June 1, 2001

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

Re: ***San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, et al.***
Docket Nos. EL00-95-000, *et al*.

Dear Secretary Boergers:

The California Independent System Operator Corporation ("ISO")[1] respectfully submits an original and five copies of this filing in compliance with the Commission's April 26, 2001 "Order Establishing Prospective Mitigation and Monitoring Plan for the California Wholesale Electric Markets and Establishing an Investigation of Public Utility Rates in Wholesale Western Energy Markets" in the above-captioned dockets, 95 FERC ¶ 61,115, ("April 26 Order"). This filing is

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

meant to address the Demand Response element of the April 26 Order.[2]

I. Introduction

In the April 26 Order, the Commission proposed, *inter alia*, to require each public utility purchasing electricity in the ISO's real-time Energy market to submit Demand-side bids that indicate the price at which Load will be curtailed and identify the Load to be curtailed. The Commission stated that the bids would indicate the maximum prices that the purchaser was willing to pay for specified amounts of electricity and the Loads on its system that would be curtailed when the applicable real-time Energy price exceeds the bid. The Commission also proposed that the ISO curtail service to the purchaser in accordance with its bids.[3] The Commission stated, among other things, that "requiring demand side bidding will provide downward pressure on wholesale prices since sellers will recognize the ISO will not pay any price to obtain power."[4] These proposed changes would go into effect beginning on June 1, 2001.[5]

Based on the explanations provided below, the ISO submits that no modifications to its Tariff are necessary or appropriate at this time to comply with the Demand Response element of the April 26 Order.

II. Demand Reduction In Progress

The ISO strongly supports the Commission's objective of facilitating the development of price-responsive demand in the California electricity markets. As the Commission stated in the April 26 Order, the development of price-responsive Demand will apply downward pressure on electricity prices in California. As the ISO has stated previously, however, the existence of persistently (and unconscionably) high prices in the Western markets has already elicited the response the Commission desires. First, California's per capita electricity consumption rate is already among the lowest in the nation – a statistic that should only improve in response to heightened public awareness of the impacts of consumption patterns on energy costs and the frequency of blackouts. Second, the California Public Utilities Commission ("CPUC") has approved substantial rate increases for those customers served by the State's investor

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2 The ISO made a filing in compliance with respect to other elements of the April 26 Order on May 11, 2001.

3 April 26 Order at 61,357.

4 *Id.* at 61,358.

5 *Id.* at 61,357.

owned utilities.[6] These rate increases should serve to reduce demand. Furthermore, as noted below, the California legislature has allocated $35 million dollars for the installation of real-time metering systems. The programs funded by these allocations, in combination with other State-sponsored Demand reduction programs, will further serve to reduce Demand. The Commission must be mindful that it is not necessary (nor, as the ISO explained in its Request for Rehearing of the April 26 Order, permissible)[7] to mandate demand-bidding in the ISO's markets to facilitate true demand responsiveness – Load that responds to real-time price signals by not appearing in the market is just as effective as Load that bids to curtail in applying downward pressure on prices. That is, by not requiring the ISO to serve their Load in real time, customers that voluntarily reduce demand in response to prices enable the ISO to satisfy remaining Load at a lower price (*i.e.*, utilize lower-priced supply bids). Thus, as outlined further below, the ISO believes that the mechanisms and programs currently in place will address the Commission's Demand-response goals without the need for amendment of the ISO Tariff.[8]

III. Infeasibility of Targeted Blackouts

As the ISO stated in its May 25 Motion for Clarification and Request for Rehearing, if the Commission intended for the ISO to curtail service to specific Loads based on the demand-bids associated with such Loads, the ISO currently is unable to perform this function. The ISO and the IOUs who operate the distribution systems cannot selectively curtail service to specific Loads or customers served by the same distribution circuit. When a Stage 3 System

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6 See CPUC Decision 01-05-064, issued on May 15, 2001.

