

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

San Diego Gas & Electric Company,)	
Complainant,)	
)	
v.)	Docket No. EL00-95-045
)	
Sellers of Energy and Ancillary Services)	
Into Markets Operated by the California)	
Independent System Operator and the)	
California Power Exchange,)	
Respondents.)	
)	
Investigation of Practices of the California)	
Independent System Operator and the)	Docket No. EL00-98-042
California Power Exchange)	

**MOTION OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO CLARIFY HEARING PROCEDURES**

To: Federal Energy Regulatory Commission

By Order issued December 6, 2001, the Federal Energy Regulatory Commission ("Commission") instructed the Presiding Administrative Law Judge to defer the evidentiary hearing in this proceeding pending action in the "near future" on "[n]umerous petitions for rehearing of the July 25 Order." On December 12, 2001, the Commission issued the agenda for its December 19, 2001 Meeting, which includes the dockets in this proceeding on the list of matters to be considered at that meeting. Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2001), and in light of the Commission's anticipated action on this matter on December 19, the California Independent System Operator Corporation ("ISO") requests that the Commission

in considering the format for subsequent hearing procedures, adopt two proposals, to be discussed presently, intended to facilitate a prompt and fair resolution of these proceedings. The proposals are a direct outgrowth of the lessons already learned from the proceedings held to date.

First, if the Commission maintains the concept of a reconstructed market mitigated price to be applied on an hourly or interval basis, it is most strongly urged that the mitigated prices first be litigated to final Commission resolution before the necessity for settlement reruns based on those prices. The settlement rerun process, which the ISO has already been required to run twice in this proceeding for the refund period, is exceedingly resource-intensive, requiring approximately an 8-week commitment of limited computer and unique resources, and the diversion of settlement personnel. Once the ISO's effort is completed, the PX must then do its own settlement reruns, again a many-week effort.

Unless it is assumed that the review of the mitigated prices calculated by the ISO will result in absolutely no modifications, any settlement reruns completed prior to the Commission's final determination of those prices would have to be completely re-done. There is no justification for this wasted action. The premature calculation of settlement statements based on inappropriate prices would in no way inform the review of the mitigated prices, or otherwise facilitate timely completion of this proceeding. To the contrary, experience to date counsels otherwise.

Accordingly, if there continues to be a need to calculate and consider mitigated market clearing prices, the ISO urges that the proceeding initially be restricted to that effort, with settlement reruns deferred until after final Commission action on the mitigated prices. At that time, settlement reruns could be part of a compliance process with an opportunity, if necessary, for hearing procedures.

Second, to date the Commission, undoubtedly to further a more expeditious resolution, has not provided an opportunity for the parties to file with the Commission reactions to the report to be submitted by the Presiding Judge. Again, experience both with the complexity of the issues here and with events in the closely related Pacific Northwest proceeding, suggests strongly that both the decision making process and the goal of expedition would be furthered by affording the parties an opportunity, albeit in a compressed timeframe, to share with the Commission their views about the Presiding Judge's report and, subsequently, about the views expressed by others.

CONCLUSION

For the foregoing reasons, the Commission should clarify: (1) that if, in the resumed proceeding, mitigated market clearing prices are to be calculated, the Commission first resolve finally those prices and then require settlement reruns as part of a compliance filing process with a separate hearing on settlement-related issues at that time, if appropriate; and (2) that parties will have an opportunity to comment on any report issued by the Presiding Judge and, subsequently, on the comments to that report submitted by each other.

Respectfully submitted,

Charles F. Robinson,
General Counsel
Gene Waas,
Regulatory Counsel
The California Independent
System Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 351-4400

Edward Berlin
J. Phillip Jordan
Michael Kunselman
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, DC 20007
Tel: (202) 424-7500

Dated: December 13, 2001

CERTIFICATE OF SERVICE

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

Dated at Washington, D.C., this 13th day of December, 2001.

Michael Kunselman

December 13, 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 Co., et al.
Docket Nos. EL00-95-045, et al.**

Dear Secretary Boergers:

Enclosed is an original and fourteen copies of the Motion of the California Independent System Operator to Clarify Hearing Procedures. Two copies have been provided to the Presiding Judge. Also enclosed is an extra copy of the filing to be time/date stamped and returned to us by the messenger. Thank you for your assistance.

Respectfully submitted,

Michael Kunselman
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Washington D.C. 20007

Counsel for the California
Independent System Operator Corporation

Enclosures

cc: Service List
Honorable Bruce Birchman

December 13, 2001

The Honorable Bruce Birchman
Presiding Administrative Law Judge
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 11F-31
Washington, D.C. 20426

**Re: San Diego Gas & Electric Co., et al.
Docket Nos. EL00-95-045, et al.**

Dear Judge Birchman:

Enclosed are two copies of the Motion of the California Independent System Operator to Clarify Hearing Procedures filed today with the Commission in the above-captioned dockets.

Yours truly,

Michael Kunselman
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Washington D.C. 20007

Counsel for the California
Independent System Operator Corporation

Enclosures