Power Exchange ("PX"); Calpine Corporation and Calpine C* Power ("Calpine"); the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California ("Southern Cities"); the Cities of Redding and Santa Clara, California and the M-S-R Public Power Agency ("Cities/M-S-R"); the City and County of San Francisco ("San Francisco"); the City of Vernon, California ("Vernon"); the Cogeneration Association of California and Energy Producers and Users Coalition ("CAC/EPUC"); the Metropolitan Water District of Southern California ("MWD"); Modesto Irrigation District ("MID"); Northern California Power Agency ("NCPA"); Pacific Gas and Electric Company ("PG&E"); Sacramento Municipal Utility District ("SMUD"); San Diego Gas & Electric Company ("SDG&E"); the San Francisco Bay Area Rapid Transit District ("BART"); Southern California Edison Company ("SCE"); Transmission Agency of Northern California ("TANC"); Turlock Irrigation District ("TID"); the Western Area Power Administration (WAPA); and

accompanied their interventions with Comments and/or Protests to portions of the proposed rate structure, and some Intervenors actually moved that the filing be rejected outright.

The ISO does not oppose the intervention of any of the parties that have sought leave to intervene. The ISO does not believe, however, that any of the substantive challenges to the filing or any of the proposals for modification of the proposed GMC changes have merit. The ISO believes its proposed GMC is a reasonable approach to unbundling the charge, and that it results in just and reasonable rates.

III. ANSWER TO COMMENTS AND PROTESTS

A. It Was Necessary for the ISO to Make Its Filing in Two Parts, and Sufficient Information Has Been or Will Be Provided to Market Participants.

Certain Intervenors argue that the November 1 filing was incomplete, in that it lacked the Period II data required under the Commission's regulations.⁷ CMUA, for example, states that the ISO has "jumped the gun", in failing to delay the GMC filing until Period II data was available. CMUA at 2. TANC argues that the filing is "fatally flawed", and should be rejected outright, due to the absence of the Period II data. TANC at 6-7. This opinion is echoed by MWD⁸

the Western Power Trading Forum ("WPTF"). Out-of-time Motions to Intervene were filed by Trinity Public Utility District ("Trinity") on November 28, 2000, by Dynegy Power Marketing, Inc. ("Dynegy") and Independent Energy Producers ("IEP") on November 29, 2000, and by the Public Utilities Commission of the State of California ("CPUC") on December 4, 2000.

⁷ The pertinent regulations are found at 18 C.F. R. § 35.13(d)(2).

⁸ MWD goes on to acknowledge that the ISO committed to file the Period II data by December 15. MWD at 7.

The decision to make the GMC filing in two parts was dictated by two facts: that the existing GMC structure was due to expire on December 31, 2000, and that the 2001 ISO budget process was not completed until the ISO Governing Board meeting on November 30, 2000. The Federal Power Act (“FPA) requires that a rate schedule be filed no less than 60 days prior to its effective date. FPA Section 205(d), 16 USC § 824d. Thus, November 1, 2000 was the last possible time for the ISO to make its filing under the regulations, in order for the new GMC to go into effect by January 1, 2001 as required by the ISO Tariff. The ISO does not believe that failing to include Period II data in the November 1 filing was “fatal”, however, since the GMC is a formula rate. As such, any parties interested in evaluating the proposed rate structure would have the ability to do so, to a large extent, from the formula alone.

Moreover, the ISO was required by the previous GMC Settlement, and its extension, to file with the Commission a new rate methodology that supported unbundling of the ISO’s GMC. The November 1 filing did just that. The December 15 filing will satisfy an additional requirement, found in ISO Tariff Appendix F, Schedule 1, Part D, which states the “the ISO will make an informational filing each year on December 15, or the first business day thereafter, which shall contain cost data on the ISO presented in conformance with the FERC Uniform System of Accounts (USA).”

The ISO made clear in the November 1 filing that the 2001 budget was not finalized, as it had not been approved by the ISO Governing Board, but that it would be included in an additional filing to be made on or before December 15,

2000. Transmittal Letter at 10. Although the ISO could have produced some form of Period II data in time for the November 1 filing, it would not have been data based on the most accurate information or estimates of the ISO's costs for 2001, and would have been of considerably less value. The more accurate, budget-based Period II data will be filed on December 15, as stated in the Transmittal Letter.

Certain parties requested that the December 15 filing be made in the instant docket, for purposes of clarity and to insure that the figures presented at that time would be subject to the same evaluation under FPA section 205 as the earlier filing. *See, e.g.,* CAC/EPUC at 1; SMUD at 4,11. These parties expressed concern with how the ISO characterized the December 15 filing in the November 1 Transmittal Letter.⁹ The ISO does not agree with this request. The December 15 filing will contain the same sort of data found in previous GMC informational filings, and also will include testimony explaining the 2001 budget figures and budget process.

