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

California Independent System Operator)  
Corporation )

Docket No. ER02-2043-001  
Docket No. ER02-2046-001  
(Not Consolidated)

**THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION'S  
ANSWER TO VALERO'S PROTEST**

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 ("CA ISO") respectfully files this answer to the September 18 Protest of the Valero Refining Company – California ("Valero")<sup>1</sup> in these matters.

Contrary to Valero's protest, Valero's Cogeneration Unit at Valero's petroleum refining facility in Benicia, California ("Cogeneration Unit #1") is directly connected to the CA ISO Controlled Grid, and should be subject to a Participating Generator Agreement ("PGA") and associated Meter Service Agreement ("MSA") in order to allow the CA ISO, as Control Area operator, to reliably operate the CA ISO Controlled Grid and Control Area in accordance with the requirements of the Western Electricity Coordinating Council ("WECC")<sup>2</sup>.

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<sup>1</sup> Although the Commission's rules do not provide for answers to protests, the Commission has discretion under Rule 213 (a)(3) to allow answers for good cause. The CA ISO avers that this answer will be helpful to the Commission in assessing Valero's claim that it is not directly connected to the CA ISO Controlled Grid and its contention that it should not be required to sign a PGA. Accordingly, the CA ISO respectfully requests the Commission to exercise its discretion and allow this answer.

<sup>2</sup> Terms used with initial capitalization and not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A of the CA ISO Tariff.

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### I. Background

On June 6, 2002, the CA ISO filed with the Federal Energy Regulatory Commission (the "Commission" or "FERC") an unexecuted PGA and an associated unexecuted MSA between the CA ISO and Valero pursuant to Section 205 of the Federal Power Act. The Agreements apply to Valero's Cogeneration Unit #1. Cogeneration Unit #1 is a 47.729 MW unit that, according to Valero, is intended to serve the refinery load of approximately 50 MW at Valero's Benicia facility.

When the CA ISO became aware of Cogeneration Unit #1's intended interconnection to the CA ISO Controlled Grid, the CA ISO communicated its requirements for Participating Generators to Valero. Since the CA ISO and Valero were unable to reach agreement as to the applicability of the CA ISO's requirements to Cogeneration Unit #1, and to facilitate the interconnection, Valero agreed to provide the CA ISO with certain information that the CA ISO requires to maintain the reliability of the CA ISO Controlled Grid and Control Area pending a Commission decision on the outstanding disputed legal issues, in an agreement dated May 24, 2002 ("May 24 Agreement").

On July 31, 2002, the CA ISO received from the Commission a deficiency letter requesting additional information associated with the unexecuted PGA and MSA between the CA ISO and Valero and indicating that such additional information should be provided as an amendment to the filing. On August 30, the CA ISO provided the information requested in the July 31, 2002 deficiency letter as an amendment to its initial filing. On September 18, 2002, Valero filed a

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protest to the amendment contending that 1) Cogeneration Unit #1 is not directly connected to the CA ISO Controlled Grid; 2) the CA ISO's amendment is devoid of any authority to support imposition of a PGA and MSA upon Valero; and 3) the Commission should deny the CA ISO's request that the Commission require Valero to abide by the May 24 Agreement indefinitely. This answer addresses each of the points.

### **II. Cogeneration Unit #1 is directly connected to the CA ISO Controlled Grid.**

Valero's protest spends six pages arguing that Cogeneration Unit #1 is not directly connected to the CA ISO Controlled Grid, because it is connected to the CA ISO Controlled Grid through a powerhouse constructed by Valero (the "Valero powerhouse"). For the reasons set forth below, the CA ISO disagrees.

Prior to addressing the items on which Valero and the CA ISO disagree, it is worth pointing out that, based on Valero's protest, it appears that there is no disagreement between the CA ISO and Valero as to the physical reality of the Cogeneration Unit #1 interconnection. Both entities agree that:

- The one-line diagram provided by Valero to the CA ISO and submitted by the CA ISO to the Commission is accurate.
- Pacific Gas and Electric Company's ("PG&E") Bahia Substation is part of the CA ISO Controlled Grid.

