

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System)
Operator Corporation) Docket No. ER00-1365-001
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**ANSWER OF
CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO MOTION FOR CLARIFICATION**

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")¹ submits its Answer to the Motion for Clarification of Reliant Energy Power Generation, Inc., and Williams Energy Marketing and Trading Company (together, "Movants") submitted in the above-captioned docket. The ISO requests that the Commission deny the motion.

I. BACKGROUND

On January 28, 2000, the ISO filed Amendment No. 26 to the ISO Tariff in the above-identified docket. Amendment No. 26 modified the ISO Tariff to provide that the ISO will notify Scheduling Coordinators of its Energy requirements from Reliability Must-Run ("RMR") Units prior to the close of the PX

¹ Capitalized terms not otherwise defined herein are used in the sense given in the ISO Tariff.

Day-Ahead Market, to the extent that such requirements are known at that time. Amendment No. 26 allowed RMR Owners to elect to receive payment for the entire amount of Energy delivered according to an RMR Dispatch Notice either from the markets or through the RMR Contract.

On March 31, 2000, the Commission issued an order accepting Amendment No. 26, as modified, on an interim basis. Among other matters, the Commission directed the ISO to modify Amendment No. 26 such that RMR Owners would have the ability to specify the market or contract payment separately for each hour included in an RMR Dispatch Notice. *California Independent System Operator Corporation*, 90 FERC ¶ 61,345 (2000). The Commission directed the ISO to submit a compliance filing incorporating this modification within 30 days of its order. The ISO submitted its compliance filing on May 1, 2000.

Also on May 1, 2000, Movants filed their Motion for Clarification and Request for Rehearing. In the Motion for Clarification, Movants ask the Commission (1) to confirm that the Commission's approval of Amendment No. 26 is "truly . . . interim"; (2) to "clarify" that, as part of its assessment of the impact of Amendment No. 26 on markets, the ISO must publish for review by Market Participants the results of its implementation of Amendment No. 26; and (3) also to "clarify" that Supplemental RMR Dispatch Notices, issued after the close of the PX Day-Ahead Market, will not be subject to the RMR Owner's previously made election of payments options.

II. DISCUSSION

The Motion for Clarification should be denied. The Commission's order is clear regarding each of the issues raised by Movants. In at least two instances, the Motion seeks to modify, rather than clarify, the Commission's order.

A. Interim Approval

In its interim approval of Amendment No. 26, the Commission directed the ISO to file for continuation of its RMR procedures or new procedures on the earlier of the date it files its new Congestion Management plan or January 15, 2001, the date for its compliance filing under Order No. 2000. 90 FERC ¶ 61,345 at 62,139. Movants ask the Commission to confirm that the ISO will bear the burden under section 205 to justify new procedures or continuation of the procedures under Amendment No. 26. The ISO does not disagree that it will bear such burden, and believes that this conclusion is already clear from the Federal Power Act and the Commission's order.

Movants also ask the Commission, however, to rule that the previous RMR dispatch provisions of the ISO Tariff will be reinstated if the ISO fails to make a filing or fails to carry its burden. Such a ruling is neither implicit in the Commission's decision nor advisable. If the ISO, as it fully intends, makes the filing as required but fails to justify its proposal under the standard applicable to section 205 filings, the Commission should be free to take the action appropriate in such cases – i.e., to modify the ISO's proposal to conform to the statutory standard – taking into account the ISO's review and revision of its Congestion

Management process. Movants' proposal would prejudge the outcome of the Congestion Management review and would apply an incorrect standard to the ISO's filing of superseding RMR Dispatch procedures. In light of the flaws in the dispatch procedures that predated Amendment No. 26 and the possibility that new Congestion Management procedures may make the earlier Dispatch procedures unworkable or impractical, there is no reason for an automatic reinstatement of the earlier provisions.