With regard to the PX's argument¹⁰ that the ISO made "substantial changes" to the GMC, which they claim were posted on the ISO's website without the opportunity of Market Participants to provide input or comment, this is simply untrue. The ISO did make certain minor changes with respect to cost allocation percentages and billing determinant forecasts, but these changes were either mentioned and recommended by Market Participants at the October

⁹ The ISO had stated that "The December filing will be similar to the annual informational filings the ISO has made pursuant to the 1998 Settlement." Transmittal Letter at 10.

¹⁰ PX at 5.

stakeholder meeting or, in the case of the billing determinant revisions, dictated by the Commission's order of November 1, 2000 in EL00-95-000.¹¹ These changes were disclosed and documented in the budget reviewed and approved by the ISO Board of Governors on November 30, 2000, and were disclosed to the public in advance of the Board meeting. In addition, notice that changes would be necessary was included in the preliminary budget posting provided to stakeholders for comments, inasmuch as the cost allocation percentages were noted as "preliminary". The changes were:

- 1) allocating the 2001 debt service charges based on the 2001 capital budget, which caused the minor shift from Control Area Services to Inter-Zonal Scheduling;
- 2) including market surveillance in direct operating costs for purposes of allocating the remaining overhead costs, which caused the minor shift from Control Area Services to Market Operations Services; and
- 3) changing the billing determinant volumes, including reducing the volumes projected in the real time market due to the FERC order, which proposes to apply penalties on excessive use of the ISO real time markets, and a corresponding increase in the billing determinant for the Inter-Zonal Scheduling category as a result of anticipated forward scheduled volumes.

B. The ISO Does Not Oppose Consolidation with Earlier GMC Dockets, but Does Oppose Consolidation with ER01-424-000.

Several parties have requested that this matter be consolidated with various other proceedings. The WPTF, for example, requests that this proceeding be consolidated with the earlier GMC proceedings EL99-47-000 and

¹¹ "Order Proposing Remedies for California Wholesale Electric Markets," *San Diego Gas & Electric Company, et al.*, 93 FERC ¶ 61,121 (November 1, 2000) ("Order in Docket Nos. EL00-95-000, *et al.*").

EL99-67-000. The ISO does not object to this consolidation. Issues related to the reasonableness of previous iterations of the GMC, and the possibility of refunds of funds received by the ISO pursuant to those iterations, are still unresolved, as WPTF notes. WPTF at 7. It would be appropriate for the Commission to resolve these outstanding issues in this proceeding.

PG&E requests that the Commission consolidate this GMC proceeding with its recently filed GMC Pass-Through tariff proceeding in Docket No. ER01-424-000. PG&E at 3. The ISO believes that it is not necessary to consolidate the two dockets. The PG&E Pass-Through tariff deals with a discrete issue, and can be resolved on its own merits, without embroiling it in this already complex proceeding.

C. If Refunds Are Ordered, the ISO Should Be Granted Surcharge Authority.

As noted in the Transmittal Letter, the ISO requests that the Commission grant it surcharge authority, in the event that refunds of GMC payments previously made are deemed appropriate.¹² As a non-profit entity, the ISO must remain revenue neutral and hence has no source from which to make such refunds, apart from funds that could be secured through a surcharge on SCs or other appropriate parties.¹³ If the Commission were to award refunds to Market Participants, but fail to allow the ISO to institute a surcharge from which to make such refunds, the ISO would suffer irreparable harm.

¹² The ISO does not believe such refunds are appropriate.

¹³ SMUD stated its view that the term “other appropriate party” should not be used for any purposes beyond the Control Area Services Charge. This term was devised to allow government

Several Intervenors argue that the ISO's request for surcharge authority lacks detail and the Commission's granting of this request could result in retroactive rate-making. See Cities/M-S-R at 8-9; TANC at 11-12; and MWD at 13-14.

For all that they argue, however, no Intervenor suggests how the ISO may finance these refunds fairly, unless it be through a Commission-approved surcharge. Moreover, it is not surprising that the ISO's request should, at this time, lack a certain amount of detail. After all, the ISO cannot now predict whether refunds will, in fact, be ordered, or what the nature or extent of such refunds might be.