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While the CA ISO and Valero appear to agree on what the physical arrangements are, there is clearly disagreement as to whether or not they amount to direct connection to the CA ISO Controlled Grid.

The CA ISO considers that Cogeneration Unit #1 is directly connected to the CA ISO Controlled Grid, because, as set forth in the CA ISO's August 27 submission, the physical arrangements for Cogeneration Unit #1 correspond to those of any Generating Unit considered, without controversy, to be directly connected to the CA ISO Controlled Grid. Generating Units do not operate (as a general rule) at transmission level voltages, and therefore must connect to a local distribution bus (12kV in this case), which connects through a step up transformer to a transmission bus (230kV in this case) for energy backup support and to export to the grid.

[MATERIAL REDACTED.]

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However, irrespective of the fact that Cogeneration Unit #1 will be used to serve Valero's Benicia refinery load, Cogeneration Unit #1 is as directly connected to the CA ISO Controlled Grid as any Generating Unit can be that generates at something less than transmission level voltages. (Most Generating

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Units do in fact generate at less than transmission level voltages.) [MATERIAL REDACTED.]

Moreover, like any other Generating Unit directly connected to the CA ISO Controlled Grid, Cogeneration Unit #1 directly impacts the CA ISO Controlled Grid's overall performance (transmission line loading, voltage, system frequency, etc.). [MATERIAL REDACTED.]

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The CA ISO notes further that the term "directly connected" is not defined in the CA ISO Tariff. However, the common sense interpretation of the term is that "directly connected" means connected to the CA ISO Controlled Grid as opposed to "indirectly connected" to the CA ISO Controlled Grid through a connection to the Distribution System of a public utility or municipal utility that is connected to the CA ISO Controlled Grid. Valero is neither a public utility nor a municipal utility, thus the Valero facilities (Generating Unit and Load) are directly connected to the CA ISO Controlled Grid through the Bahia Substation.

This fact alone distinguishes Valero from the case of Riverside, cited by Valero in further support of its position. The CA ISO notes moreover that the Commission's decision in Riverside stressed that Riverside had represented that it would provide to the CA ISO "full information on the operations of the Springs Project to enable the Cal ISO to fulfill its responsibilities as Control Area Operator and to collect charges that the Cal ISO Tariff provides to be billed on a gross load basis". 100 FERC ¶ 61,055. Valero has made no such commitment on a long-term basis. Further, the CA ISO has sought rehearing of the Commission's Riverside order.

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In sum, Cogeneration Unit #1 is as directly connected to the CA ISO Controlled Grid as any Generating Unit that generates at something less than transmission level voltages (ie. most Generating Units).

### **III. Valero should be required to sign a PGA and MSA with the CA ISO.**

Valero's protest argues there is no requirement for Valero to sign a PGA and MSA in the CA ISO Tariff, that such requirement is unnecessary to maintain reliability, and that the Compliance Monitoring and Operating Practices Committee (CMOPS) of WECC "voted overwhelmingly" to reject the position set forth in the WECC's Brief on Exceptions in Docket No. ER98-997.

The CA ISO disagrees with all these contentions but will not repeat herein the analysis that has already been provided to the Commission on these points in the original June 6, 2002 transmittal letters, the July 12, 2002 Answers of the CA ISO to Motions to Intervene and Protests ("July 12 Answers"), or the August 27, 2002 Amendment of Filing and Response of the CA ISO to the July 31 Deficiency Letter ("August 27 Amendment"). The CA ISO's analysis of its Tariff authority to require Valero to sign a PGA, and associated MSA, is set forth in its June 6, 2002 transmittal letters in these matters in Section II, B, C, D, and in its July 12 Answers, Section II. The reliability concerns that support the need for Valero to sign a PGA, and associated MSA, are set forth in the July 12 Answers, Section III, and in the August 27 Amendment, response to Question 5. Rather than restating these various sections in this Answer, the CA ISO incorporates them by reference herein. Nonetheless, to ensure an accurate and full record, the CA



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ISO must respond to some of Valero's contentions as to reliability and as to the WECC.