B. Information Release

The Commission also ordered the ISO to direct the Market Surveillance Committee to perform an independent assessment of the impact of the proposed RMR procedures on markets and to allow interested parties to participate in a meaningful stakeholder process before the filing is made. Movants request the Commission to clarify that the stakeholder process will include the release of information regarding implementation of Amendment No. 26 to all Market Participants. *Id.* at 62,139. The ISO believes that the full dissemination of such information is inherent in a meaningful stakeholder process, and intends to distribute data regarding implementation to the degree permissible.² No clarification is necessary in this regard.

Movants, however, also request the Commission to direct the ISO to post daily the amount of RMR Energy it has dispatched prior to the close of the PX Day-Ahead Market and, on the following day, the amount that was provided

² For example, the Commission recently rejected, at the urging of Williams Energy Trading Company and others, the ISO's proposal to publish bid data sets analyzed in conjunction with a published ISO or Market Surveillance Committee (MSC) report, with as little as a one-month lag,

under the market payment option and the amount that was provided under the contract payment option. Such specific data requirements are neither required by nor implicit in the Commission's order. Moreover, Movants have failed to justify the time and resources necessary to fulfill such a requirement; they have made no showing that the immediate disclosure of such information on a daily basis would assist any Market Participant's evaluation of the impact of Amendment No. 26. There is no reason for the Commission to expand the scope of its order to include such a requirement.

C. Payment Option for Supplement RMR Dispatch Notices

The Commission directed the ISO to modify Amendment No. 26 such that generators would have the ability to specify the market or contract payment separately for each hour included in an RMR Dispatch Notice. 90 FERC ¶ 61,345 at 62,140. Movants request the Commission to "clarify" that, when the ISO issues a Supplemental RMR Dispatch Notice (after the close of the PX Day-Ahead Market), the RMR Owner is free again to select either payment option for the energy requested. Contrary to Movants' assertions, there is no lack of clarity in this regard. Moreover, implementation of Movants' request, which would allow RMR Owners to receive both market payments and contract payments in the same hour, would require significant software changes that would significantly delay implementation of Amendment No. 26.

Section 2.2.12.2.1 of the ISO Tariff, as originally included in Amendment No. 26, would have provided that the selected payment option applied to the

subject to the approval of the ISO Board of Governors. *California Independent System Operator Corporation*, 90 FERC ¶ 61,316 at 62,047 (2000).

entire amount of the RMR Owner's obligation to deliver the RMR Energy specified in the RMR Dispatch Notice. Section 2.2.12.2.4 explicitly stated that RMR Energy provided under Supplemental Dispatch Notices is subject to the same pricing requirements as RMR Energy in the initial Dispatch Notice. There is no exception for the selection of a new payment option.³ The Commission only directed the ISO to modify these provisions such that Owners could select different payment options for different hours. It did not direct the ISO to allow a second election for the same hour in the case of a Supplemental RMR Dispatch Notice.

In addition, the ISO's software for the implementation of Amendment No. 26 does not currently permit RMR Owners to select different payment options for the same hour. Incorporating such an option would significantly delay implementation of Amendment No. 26 until after the peak summer 2000 season. In light of the market distortions that gave rise to Amendment No. 26, there can be no justification for such a delay.

The ISO is nonetheless sensitive to the concerns that give rise to Movants' request. The ISO remains willing to use the stakeholder process, in which all Market Participants are involved, to examine mechanisms to address such concerns and to implement, in a timely manner, any resolution. A unilateral Motion to Clarify, however, is not the appropriate vehicle for such a significant modification to the approved Amendment No. 26.

³ Section 2.2.12.2.4 exempts RMR Energy for hours that can no longer be bid into the PX markets from this requirement. If, however, the RMR Owner has previously selected a payment option for those hours, the payment option continues to apply.

III. CONCLUSION

For the foregoing reasons, the ISO requests that the Motion for Clarification be denied.

Respectfully submitted,

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Dated: May 16, 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, D.C. this 16th day of May, 2000.

Michael E. Ward