

Appendix C

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May 11, 2001

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

FILED
OFFICE OF THE
SECRETARY
2001 MAY 11 PM 4:38
FEDERAL ENERGY
REGULATORY COMMISSION

Re: California Independent System Operator Corporation, Docket
No. ER01-889-008

005 /

Dear Mr. Boergers:

As directed in the letter order dated April 26, 2001, enclosed for filing are six copies of tariff modifications implementing the conditions specified in the Commission's April 6, 2001 Order in this docket, 95 FERC ¶ 61,024. In filing these modifications, the California Independent System Operator Corporation ("ISO") does not in any way consent to or concede the legality of the April 6th Order. To the contrary, on May 7, 2001, the ISO filed a Request for Rehearing and Motion for Expedited Consideration based, in principal part, on the blatant disregard by the Commission of the notice and hearing procedures required by §206 of the Federal Power Act when the Commission establishes new rates, terms and/or conditions of service. It should be understood, therefore, that the enclosed tariff modifications are filed under protest and with a reservation of all rights to challenge the April 6th order.

With respect to the inquiry in the April 26th letter order relating to the activities of the California Department of Water Resources ("DWR"), please be advised that only one party -- DWR -- has stepped forward to provide the credit support required by the Commission as a condition to meeting the emergency needs of California consumers. DWR, pursuant to the directive of AB 1x, has been endeavoring to arrange, by contract, for the energy not supplied by the investor-owned utilities but required to meet load. DWR has also indicated a willingness to back certain transactions in real-time. However, in discharge of this latter responsibility, and of its fiduciary obligation to conserve the finite financial resources that have been placed at its disposal, DWR has advised that

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it must have access to the ISO control room floor and to a limited amount of nonpublic information. DWR has further advised that these requirements are a necessary condition to its continued provision of credit support.

Absent DWR's willingness to step into this unique financial assurance role, the ISO would have absolutely no ability, in light of the newly imposed credit requirements, to discharge its fundamental reliability responsibility, a responsibility that the Commission has acknowledged is at the core of the ISO's mandate. See *Pacific Gas and Electric Company, et al.*, 81 FERC ¶ 61,122 at 61,467 (1997).

The uniqueness of the role served by DWR and the urgency of the situation facing California consumers dictate that DWR's fulfillment of that role be deemed outside the circumstances covered by the Commission's standards of conduct regulations (18 CFR, Part 37). To the extent that the Commission disagrees, an exemption is warranted in favor of the ISO and DWR with regard to any otherwise applicable restrictions, given the extraordinary crisis facing the State of California, and we request that the Commission grant such an exemption.

The following documents are attached in support of this filing:

- Attachment A: The revised ISO Tariff pages;
- Attachment B: "Blacklined" tariff provisions identifying the changes made by this compliance filing; and
- Attachment C: A Form of Notice suitable for publication in the Federal Register.

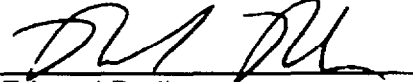
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Also enclosed is a 3½ inch diskette containing the notice of filing in WordPerfect format. In addition, an extra copy of the filing is enclosed. We would appreciate you stamping the extra copy with the time and date and returning it to the messenger.

Respectfully submitted,



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Counsel for the California Independent System Operator Corporation

ATTACHMENT A

- (e) demonstrate to the ISO's reasonable satisfaction that it meets the financial criteria set out in Section 2.2.3.2;
- (f) enter into an SC Agreement with the ISO; and
- (g) provide NERC tagging data.

2.2.3.2 The creditworthiness requirements in this section apply to the ISO's acceptance of Schedules and to all transactions in an ISO Market. Each Scheduling Coordinator, UDC or MSS shall either maintain an Approved Credit Rating (which may differ for different types of transactions with the ISO) or provide in favor of the ISO one of the following forms of security for an amount to be determined by the Scheduling Coordinator, UDC or MSS and notified to the ISO under Section 2.2.7.3:

- (a) an irrevocable and unconditional letter of credit confirmed by a bank or financial institution reasonably acceptable to the ISO;
- (b) an irrevocable and unconditional surety bond posted by an insurance company reasonably acceptable to the ISO;
- (c) an unconditional and irrevocable guarantee by a company which has and maintains an Approved Credit Rating;
- (d) a cash deposit standing to the credit of an interest bearing escrow account maintained at a bank or financial institution designated by the ISO;
- (e) a certificate of deposit in the name of the ISO from a financial institution designated by the ISO; or
- (f) a payment bond certificate in the name of the ISO from a financial institution designated by the ISO.