7 There is no jurisdiction for requiring Investor Owned Utilities ("IOUs") to submit prices above which they will refuse to serve their customers, if that is what the Commission intended in the April 26 Order. The Commission's jurisdiction generally extends only to the selling end of wholesale transactions, and certainly not to the buying end of retail transactions. *See* Section 201 of the Federal Power Act, 16 U.S.C. § 824 (1994) (providing that sales of electricity at wholesale in interstate commerce are subject to exclusive federal jurisdiction, but that federal jurisdiction extends only to those matters that are not subject to regulation by the states). Establishment of a maximum price for retail customers to pay for service is at the heart of state jurisdiction over retail service. Indeed, in its November 1, 2000 Order, the Commission recognized Demand side response as a matter "that lies primarily within the control of state policymakers," and classified Demand response programs (though not Demand side bidding, as discussed below) under the category of "Actions Others Should Take." *San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, et al.*, 93 FERC 61,121 at 61,372-73.

8 The ISO is not completely clear on the Commission's intentions with regard to its Demand Response requirement, as noted in the ISO's Request for Rehearing and Clarification of the April 26 Order, filed on May 25, 2001.

Emergency requiring firm Load curtailment is declared, the ISO must follow the applicable Load-shedding procedures that have been developed, approved by the CPUC, and filed with this Commission along with the Utility Distribution Company ("UDC") Operating Agreements executed between the ISO and the UDCs. These procedures take into account the reliability requirements of the ISO Controlled Grid in implementing such blackouts. Under the procedures in place today, the ISO notifies the applicable UDCs of the amount of firm Load (in MW) that must be curtailed to maintain reliable system operation, and each UDC then curtails Load on its distribution system, by blocks, according to predetermined and pre-approved Electrical Emergency Plans. Thus, the ISO and UDCs cannot selectively curtail firm service to individual customers.

Moreover, there currently is no infrastructure in place to operate an adequate Demand-side bidding program. As San Diego Gas & Electric Company has noted, the CPUC determines the billing, metering, aggregating, and pricing arrangements that need to be put in place to facilitate Demand-side bidding, and the CPUC has yet to complete its examination of the issues.[9] Even if the Commission were competent to require such a program, it simply would be premature to prescribe a June 1, 2001 effective date.[10]

IV. Current Demand Response Mechanisms

A. ISO Demand Response Programs

The ISO currently has in place a number of demand-response programs.[11] Aside from the ISO's general conservation efforts (*e.g.*, public announcements and the PowerWatch communications initiative), these programs basically take two forms: 1) market-based programs and 2) reliability-related programs. Under the ISO's market-based programs, customers can identify a price they are willing to be paid to curtail service and thus provide the identified service. The market-based programs include the ISO's Participating Load Ancillary Services

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9 *See* Request for Rehearing and Comments of San Diego Gas & Electric Company, Docket Nos. EL00-95-012, *et al.* (May 8, 2001), at 21.

10 As the ISO explained in the March 22 Comments, "it is realistic to expect that only a nominal amount of price responsive demand will be in place this summer and that most of that will come from emergency activated programs and general conservation programs." March 22 Comments at 22.

11 See March 22 Comments at 22-26; Comments of the California Independent System Operator Corporation Concerning Order Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States and Requesting Comments on Further Actions To Increase Energy Supply and Decrease Energy Consumption, Docket No. EL01-47-001 (Apr. 3, 2001) at 16-17.

Program[12] and the ISO's Discretionary Load Curtailment Program. Under the ISO's reliability-related programs, the ISO directs certain customers to reduce their demand when the ISO declares a System Emergency (*i.e.*, when system conditions are such that absent a voluntary reduction in Load, the ISO may have to initiate involuntary rolling blackouts). The reliability-related programs include the ISO's Demand Relief Program and the existing UDC interruptible Load programs.

Furthermore, the ISO's existing market rules and Tariff already provide opportunities for curtailable Demand to bid into the ISO's real-time Energy market. Under the ISO's current market design, curtailable Demand bids are treated as a supply resource where Demand indicates the price at which it is willing to curtail. Payments to supply and Demand bids dispatched in the real-time market are determined by reconciling each unit's schedule and Dispatch instructions with the metered output of the Scheduling Coordinators' ("SCs") entire portfolio. Thus, no changes to the ISO's Tariff are necessary to accommodate curtailable Demand bids.