D. Control Area Services

The most contentious issue surrounding the proposed GMC unbundling is the use of Control Area Gross Load data, especially as relates to so-called "behind-the-meter"¹⁴ Load, as the billing determinant for the Control Area Services Charge. As noted in the Transmittal Letter, there is a philosophical disagreement between the ISO and certain Market Participants about the appropriateness of charging "behind-the-meter" Load, notably Qualifying Facility ("QF") Load, its share of the Control Area Service Charge. Transmittal Letter at 8-9. Although the ISO Board of Governors approved Control Area Gross Load as the billing determinant for the Control Area Services Charge in June 2000, QF

entities that are not SCs to be assessed a share of costs. It is not intended to be used for any cost category other than Control Area Services. SMUD at 10.

¹⁴ As described in the Direct Testimony of Trent A. Carlson, "the term 'behind-the-meter' generally refers to situations in which a Load's electrical consumption cannot be distinguished from a Generating Unit's simultaneous production of electricity; since both are measured by only one meter." Ex. No. ISO-10 at 14.

representatives continued, throughout the GMC stakeholder process, to express the opinion that “behind-the-meter” Load and Generation should be netted in establishing the billing determinants for the GMC.

Similar arguments to those raised during the GMC stakeholder process are included in the comments and protests of Intervenors. Several Intervenors, including Cities/M-S-R, argue that basing this charge on Control Area Gross Load results in cost-shifting and inappropriate charges on entities that do not use ISO service. Cities/M-S-R at 13. Calpine contends that loads directly served by generation not scheduled on the ISO Grid make no use of the Grid, and therefore assessing a portion of the Control Area Services Charge onto them is “the antithesis of fundamental cost causation principles.” Calpine at 4. San Francisco, too, objects to the ISO’s decision to apply Control Area Gross Load as the billing determinant for Control Area Services, as it believes that behind-the-meter load should be exempt from this charge. San Francisco at 4. San Francisco also argues that “there is no reason why load...that does not lean upon the ISO controlled grid should be subject to any grid charges.” San Francisco at 7.

SCE states that net metering and net scheduling of loads and generation is the ISO’s current practice, the historic practice of SCE, the practice approved by FERC and the CPUC, and “to SCE’s knowledge, has never been objected to by the Western System Coordinating Council [“WSCC”].” SCE at 3-4.

SCE also states that there is a genuine issue of material fact as to whether the WSCC reliability guidelines and standards require that gross behind-

the-meter loads be treated as firm control area loads, and that this issue must be resolved to assess the reasonableness of the ISO's proposal. SCE at 4.

Calpine suggests that load directly served by independent power producers ("IPPs") or QFs may receive standby service under their retail tariffs with UDCs. In that event, Calpine contends, double-charging could result, since such standby tariffs already include charges for reservation capacity. Calpine considers the reservation capacity charge to cover services equivalent to those contained in the proposed Control Area Service Charge. In short, Calpine contends that "[t]o the extent that load directly served by generation imposes costs on the ISO Controlled Grid, these loads bear the appropriate portion of such costs through the payment of standby charges to the Participating T[ransmission] O[w]ner." Calpine at 6-7.

San Francisco contends that the rationale behind excluding QF load from the ISO's transmission Access Charge is applicable to the GMC, as well.

Calpine states that imposing these costs on load served by IPPs, QFs, and distributed generation would deter the development of generation, and is thus contrary to federal and state public policy, which Calpine characterizes as "procompetitive". Calpine at 8-10. San Francisco argues that any "gross load metering"¹⁵ would contravene state law AB 970, as it constitutes the sort of

¹⁵ The ISO would prefer, but the GMC proposal does not require, metering of internal Load. As noted in the Transmittal Letter, a challenge associated with implementing the billing determinant for Control Area Services, *i.e.*, Control Area Gross Load and exports, is the absence of metered data from all Market Participants. With regard to the Control Area Services Charge, most Market Participants have agreed to provide the ISO with necessary Load data on which to bill the charge, whether or not there is ISO metering in place. The Direct Testimony of Michael K. Epstein (Ex. No. ISO-1) describes the ISO's efforts to design mechanisms to calculate the Control Area Services Charge in the absence of metered data (or receiving the Load data directly from

“unreasonably discouraging” policy that section 372(f) of the law was intended to address.¹⁶ San Francisco at 7.

CAC/EPUC contends that allocating the Control Area Services Charge to a retail customer’s consumption of electric energy satisfied by on-site generation violates the Public Utility Regulatory Policies Act of 1978 (“PURPA”),¹⁷ is discriminatory, and does not accord with the principles of cost causation. CAC/EPUC at 10. CAC/EPUC also argues that charging QFs as if all QF Load could fail simultaneously violates 18 C.F.R. § 292.305(c).¹⁸ CAC/EPUC at 16. In response to the concerns raised in the ISO Transmittal Letter that excluding QF

customers). The Direct Testimony of James E. Price (Ex. No. ISO-12) describes the mechanism that the ISO utilized for this purpose.

