

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation)
Docket No. ER99-2730-000)
)
)

**ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO REQUEST FOR CLARIFICATION AND REQUEST FOR LEAVE TO
ANSWER AND ANSWER TO REQUEST FOR REHEARING**

On July 19, 1999, Western Power Trading Forum (“WPTF”) filed a Request for Rehearing and Clarification of the Commission’s June 17, 1999, order¹ on the California Independent System Operator Corporation’s (“ISO”) filing to implement a Grid Management Charge (“GMC”) to be effective July 1, 1999.²

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213 (1998), the ISO hereby submits its Answer to one of the issues raised in the Request for Clarification. In its Request for Clarification WPTF asks the Commission to modify the ISO’s GMC formula to exclude from the GMC Distributed Generation that is located on certain distribution systems not controlled by the ISO. (WPTF Request at 25-26.) WPTF’s requested clarification is an attempt to implement one aspect of

¹ *California Independent System Operator Corp.*, 87 FERC ¶ 61,304 (1999) (“June 17 Order”).

² Two members of WPTF, Enron Energy Services Power, Inc. (“Enron”) and Coral Power, L.L.C., filed rehearing and clarification requests, but they merely adopted WPTF’s arguments. These three requests will thus be treated as one.

unbundling in advance of the timeframe established by the Commission in the June 17 Order. The request must be rejected.

In addition, pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213 (1998), the ISO requests permission to submit as part of this pleading an answer to WPTF's Request for Rehearing for the limited purpose of correcting a misstatement that WPTF relies upon for one of its arguments.

I. ANSWER TO REQUEST FOR CLARIFICATION

WPTF seeks "clarification" of the June 17 Order with respect to one of the categories of transactions excluded from the GMC. WPTF asks that the Commission confirm that the exclusion from the GMC for volumes within the ISO Control Area,³ but not on the ISO Controlled Grid, applies to Distributed Generation located on certain distribution systems.⁴ (WPTF Request at 25.) The request should be rejected because WPTF's interpretation of the GMC is incorrect. The exclusion from the GMC referenced by WPTF was developed in connection with the original GMC as a specific, short-term response to protect holders of existing contracts. Whether this exclusion should apply to other market participants or should be dropped entirely is precisely the type of question that is to be resolved in the unbundling process. The June 17 Order held that

³ All terms not otherwise defined in this pleading have the meaning defined in the ISO Tariff.

⁴ The distribution systems that WPTF refers to are those of Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company (collectively referred to below as "UDCs").

these unbundling issues are to be reviewed in connection with the GMC filing to be effective January 1, 2001. They are not to be decided summarily by disguising them as issues that merely involve simple clarifications.

That the question whether Distributed Generation should be excluded from the GMC cannot be resolved summarily is demonstrated by the fact that a closely analogous issue is currently pending in another proceeding before an Administrative Law Judge. In *Pacific Gas and Electric Co., et al.*, Dkt. Nos. ER97-2355-002, *et al.*, Enron raised an argument almost identical to the one it and WPTF advance here. In *Pacific Gas and Electric* Enron claimed that Distributed Generation on the three UDCs' distribution systems does not implicate the use of the ISO Controlled Grid and therefore should be exempt from taking service under the ISO Tariff. The ISO has opposed Enron's position because the ISO does provide services for such Distributed Generation.⁵ Resolution of that dispute, which raises the exact same concerns as are raised by WPTF's request for "clarification" of the applicability of the GMC to such Distributed Generation, revolves around factual determinations that the Commission has found require a hearing. WPTF cannot sidestep such review here by branding its issue a "clarification."⁶ The requested "clarification" should be rejected.

⁵ An excerpt from the Post-Hearing Reply Brief of the ISO explaining the positions of the parties is included as Attachment A to this pleading.

⁶ *Cf., e.g., People's Electric Cooperative*, 59 FERC ¶ 61,310 (1992) (refusing to rule on issues where parties had raised the same issues in other proceeding awaiting decision).

II. ANSWER TO REQUEST FOR REHEARING

Notwithstanding Rule 213(a)(2) and 713(d)(1), 18 C.F.R. §§ 385.213(a)(2) and 385.713(d)(1), the Commission has accepted answers to requests for rehearing that assist the Commission's understanding and resolution of the issues raised in a rehearing request,⁷ or clarify or shed light on those issues.⁸ WPTF has relied upon a misstatement to support one of its arguments for rehearing. The ISO requests permission to submit this Answer for the limited purpose of correcting that misstatement. Acceptance of the ISO's Answer will assist the Commission's understanding and resolution of the rehearing request. It will not delay the Commission's consideration of that resolution.⁹ Accordingly, the Commission should accept this limited Answer.

WPTF's request for rehearing argues that if the Commission relied upon the stakeholder process as a basis for supporting its June 17 Order, it relied upon a misunderstanding of the process. (WPTF Request at 18-20.) This is because WPTF claims that the stakeholder process has "terminated." (*Id.* at 19.) That is simply not true. As WPTF is fully aware, the stakeholder process continues. In fact, on the same day that WPTF filed its Request for Rehearing in which it made the argument that the stakeholder process had terminated, the Unbundling Steering Committee met in a previously scheduled meeting for

⁷ *South Carolina Public Service Authority*, 81 FERC ¶ 61,192 (1997).

⁸ *Arizona Public Service Co.*, 82 FERC ¶ 61,132 (1998); *Tennessee Gas Pipeline Co.*, 82 FERC ¶ 61,045 (1998).

⁹ *See Portland Natural Gas Transmission System, et al.*, 83 FERC ¶ 61,080 (1998).

almost the entire day. Enron (through its representative) attended and actively participated in that meeting. The focus of the meeting was to discuss the steps that need to be taken to develop an unbundled rate for implementation by January 1, 2001. The next meeting is scheduled for August 19, 1999.¹⁰ The unbundling stakeholder process is ongoing and seeks to develop an unbundled GMC that all parties can find acceptable. WPTF's claim to the contrary is simply false.¹¹

¹⁰ A list of the participants at the meeting is included as Attachment B.

¹¹ The ISO also would express its concern with WPTF's use of an internal confidential ISO memorandum that WPTF included as Attachment A to its Request for Rehearing. That memorandum was prepared in connection with an analysis in a separate matter and cannot simply be applied to the GMC analysis as WPTF attempts at page 10 of its Request. The ISO does not believe it appropriate in the context of this limited response to WPTF's Request for Rehearing to present the reasons why the analysis cannot be applied in the manner WPTF attempts. The ISO would like the Commission to be aware, however, that what is especially troubling about WPTF's use of the memorandum is how WPTF obtained it. The memo was obtained by WPTF as a result of an inadvertent electronic release by the ISO, which the ISO requested all parties to return or destroy almost immediately after its release. WPTF ignored that request, a response that the ISO believes is inappropriate. Such practices do nothing to further and enhance the open stakeholder process that California and the Commission rely upon so heavily, but instead may lead parties to restrict the information they freely exchange today in California.

III. CONCLUSION

For the foregoing reasons, the Commission should (i) reject WPTF's Request for Clarification regarding whether Distributed Generation on the UDCs' distribution systems should be excluded from the GMC and (ii) evaluate WPTF's rehearing request consistent with the above discussion of the correct status of the stakeholder process.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. on this 3rd day of August, 1999.

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