Letters of credit, guarantees, surety bonds, payment bond certificates, escrow agreements

and certificates of deposit shall be in such form as the ISO may reasonably require from time to time by notice to Scheduling Coordinators, UDCs or MSSs. A Scheduling Coordinator, UDC or MSS which does not maintain an Approved Credit Rating shall be subject to the limitations on trading set out in Section 2.2.7.3. Notwithstanding anything to the contrary in the ISO Tariff, a Scheduling Coordinator or UDC that had an Approved Credit Rating on January 3, 2001, and is an Original Participating Transmission Owner or is a Scheduling Coordinator for an Original Participating Transmission Owner shall not be precluded by Section 2.2.7.3 from scheduling transactions that serve a UDC's Load from --

- (1) a resource that the UDC owns;
- (2) a resource that the UDC has under contract to serve its Load; or
- (3) a resource from which another entity has purchased Energy or with regard to which another entity has provided assurance of payment for Energy on behalf of the UDC, if that entity has an Approved Credit Rating or has posted security pursuant to Section 2.2.7.3.

The ISO will only instruct the dispatch of Imbalance Energy to the extent that the purchase of such Imbalance Energy is on behalf of a Scheduling Coordinator that complies with the creditworthiness requirements of this section or to the extent an entity described in clause (3), above, has provided assurance of payment on behalf of the Scheduling Coordinator.

2.2.3.3 Review of Creditworthiness.

The ISO may review the creditworthiness of any Scheduling Coordinator, UDC or MSS which delays or defaults in making payments due under the ISO Tariff and, as a consequence of that review, may require such Scheduling Coordinator, UDC or MSS, whether or not it has (or is deemed to have) an Approved Credit Rating, to provide credit support in the form of:

- (a) an irrevocable and unconditional letter of credit by a bank or financial institution reasonably acceptable to the ISO;
- (b) a cash deposit standing to the credit of an interest-bearing escrow account maintained at a bank or financial institution designated by the ISO;
- (c) an irrevocable and unconditional surety bond posted by an insurance company reasonably acceptable to the ISO; or
- (d) a payment bond certificate in the name of the ISO from a financial institution designated by the ISO.

The ISO may require the Scheduling Coordinator, UDC or MSS to maintain such credit support for at least one (1) year from the date of such delay or default.

ATTACHMENT B

2.2.3.2 The creditworthiness requirements in this section apply to the ISO's acceptance of Schedules and to all transactions in an ISO Market. Each Scheduling Coordinator, UDC or MSS shall either maintain an Approved Credit Rating (which may differ for different types of transactions with the ISO) or provide in favor of the ISO one of the following forms of security for an amount to be determined by the Scheduling Coordinator, UDC or MSS and notified to the ISO under Section 2.2.7.3:

- (a) an irrevocable and unconditional letter of credit confirmed by a bank or financial institution reasonably acceptable to the ISO;
- (b) an irrevocable and unconditional surety bond posted by an insurance company reasonably acceptable to the ISO;
- (c) an unconditional and irrevocable guarantee by a company which has and maintains an Approved Credit Rating;
- (d) a cash deposit standing to the credit of an interest bearing escrow account maintained at a bank or financial institution designated by the ISO;
- (e) a certificate of deposit in the name of the ISO from a financial institution designated by the ISO; or
- (f) a payment bond certificate in the name of the ISO from a financial institution designated by the ISO.

Letters of credit, guarantees, surety bonds, payment bond certificates, escrow agreements

and certificates of deposit shall be in such form as the ISO may reasonably require from time to time by notice to Scheduling Coordinators, UDCs or MSSs. A Scheduling Coordinator, UDC or MSS which does not maintain an Approved Credit Rating shall be subject to the limitations on trading set out in Section 2.2.7.3. Notwithstanding anything to the contrary in the ISO Tariff, a Scheduling Coordinator or UDC that had an Approved Credit Rating on January 3, 2001, and is an Original Participating Transmission Owner or is a Scheduling Coordinator for an Original Participating Transmission Owner shall not be precluded by Section 2.2.7.3 from scheduling transactions that serve a UDC's Load from –

- (1) a resource that the UDC owns;
- (2) a resource that the UDC has under contract to serve its Load; or
- (3) a resource from which another entity has purchased Energy or with regard to which another entity has provided assurance of payment for Energy on behalf of the UDC, if that entity has an Approved Credit Rating or has posted security pursuant to Section 2.2.7.3.

The ISO will only instruct the dispatch of Imbalance Energy to the extent that the purchase of such Imbalance Energy is on behalf of a Scheduling Coordinator that complies with the creditworthiness requirements of this section or to the extent an entity described in clause (3), above, has provided assurance of payment on behalf of the Scheduling Coordinator.

ATTACHMENT C

**NOTICE SUITABLE FOR PUBLICATION IN THE
FEDERAL REGISTER**

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

**California Independent System)
Operator Corporation)** **Docket No. ER01-889-003**

Notice of Filing

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Take notice that on May 11, 2001, the California Independent System Operator Corporation ("ISO") tendered for filing a compliance filing in the above captioned docket. The ISO states that this filing has been served on all parties on the official service list in this docket.

Any person desiring to be heard or to protest the filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211 and 385.214). All such motions or protests must be filed in accordance with § 35.9 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).