¹⁶ San Francisco at 7-9. The pertinent text of AB 970, section 372(f) is as follows:

To encourage the continued development, installation, and interconnection of clean and efficient self-generation and cogeneration resources, to improve system reliability for consumers by retaining existing generation and encouraging new generation to connect to the electric grid, and to increase self-sufficiency of consumers of electricity through the deployment of self-generation and cogeneration, both of the following shall occur:

- (1) The commission and the Electricity Oversight Board shall determine if any policy of action undertaken by the [ISO], directly or indirectly, unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid.
- (2) If the commission and the electricity Oversight Board find that any policy or action of the [ISO] unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid, the commission and the Electricity Oversight Board shall undertake all necessary efforts to revise, mitigate, or eliminate that policy or action of the [ISO].

¹⁷ 16 U.S.C. 2601 *et seq.*

¹⁸ This provision reads, in pertinent part:

(c) *Rates for sales of back-up and maintenance power.* The rate for sales of back-up power or maintenance power:

- (1) Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electrical output by all qualifying facilities on an electric utility’s system will occur simultaneously...

Load from this charge would result in demand by munis to be excluded as well, CAC/EPUC state that QFs and munis need not be treated in the same manner, as there are distinguishing characteristics between the two sorts of entities. CAC/EPUC at 17.

MID contends that the use of Control Area Gross Load as a billing determinant violates cost causation and discrimination principles, as well as “behind the meter” principles. According to MID, the policy of including behind the meter load in the load ratio share for network service is based on the concept that customers have the option of choosing between network and point-to-point transmission service, which is not the case with service provided by the ISO. MID at 8. MID contends that this network/point-to-point choice forms the basis for the Commission’s tolerance of behind-the-meter charges, as evidenced by Order No. 888-A¹⁹ and such Commission decisions as *Allegheny Power System, Inc., et al.*, 80 FERC ¶ 61,143 (1997). MID at 8-9.

SMUD agrees with the ISO’s decision to assess the Control Area Services Charge on such entities as QFs, and acknowledges the necessity for the ISO to base this assessment on proxy information, in the absence of accurate data. SMUD argues that the use of actual load data should be encouraged, however, to avoid perverse incentives to conceal data from the ISO, resulting in underestimation of QF Loads. SMUD stresses the importance of requiring all entities to implement the ISO’s reporting requirements so that the use of proxy information will not be necessary. SMUD at 9. In contrast, CAC/EPUC accuses

the ISO of over-estimating QF Load in order to coerce QFs to install additional metering equipment. CAC/EPUC at 19.

The ISO continues to believe that since all Market Participants, including QFs, benefit from the Control Area Services the ISO provides, all Market Participants should be assigned a share of the Control Area Services costs.²⁰ Reliability and Control Area Services benefit all Load in the Control Area, and hence all Load should pay a share of the costs. The ISO is in complete agreement with the argument, voiced most clearly by San Francisco, that “there is no reason why load...that does not lean upon the ISO controlled grid should be subject to any grid charges.” San Francisco at 7. The ISO believes, however, that behind-the-meter Load does, in fact, “lean” on the ISO Controlled Grid.

The ISO acts as the Control Area operator for the entire system within its boundaries. As such, it must abide by the WSCC criteria put forward in the Minimum Operating Reliability Criteria (“MORC”).²¹ The ISO must ensure that adequate capacity reserves are available at all times. The ISO must satisfy these operating and planning criteria for all Load within the Control Area, and not merely that on the ISO Controlled Grid. In this manner the ISO ensures the reliability of behind-the-meter Load.

¹⁹ Order No. 888-A, 62 Fed. Reg. 12,274 (March 14, 1997), *FERC Statutes and Regulations* ¶31,048 (1997), *reh'g pending*.

²⁰ This is explained in great detail in the November 1 filing. See, e.g., Direct Testimony of Trent A. Carlson, Ex. No. ISO-10.

²¹ The MORC criteria were included in the November 1 filing as Ex. No. ISO-11.

An example of how “behind-the-meter” Load affects the ISO Controlled Grid was set forth in Mr. Carlson’s Direct Testimony.²² Since a failure of behind-the-meter Load can have an impact on the grid, the ISO has little choice but to monitor and safeguard the Load.

With regard to whether the WSCC reliability standards require including QF load in the ISO’s arrangements, the ISO provided testimony on what we believe the current requirements to be in the November 1 filing. Applying these standards to behind-the-meter Load makes sense, in light of the fact that all Load in the ISO Control Area can affect the reliability of the grid.

