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May 14, 2004

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

**Re: California Independent System Operator Corp.  
Docket Nos. ER03-746-001, et al.  
San Diego Gas & Electric Co., et al.  
Docket Nos. EL00-95-081, et al.**

Dear Secretary Salas:

Enclosed please find one original and fourteen copies of the Joint Status Report of the California Independent System Operator Corporation and active participants. A courtesy copy is being provided to the Chief Administrative Law Judge.

Also enclosed are two extra copies of this cover letter to be time/date stamped and returned to us by the messenger. Thank you for your assistance. Please contact the undersigned if you have any questions regarding this filing.

Sincerely,



Michael Kunselman

Counsel for the California  
Independent System Operator Corporation

Enclosures

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

<b>California Independent System Operator Corporation</b>	)	<b>Docket No. ER01-889-012</b>
	)	
<b>California Independent System Operator Corporation</b>	)	<b>Docket No. ER01-3013-004</b>
	)	
<b>San Diego Gas &amp; Electric Company,</b>	)	<b>Docket No. EL00-95-059</b>
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange,</b>	)	
	)	
<b>Respondents</b>	)	

**JOINT STATUS REPORT**

To: The Honorable Curtis L. Wagner, Jr.  
Chief Administrative Law Judge

Pursuant to the Chief Administrative Law Judge's May 3, 2004 "Order of Chief Judge Requiring Status Report," 107 FERC ¶ 63,027 (2004) ("May 3 Order"), the California Independent System Operator Corporation ("ISO"),<sup>1</sup> on behalf of the active

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<sup>1</sup> Capitalized terms not otherwise defined herein are used in the sense given in the Master Definitions Supplement, Appendix A to the ISO Tariff.

participants in the above-captioned proceeding,<sup>2</sup> respectfully submits this report and, for the reasons set forth below, requests that the procedural schedule established in this proceeding on December 10, 2002, and originally suspended on February 25, 2003, continue to be held in abeyance, pending the conclusion of the compliance process in the California refund proceeding (Docket Nos. EL00-95-045, *et al.*).

## **I. BACKGROUND**

On November 7, 2001, the Commission issued an order in this docket that required the ISO to invoice the CDWR for all transactions entered into on behalf of the net short positions of PG&E and Southern California Edison (collectively, the "IOUs") during the period January 17, 2001 through July 31, 2001, within 15 days of the date of that order. The ISO submitted its compliance filing on November 21, 2001. On March 27, 2002, the Commission issued an order requiring that the ISO "re-invoice those gross amounts owed by CDWR for all [CA]ISO transactions CDWR entered into on behalf of the non-creditworthy UDCs. . . and provide a transparent means by which this Commission and other parties can determine whether the invoiced amounts were properly calculated." In response, the ISO submitted its compliance filing along with the gross invoices of PG&E and SCE, the net invoices of CDWR, and a worksheet and summary of these invoices.

On November 25, 2002, the Commission issued an order in which it determined that the ISO's compliance filing was deficient in explaining whether or not it had properly calculated the amounts invoiced to CDWR on behalf of the net short position of the

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<sup>2</sup> The active participants in this proceeding, for purposes of this report, consist of: the ISO, the California Department of Water Resources ("CDWR"), Pacific Gas & Electric ("PG&E"), Dynegy, Duke, Reliant and

IOUs. The Commission based this decision on a finding that the ISO had failed to provide “adequate supporting documentation that would allow for transparency” in determining whether the ISO had properly calculated the amounts invoiced to CDWR. Therefore, finding that there were material issues of fact as to whether the ISO had properly calculated amounts invoiced to CDWR, the Commission set for hearing the following issues:

an accounting and explanation to determine how the CAISO calculated that DWR owed \$3.6 billion (as the creditworthy party for the IOUs) to the CAISO markets for the period January 17, 2001 through July 31, 2001; an accounting and explanation to determine how the CAISO calculated that DWR was owed \$2.7 billion during this time period; how much interest, if any, is included in these amounts due; a determination on whether DWR has fully paid all of the CAISO invoiced amounts; and any other issues that might affect the calculation of the amount that the CAISO should have invoiced DWR.

On December 9, 2002 a pre-hearing conference was convened before the Presiding Judge, at which time the Parties developed a proposed procedural schedule and discussed steps to take towards the goal of reaching a negotiated settlement of the issues set for hearing in this proceeding. The Presiding Judge adopted the parties’ proposed procedural schedule on December 10, 2002.

Throughout the early months of 2003, the parties to this proceeding engaged in a series of technical conferences and workshops in an attempt to better understand and resolve the issues that are the subject of this proceeding. During this period, the ISO also made available various data that was requested by the participants. On February 18, 2003, with testimony due on February 20 and negotiations still ongoing, the ISO filed an unopposed motion to temporarily suspend the procedural schedule to allow the

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Williams. FERC Staff has also indicated that they do not oppose this request.

parties to focus on reaching a complete settlement and preparing an offer of settlement to file with the Commission. The Chief Administrative Law Judge granted the ISO's request and, on February 25, 2003, suspended the procedural schedule until "otherwise ordered."