Valero relies on testimony by CA ISO witness Deane Lyon in Docket No. ER01-313 to conclude that a failure on the part of Valero to sign a PGA and MSA, and to comply with CA ISO requirements, will not adversely impact the CA ISO's ability to reliably operate the CA ISO Controlled Grid. The testimony of Mr. Lyon quoted by Valero was given in the context of a challenge by some of the Qualifying Facilities community to the CA ISO's intended inclusion of on-site Load in the calculation of Control Area Gross Load, the billing determinant for the Control Area Services component of the CA ISO's Grid Management Charge.

As Valero contends, Mr. Lyon testified that the CA ISO has been operating the grid reliably. Nonetheless, this selective reference ignores the extensive testimony presented by Mr. Lyon in Docket ER01-313 as to why gross Load, including on-site Load, is relevant to the reliable operation of the CA ISO Control Area in accordance with WECC requirements. See Docket e.g. No. ER01-313, ISO 29 at 13:1 – 15:1. Valero also fails to mention that in fact, in her initial decision in ER01-313, Judge McCartney found that on-site Load benefits from the CA ISO's reliable operation of the grid, and "contributes to the incurrence of ISO's costs with respect to the provision of basic services essential to ensure the safe and reliable operation of the transmission system within the ISO's Control Area." See Docket ER01-313, Initial Decision at 100 (May 10, 2002).

Thus, the fact that the CA ISO has to date operated the grid reliably notwithstanding significant deficiencies in the information that it should have

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regarding the level of on-site Load - which would be derived from telemetry of on-site Generating Units - within the CA ISO Control Area should not be considered a reason to maintain an arrangement that is detrimental to reliability and the ability of the CA ISO to accurately meet WECC requirements. Having access to information about output from on-site Generating Units, and on-site Load, through gross telemetry of on-site Generating Units, will enhance the CA ISO's ability to reliably operate the CA ISO Controlled Grid and Control Area.

Valero's protest also contends that the WECC voted overwhelmingly to reject the CA ISO's view of WECC's requirements as to on-site Load. This is untrue. CMOPS is still reviewing the question of whether WECC staff's position should be maintained. CMOPS voted not to adopt a white paper which purported to address whether on-site Load should be counted as Control Area Load among a variety of matters. The white paper was flawed in a number of important respects and was not supported by the CA ISO. The white paper continues to undergo revision and will be re-submitted to CMOPS in the future. In the meantime, until there is clear direction from the WECC to the contrary, the CA ISO must comply with WECC requirements in the WECC Minimum Operating Reliability Criteria (MORC) as the CA ISO understands them. The WECC's Brief on Exceptions in Docket No. ER98-997 sets forth in ample detail the WECC's position that on-site Load must be counted by control areas in determining the appropriate level of operating reserves.

In sum, the CA ISO's position that Valero should sign a PGA and associated MSA with respect to Cogeneration Unit #1 is supported by the CA

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ISO Tariff and the CA ISO's need to reliably operate the CA ISO Controlled Grid and Control Area in accordance with WECC requirements.

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**IV. If Valero is not required to sign a PGA and MSA, it should at a minimum be required to abide indefinitely by provisions like those in the May 24 Agreement.**

Valero contends variously that the provisions of the May 24 Agreement should be the only requirements applicable to Valero pending the outcome of this proceeding, and that the May 24 Agreement should not be extended indefinitely because it expires by its own terms when the outstanding legal issues are resolved.