The difference between “Gross Load” for purposes of the Access Charge and “Control Area Gross Load” for purposes of the GMC was discussed in the November 1 filing.²³ The distinction made for the treatment of existing QF Load

²² This example was as follows:

For example, assume a Generating Unit serving behind-the-meter Load pursuant to a contract is generating 25 MW of electricity, none of which is deemed under the contract to “use” the ISO Controlled Grid. Assume also that an unexpected event occurs and the Generating Unit’s 25 MW of Generation is disconnected from the system. The ISO’s Area Control Error (“ACE”) then changes in this amount (plus the changes in system losses that will have occurred due to the disconnection of the Generation). At the scan rate of the ISO’s EMS, Participating Generators providing Regulation (*i.e.*, enabled Automatic Generation Control) would be issued control signals to adjust their output for the 25 MW deficiency. To return the Regulation units to their preferred operating points, the ISO would then call on resources, in price merit order, from the real time balancing energy market. Assuming further that the Generating Unit had its Generation monitored by the ISO’s EMS, the ISO also would have detected the cause of the ACE excursion. On the other hand, if the Generating Unit did not have its Generation being monitored by the ISO EMS, the disconnection of the Generation still would have caused ACE to change by the same amount; the only difference would be that the ISO would not have any information on what event occurred or where (unless the Generating Unit’s operators get the information to the ISO Control Area operators).

Direct Testimony of Trent A. Carlson, Ex. No. ISO-10, p. 15.

²³ As defined in the proposed ISO Tariff changes,

in the Access Charge proceeding was predicated on the fact that, as described in the Direct Testimony of Debi Le Vine,

QF-served Loads have historically contributed to the Transmission Revenue Requirements of the three Participating TOs through charges for Standby Service (the charges are paid to the Participating TO with whom the QF is interconnected). To prevent over-recovery of the Transmission Revenue Requirements of the Participating TOs, the definition of Gross Load takes into account the contributions to the Transmission Revenue Requirements made by Existing QFs via Standby Service charges. The provision made for existing QFs in Amendment No. 27 is often incorrectly referred to as an "exemption" from payment for the ISO's Access Charge. It is not an exemption, rather it is a reflection of the fact that Existing

For the purpose of calculating and billing the Grid Management Charge, Control Area Gross Load is all Demand for Energy within the ISO Control Area. Control Area Gross Load shall not include Energy consumed by:

- (a) generator auxiliary Load equipment that is dedicated to the production of Energy and is electrically connected at the same point as the Generating Unit (*e.g.*, auxiliary Load equipment that is served via a distribution line that is separate from the switchyard to which the Generating Unit is connected will not be considered to be electrically connected at the same point); and
- (b) Load that is isolated electrically from the ISO Control Area (*i.e.*, Load that is not synchronized with the ISO Control Area).

For the purposes of calculating the Transmission Access Charge, Gross Load is all Energy (adjusted for distribution losses) delivered for the supply of Loads directly connected to the transmission facilities or Distribution System of a UDC or MSS, and all Energy provided by a Scheduling Coordinator for the supply of Loads not directly connected to the transmission facilities or Distribution System of a UDC or MSS.

Gross Load shall exclude Load with respect to which the Wheeling Access Charge is payable and the portion of the Load of an individual retail customer of a UDC, MSS, or Scheduling Coordinator that is served by a Generating Unit that:

- (a) is located on the customer's site or provides service to the customers site through over-the-fence arrangements as authorized by Section 218 of the California Public Utilities Code;
- (b) is a qualifying small power production facility or qualifying cogeneration facility, as those terms are defined in the FERC's regulations implementing Section 201 of the Public Utility Regulatory Policies Act of 1978;
- (c) was serving the customer's Load on or before March 31, 2000; and
- (d) secured Standby Service from a Participating TO under terms approved by a Local Regulatory Authority or FERC, as applicable, as of March 31, 2000 and continues to secure Standby Service from the Participating TO or can be curtailed concurrently with an outage of the Generating Unit serving the Load. Gross Load forecasts consistent with filed TRR will be provided by each Participating TO to the ISO.

QFs have contributed to, *and continue to contribute to*, the transmission revenue requirements of the Participating TOs through the payment of Standby Service charges.

Ex. No. ISO-14 at 9.

Standby service rates have not historically included the ISO's reliability services. It is not possible that they should have done so, as these reliability services are new services, created at the time the ISO assumed Control Area operator responsibilities. While the Participating TOs certainly undertook certain reliability services prior to the creation of the ISO Controlled Grid, they were not the same as what are now performed by the ISO.²⁴ Therefore, no special treatment is due to QFs with regard to the Control Area Services Charge.