On May 28, 2003, the Presiding Judge issued an order requiring the parties to submit a status report on the progress of settlement negotiations, on or before June 6, 2003. On June 6, 2003, the ISO, on behalf of the active participants, filed a status report and request for continued suspension of the procedural schedule ("June 6 Status Report"). The ISO explained that since the suspension of the procedural schedule on February 25, 2003, the parties had continued settlement discussions, and although all parties felt that settlement was the preferred means of resolving the issues set for hearing by the Commission in this proceeding, negotiating such a settlement would be greatly facilitated by awaiting the conclusion of the compliance process in the California refund proceeding before attempting to conclude and file a settlement in this proceeding. Therefore, the ISO, on behalf of the active parties, requested that this proceeding remain suspended until such time as the Commission issued an order approving the ISO's compliance filing in the California refund proceeding.

On May 3, 2004, the Chief Judge issued an order requiring the parties to file "a further status report on the progress of the settlement negotiations and whether the procedural schedule should be reestablished on or before May 14, 2004." Specifically, the Chief Judge directed the parties to address "whether it is crucial for this case to continue to be held in abeyance pending the ISO's compliance filing in the refund

proceeding.” The Chief Judge stated that the parties should consider the Commission’s three-part test to determine if a stay is appropriate.

## **II. STATUS REPORT**

Since the filing of the June 6 Status Report, the active participants in this proceeding have not engaged in further discussions with respect to the issues set for hearing by the Commission in this proceeding. The active participants continue to feel that a settlement is the preferred means of resolving the issues set for hearing by the Commission in this proceeding, and believe that such a settlement is feasible. However, as noted in the June 6 Status Report, because the amounts that the ISO has calculated that CDWR owes and is owed for the January 17, 2001 through July 31, 2001 period will certainly change during the refund proceeding rerun process, parties are understandably hesitant to conclude a settlement stating that the ISO has correctly calculated those amounts. As explained in the June 6 Status Report, the parties are hopeful that a number of concerns that have been raised during negotiations such as whether CDWR-related transactions were properly accounted for in the ISO’s database, the appropriate amount of interest due on CDWR-related transactions, and the inclusion of certain charges in those billed to CDWR, can be addressed and possibly resolved through negotiations conducted parallel with the refund proceeding, prior to the completion of the compliance phase of the refund proceeding. However, the ISO has yet to complete calculations relating to CDWR charges, and interest due on those charges, in the refund rerun process. For this reason, the parties have not yet resumed settlement discussions concerning the issues set for hearing in this proceeding.

The active participants also continue to believe that it is appropriate for the procedural schedule in this proceeding to remain suspended until such time as the Commission issues an order approving the ISO's compliance filing in the California refund proceeding.<sup>3</sup>

The primary issue for resolution in this proceeding is whether the ISO properly invoiced CDWR for amounts entered into on behalf of the IOUs for the period January 17, 2001 through July 31, 2001. However, as explained in the June 6 Status Report, those amounts will change, first and foremost, because the ISO must mitigate all transactions that exceed the proxy price calculated under the Commission's refund methodology. The mitigation of those transactions will result in a change in amounts owed and owing for all participants in the ISO markets during the refund period of October 2, 2000 through June 20, 2001. Additionally, the ISO is currently in the midst of performing a "preparatory" rerun to resolve a number of outstanding issues with respect to transactions that took place before and during the refund period, which will also result in a change in amounts owed to and owed by ISO Market Participants, including CDWR. The ISO will also re-calculate interest during this period, pursuant to the Commission's direction in the refund proceeding that the ISO calculate interest on refunds and unpaid amounts at the rate set forth in Section 35.19a of the Commission's regulations. 18 C.F.R. § 35.19a (2004).

Reestablishing the procedural schedule at this time would only serve to set in motion an evidentiary process as to which the relevant underlying facts, that being the

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<sup>3</sup> The active participants reaffirm the proposal made in the June 6 Status Report that they provide the Presiding Judge with a status report 30 days from the date of the Commission's order approving the ISO's compliance filing in the refund proceeding, in order to apprise the Presiding Judge as to whether all issues in this proceeding have been resolved.

amounts invoiced to CDWR on behalf of the IOUs, are certain to change. Thus, any results of this process would be at the least tainted, or more likely voided entirely, by the outcome of the compliance process in the refund proceeding. All of the active participants, as well as the Commission itself, would be irreparably harmed by the time and expense that would be wasted in conducting and participating in such a process. Moreover, no other entities will be harmed by continuing to hold this proceeding in abeyance, because there will be no final accounting for this period until the conclusion of the compliance process in the refund proceeding. In fact, deferring the procedural schedule in this proceeding until the conclusion of the compliance phase in the refund proceeding will provide entities that are not active participants in this proceeding with greater certainty and will avoid sowing confusion as to the “real” numbers that the ISO proposes to use in invoicing Market Participants for the refund period. Also, as pointed out in the June 6 Status Report, some or all of the issues set for hearing in this proceeding may end up being resolved as part of the compliance process in the refund proceeding. Such results are clearly in the public interest, and justify a continued stay of this proceeding.



**III. CONCLUSION**

For the reasons set forth above, the ISO, on behalf of the active participants in this proceeding, respectfully requests that the Chief Judge accept this status report, and continue to hold this proceeding in abeyance until such time as the Commission issues an order approving the ISO's compliance filing in the California refund proceeding.

Respectfully submitted,



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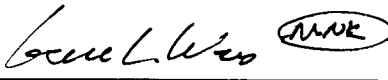
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Dated: May 14, 2004

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list for the captioned proceedings, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, CA, on this 14<sup>th</sup> day of May, 2004.

  
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Gene L. Waas