For some time, the ISO has been interested in demand side programs, and has filed Tariff Amendments designed to enhance the participation of Demand-related bids in the ISO Markets. For example, on June 17, 1999, the ISO filed Amendment No. 17, which, *inter alia*, established a *pro forma* Participating Load Agreement. In its order approving Amendment No. 17, the Commission described the PLA as "an important step in the process of developing demand responsiveness to prices." *California Independent System Operator Corporation*, 88 FERC ¶ 61,182, 61,591 (1999). In Amendment No. 28, filed on April 14, 2000, the ISO proposed a Demand Relief Program designed to allow participants to adjust their demand in accordance with the ISO's dispatch instructions. This program was approved by the Commission in *California Independent System Operator Corporation*, 91 FERC ¶ 61,256 (2000).[13]

In addition, in coordination with State authorities, the ISO is working with the utilities to develop a variation of the ISO Discretionary Load Curtailment Program that would allow for pricing "tiers." It is called the "California Demand Bidding Program". The bids would be dispatched by the ISO based on whether they compete with Generation bids. The California Department of Water Resources ("CDWR") would provide financial backing, and the IOUs would aggregate their loads for this program. The program could be implemented on an aggressive schedule to begin approximately 4-5 weeks following the required CPUC approval.

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12 The ISO's Participating Load Ancillary Services Program provides certain Loads with the opportunity to submit bids in the ISO's markets for Non-Spinning Reserves, Replacement Reserves, and Supplemental Energy.

13 The Commission recently has approved a similar program for the New Your ISO. *New York Independent System Operator Corporation*, *Inc*., 95 FERC ¶ 61,136 (2001).

B. State Programs

California has underway a number of Demand reduction efforts (*e.g.*, the contemplated installation of interval meters to facilitate implementation of real-time pricing and thus true Demand responsiveness). The California Legislature recently appropriated funding for real-time metering systems. Assembly Bill 29x allocates $35 million dollars for the installation of real-time metering systems for all bundled service customers with maximum demand greater than 200 kW. The California Energy Commission ("CEC") is currently working with public utilities to install as many of these meters as is possible for this summer. Additionally, the CEC, CPUC, and CDWR have efforts underway to implement a real-time pricing program for this summer. Though the ISO will not see these Demand bids in its real-time market, the effect will be essentially the same. Under these programs, during periods when supply margins are tight and Energy prices high, end-users will be paid to curtail Demand to avoid paying high prices. The reduced Demand will translate into lower Imbalance Energy prices in the ISO's real-time Energy market, since with a smaller amount of Load being served in real-time, the real-time market should clear at a lower part of the supply curve and will result in a lower Market Clearing Price, just as would be the case if the ISO actually had a price-responsive Demand curve in its market.

V. Participation by the IOUs

As the ISO noted in its Request for Rehearing of the April 26 Order, the CDWR is deciding whether or not to back the ISO's purchase of Imbalance Energy on behalf of Load-serving entities. CDWR is not a public utility subject to the April 26 Order's demand bidding requirement. Thus, the ISO understands that the California investor-owned utilities will not be implementing additional programs that require modification to the ISO Tariff at this time.

VI. Conclusion

The ISO respectfully requests that the Commission accept this filing in compliance with the April 26 Order. Two additional copies of this filing are included to be date stamped and returned to the messenger. Thank you for your assistance in this matter.

Respectfully submitted,

Charles F. Robinson
Vice President and General Counsel
Roger E. Smith
Senior Regulatory Counsel
The California Independent
System Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 608-7135

Edward Berlin
Kenneth G. Jaffe
David B. Rubin
Julia Moore
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007
Tel: (202) 424-7500

Dated: June 1, 2001

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 the above-captioned dockets.

Dated at Washington, DC, on this 1st day of June, 2001.

Julia Moore
(202) 424-7500