Despite the differences in the two proceedings, the ISO feels that the approval of "Gross Load" as a billing determinant in the Access Charge proceeding lends weight to its use of Control Area Gross Load here.²⁵

Contrary to MID's assertion that the Access Charge order "was not a binding merits determination, but merely provided guidance for the parties' use in attempting to settle that proceeding", MID at 8, n. 11, the Order plainly was intended to determine the "gross load" issue on a going-forward basis, in addition to providing guidance in the Access Charge proceeding. The Order reads:

Our review indicates that the continued use of gross load as the billing units as proposed by the ISO is appropriate. In Order No.

²⁴ One of the reasons these services are not the same is that in the old system, the Participating TOs had access to their own generation in times of shortages. The ISO has no such assets, and must procure reserves in the market.

²⁵ The acceptance of gross load in the Access Charge order also disproves MID's argument that netting is only permissible when a choice between network and point to point service is offered.

888 we addressed similar concerns regarding loads that were "behind the meter" and we see no change in circumstances to warrant a different result here. With respect to the exceptions for existing QF and cogeneration facilities, we generally agree with the ISO's criteria used to support its proposal. However, the record should be further developed to demonstrate that the criteria are applied in a non-discriminatory manner in order to avoid possible future claims of discrimination.²⁶

The criteria that must be applied in a non-discriminatory manner, to which the Commission refers in this order, are the criteria for determining which QFs are existing (and hence exempt from the Access Charge) and which QFs are new (and hence liable for the Access Charge). Thus, the legitimacy of assessing existing QFs based on gross load was not disputed.

The ISO disagrees that its proposal to charge all Market Participants for Control Area Services, rather than only some of them, is "discriminatory". If QFs or other behind-the-meter Load were to avoid paying their share, other Market Participants would be forced to subsidize these entities by assuming a larger share of the total costs.

The ISO also disagrees that it has acted contrary to "procompetitive" public policy, or that it has discouraged generation, in requiring QFs to pay a share of this charge. In fact, the ISO recently has taken steps to reduce barriers to the implementation of small generation. At the recent ISO Board of Governors meeting, the ISO proposed three steps to enhance the ability of small generation to participate in the California electric markets:

1. Provide that distributed generators under 1MW that do not participate in ISO administered Ancillary Services or Supplemental

²⁶ *California Independent System Operator Corporation*, 91 FERC ¶ 61,205 at 61,728-29 (May 31, 2000).

Energy markets are not Participating Generators, are not required to be ISO Metered Entities, and are allowed to net meter;

2. Reduce the threshold for participation by Generating Units in Ancillary Service markets from 10MW to 1MW; and
3. Provide that distributed generators under 10 MW that do not participate in ISO administered markets will not be required to have Energy Management System (“EMS”) telemetry.

The Board approved these measures at the November 30, 2000 Board meeting, and the ISO shortly will be filing a tariff amendment to put them into effect.²⁷

What Calpine and others appear to want is not a reasonable promotion of generation, but a subsidization of certain generation at the expense of other Market Participants. This is not consistent with the principles of cost causation, nor is it “procompetitive”.

CAC/EPUC is incorrect in its belief that the ISO’s treatment of QFs violates 18 C.F.R. § 292.305(c). That provision forbids basing rates on the assumption that all QFs on a system will fail simultaneously. The ISO’s proposal, on the other hand, merely assumes a given QF could fail completely. In the ISO’s view, the “electric utility’s system” referenced in the regulation is the ISO Controlled Grid. CAC/EPUC is also incorrect to argue that government entities and QFs need not be treated the same. During the stakeholder process, as described in the Direct Testimony of Michael Epstein, the representatives of government entities made clear their view that munis and QFs must be treated equally. Ex. No. ISO-1 at 12-13.

²⁷ The details of the ISO’s proposal, and the Board action on it, can be found on the ISO web page.

Finally, with regard to SMUD's concerns about the shortcomings of using proxy information instead of meter data to calculate the charge attributable to behind-the-meter Load, this was unavoidable. As described in the Direct Testimony of Michael Epstein, certain entities were unable to provide metering information, and certain entities (QFs, for the most part) were unwilling to do so. The stakeholders worked very hard to come up with an alternative means of calculating the appropriate figures for behind-the-meter data. The resulting methodology is described in the Direct Testimony of James E. Price (Ex. No. ISO-12). The ISO has not concealed the fact that it would prefer meter data to such proxy information, if such were available.