As to the first contention, the CA ISO notes that the May 24 Agreement explicitly permits the CA ISO to file an unexecuted PGA and associated MSA and does not state anywhere that the provisions of these agreements should be inapplicable pending the outcome of the proceedings before the Commission. The May 24 Agreement represents the minimum requirements that the CA ISO requires to maintain reliability. The CA ISO dropped its opposition to interconnection by Cogeneration Unit #1 because Valero agreed to meet these minimum requirements. The CA ISO did not in the May 24 Agreement give up its right to seek full compliance by Valero with all applicable requirements of the CA ISO Tariff before the Commission.

Regarding the second contention, the CA ISO agrees that the May 24 Agreement expires by its own terms once the outstanding legal issues are resolved. This is why neither the CA ISO, nor Valero, nor the Commission can rely on the May 24 Agreement for an assurance that over the long term, minimum reliability measures will be in place as to Cogeneration Unit #1, absent making the unit subject to a PGA and associated MSA. Thus, if the Commission

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determines that a PGA and MSA are not appropriate as to Cogeneration Unit #1, some other mechanism will be required to ensure that reliability concerns are addressed. One such mechanism could be an order by the Commission that Valero abide indefinitely with provisions of the type set forth in the May 24 Agreement<sup>3</sup>. If Valero had already agreed to do this, there would be no need for the Commission to impose an on-going requirement.

In sum, the CA ISO avers that Valero should be subject to a PGA and associated MSA. If this view is rejected, however, neither the CA ISO, Valero nor the Commission can rely on the May 24, 2002 Agreement to ensure that reliability will be maintained since the Agreement expires on its own terms once outstanding legal issues are resolved. Instead, the Commission will have to order Valero to meet provisions of the type set forth in the May 24 Agreement indefinitely if it agrees with the CA ISO that at a minimum, such provisions are necessary to maintain reliability.

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<sup>3</sup> The May 24 Agreement was not intended as a permanent agreement and hence includes non-standards procedures that would have to be revised to incorporate the CA ISO's standard procedures if the Agreement was to become permanent.

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**V. Conclusion.**

The CA ISO respectfully requests the Commission to accept this answer and to expeditiously put into effect the unexecuted PGA and associated MSA between the CA ISO and Valero as to Cogeneration Unit #1.

Respectfully submitted,

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Counsel for the California Independent  
System Operator Corporation

Date: October 17, 2002

October 17, 2002

The Honorable Magalie Roman Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Re: California Independent System Operator  
Docket Nos. ER02-2043-000 and ER02-2046-000 (Not Consolidated)

Dear Secretary Salas:

Enclosed for filing in the above-captioned proceeding is the California Independent System Operator Corporation's ("CA ISO") Answer to Valero's Protest ("Answer").

Please note that CA ISO requests privileged treatment for some portions of the Answer pursuant to Rule 112 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 388.112). The justification for privileged treatment is that these portions set forth detailed and commercially sensitive information regarding the proposed interconnection and operation of Valero's Cogeneration Unit #1. The contact regarding the request for privileged treatment of these portions is Jeanne M. Solé, Regulatory Counsel, California Independent Operator Corporation, 151 Blue Ravine Road, Folsom, California 95630, telephone: 916-608-7144 and facsimile: 916-608-7222.

An original and fifteen copies of the redacted version of the Answer is submitted herein for filing with the Commission. Please return one copy in the self-addressed, stamped envelope provided. A complete version of the Answer is provided herein in a separate envelope marked "Contains Privileged Information – Do Not Release". The CA ISO has served on Valero a full, unredacted copy of this filing.

Thank you for your attention to this matter.

Respectfully submitted,

Jeanne M. Solé  
Counsel for the California Independent  
System Operator Corporation

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the redacted version of the foregoing document upon all parties that have either requested or been granted intervention in these proceedings. In addition, I have this day served an unredacted copy of the document on Valero Refining Company – California.

Dated at Folsom, California this 17th day of October, 2002.

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Jeanne M. Solé  
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