E. Inter-Zonal Scheduling

1. Congestion Management Redesign

Several Intervenors point out that in light of the current Congestion Management Redesign ("CMR") efforts, the proposed Inter-Zonal Scheduling Charge is likely to require modification in the not too distant future. CMUA notes that any specific CMR proposal will affect the costs and billing determinants for this charge. CMUA at 8. The PX argues that the Commission should make any acceptance of the GMC conditional on a thorough review after the Congestion Management Redesign effort is completed. PX at 4-5.

The ISO recognizes the significant issues affecting restructuring in California and the need to submit a revamped Congestion Management Redesign proposal consistent with any Commission guidance. While it is difficult to say what the shape of the ISO's Congestion Management system will be in the

future, the ISO is managing congestion now, and needs a fair structure to recover the costs of doing so now. Moreover, any changes adopted through Congestion Management Reform will take time to implement, even after they are approved by the Commission. In the meanwhile, the ISO must recover its costs in a manner that is fair to Market Participants.

2. Application to Non-ISO Controlled Grid Facilities

Several Intervenors, including TANC, Cities/M-S-R and MID, express concern that the Inter-Zonal Scheduling Charge would be assessed on non-ISO Grid facilities, such as the California-Oregon Transmission Project (“COTP”). *See, e.g.*, TANC at 8. SMUD argues that the exemption provided to ETCs should be applied to non-ISO Controlled Grid transmission, such as COTP schedules, since they constitute physical firm rights not subject to congestion, just as ETCs do. SMUD at 7.

The ISO has no intention of applying the Inter-Zonal Scheduling Charge to non-ISO Controlled Grid facilities, since it is only on Grid facilities that the ISO must manage congestion. Moreover, the COTP schedules are, in fact, treated as ETCs.

3. Application to ETCs

CAC/EPUC contend that ETCs should be charged their share of congestion costs, in order to prevent cost shifts. They contend that failing to include ETCs would violate the Commission’s Access Charge order, “by encouraging ETCs to perpetuate ‘Phantom Congestion.’” CAC/EPUC at 7. The WPTF argues that excluding ETCs from this charge is discriminatory.

ETCs present a special set of concerns for the ISO. The Commission has continually held that existing contract rights must be honored. As described in the Direct Testimony of Michael Epstein, “ETCs were excluded because they have rights not subject to the ISO’s congestion process.” Ex. No. ISO-1 at 28. The ISO will continue to exempt ETCs from this charge.

F. Market Operations Charge

Several Intervenors oppose the ISO’s proposal to assess the Market Operations Charge on both generation and loads. SCE, for example, argues that the ISO’s general rate structure provides that Load should pay for all transmission, distribution, and Ancillary Services costs, and that assessing this charge on generators will result in additional costs for loads, in the form of increased generation bid prices, according to SCE. SCE at 17. CAC/EPUC characterizes the assessment of both generation and load as “rebundling” of transmission charges with generation costs, since generators will pass-through their ISO transmission costs to their customers. CAC/EPUC at 9.

It is appropriate that the costs of the ISO are assessed on all entities that cause them to be incurred, whether such entities are generators or Load. ISO system software changes in many cases have been requested by and implemented for the benefit of generators,²⁸ or were made necessary because of the actions of generators,²⁹ and it is appropriate that they directly bear a portion of these costs. Other ISOs have rate structures that require generators to pay a

²⁸ One example of this is the software required for portfolio bidding.

²⁹ An example of this is 10-minute settlements.

portion of the ISO's costs, so this practice is not unique to California.³⁰ Moreover, generators have profited handsomely in the California market,³¹ and therefore it is only right that they should underwrite some of the costs, as their Load colleagues must do.

G. Overall Level of Costs

Several Intervenors express concern about the overall level of costs described in the GMC filing. See, e.g., CMUA at 2. Other Intervenors claim the ISO has not provided sufficient information to demonstrate that the GMC proposal is just and reasonable. See, e.g., WAPA at 2; CMUA at 7.

As noted elsewhere, the ISO has provided an extended and public budget process. Parties have been provided with numerous opportunities to gain an understanding of the components of the ISO budget, the reasons for the increases and the efforts the ISO has made to control costs. The ISO will provide additional cost justification on the December 15 filing, including testimony explaining the increase in the overall level of GMC costs.

H. Unbundling Methodology

Several Intervenors express support for unbundling of the GMC as a goal, but criticize the end result as presented on November 1. None of these Intervenors, however, present alternative methodologies that would address the unbundling question more fairly. The many months, even years, taken up by the

³⁰ For example, the Direct Testimony of Michael Epstein describes the assessment of costs on generators by the Pennsylvania-New Jersey-Maryland Interconnection ("PJM"). Ex. No. ISO-1 at 30.

³¹ For a discussion of generators' recent pattern of bidding far above marginal costs in California markets, see "Comments and Request for Rehearing of the California Electricity Oversight Board," in Docket Nos. EL00-95-000, *et al.*, November 22, 2000 at ix-x.

stakeholder process (described in the Direct Testimony of Michael Epstein, Ex. No. ISO-1), has led to a reasonable and equitable result.

Calpine criticizes the ISO's efforts to assign a share of costs to all Market Participants, contending that "the ISO fails to recognize that equal apportionment of costs among entities results in inequity when actual costs caused by such customers differ." Calpine at 4. It is Calpine that fails to recognize that all Market Participants do not pay an equal share of each cost category. The three buckets were developed to reflect the different services and benefits received by different customers. The billing determinants were developed to reflect different levels of activity between customers. Cost causation does not mean everyone pays the same, but that entities pay a fair share.

I. Concerns for Challenges to the California Electric Market

Certain Intervenors have expressed concern about what effect the larger problems in the California markets, and the proceedings dealing with these problems, may have on the GMC. These Intervenors have adopted a "wait and see" attitude. The ISO believes that the GMC must go forward now, rather than waiting for the resolution of these other matters that could take months.

The PX argues that "[a]ny acceptance of the GMC for filing should be conditioned on the Commission's final order in Docket Nos. EL00-95-000, *et al.*, and should afford a full and fair opportunity to raise additional protests of the GMC in light of the Commission's final order in December." PX at 5. The ISO recognizes that a final determination in that proceeding could well impact the GMC. Again, though, the timing and make-up of any necessary changes to the

GMC is a question for the future. The ISO must recover its costs now, based on the current structure of the ISO and the California markets. Any ruling on the GMC should thus be taken on its own merits, with future changes left until such time as we know what will be needed.

Moreover, the outcome of Docket Nos. EL00-95-000, *et al.*, is likely to increase (not decrease) the near-term work of the ISO. New systems will have to be put in place to comply with market power mitigation measures, penalties for under-scheduling, or other market reforms adopted by the Commission. Any such changes will not occur overnight.

J. Requests for Suspension and Hearing

Several Intervenors request that the filing be suspended for the full five-month period permitted under § 205. The ISO opposes this request, and continues to believe that the new GMC should go into effect on January 1, 2001, as planned.³² The history of the GMC proceedings has been lengthy and involved, as described in the Transmittal Letter. To delay for a further five months the implementation of a GMC based on cost causation would be a disservice to the California market. Moreover, in light of the fact that the existing GMC is subject to refund back to June, 1999, a further five months of experience under this charge could result in substantial additional refund obligations for the ISO – obligations that the ISO might be hard-pressed to finance.

Should the Commission fail to act on the proposed GMC before January 1, 2001, the ISO plans to continue with the existing GMC Settlement methodology, but to apply the 2001 budget figures to this methodology. To act

otherwise would be to risk failing to recover the ISO costs. As a revenue neutral entity, this is a risk the ISO cannot take.

Several Intervenors request that this proceeding be set for hearing. The ISO believes a more fruitful path would be for the Commission to issue a guidance order, as it did in the Access Charge proceeding, to assist the parties to this proceeding in settling many of the outstanding issues presented by the GMC proposal. Ideally, the resultant settlement negotiations would take place in the framework of a procedural schedule pursuant to a hearing date. In this manner, the parties would feel sufficient impetus to settle the issues expeditiously. Lacking such an Administrative Law Judge-mandated schedule, the ISO fears that the parties will fall back into the time-consuming negotiating style which, despite the good intentions of all concerned, plagued the stakeholder process

³² The ISO is supported in this view by SCE and the WPTF.

IV. CONCLUSION

For the foregoing reasons, the ISO requests that the Commission accept the proposed unbundled Grid Management Charge as filed.

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Dated: December 7, 2000

CERTIFICATE OF SERVICE

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

Dated at Washington, DC this 7th day of December, 2000.

Julia Moore

December 7, 2000

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Re: California Independent System Operator Corporation,
Docket No. ER01-313-000**

Dear Secretary Boergers:

Enclosed for filing are one original and 14 copies of the Answer of the California Independent System Operator Corporation to Motions to Intervene, Comments, Requests for Hearing, Requests for Consolidation, Requests for Suspension, Motions to Reject Filing, and Protests in the above-referenced proceeding. Two additional copies of the filing are also enclosed. Please stamp the two additional copies with the date and time filed and return them to the messenger.

Thank you for your assistance in this matter.

Respectfully submitted,

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