

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

<b>San Diego Gas &amp; Electric Company</b>	)	
	)	
	)	
<b>v.</b>	)	<b>Docket No. EL00-95-000</b>
	)	
<b>Sellers of Energy and Ancillary Services</b>	)	
<b>Into Markets Operated by the</b>	)	
<b>California Independent System Operator</b>	)	
<b>And the California Power Exchange</b>	)	

**MOTION TO INTERVENE AND ANSWER OF  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR TO COMPLAINT  
OF SAN DIEGO GAS & ELECTRIC COMPANY  
REQUESTING SUMMARY REJECTION**

Pursuant to Rules 212, 213, and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213, and 385.214, and the Commission's August 4, 2000 Notice of Filing, the California Independent System Operator Corporation ("ISO") moves to intervene in the captioned proceeding to answer the Complaint filed by San Diego Gas & Electric Company ("SDG&E") on August 2, 2000.

For the reasons developed below, SDG&E's attempt to "hard-wire" a \$250 per MWh bid cap in the markets administered by both the ISO and the California Power Exchange ("PX") should be rejected as improvident. To the extent that SDG&E has used this filing as an attempt to air issues and to encourage Commission commentary on matters now being addressed by stakeholders, including SDG&E, in

the ongoing market structure redesign effort, its attempt should be rejected as premature.

**I. Basis for Motion to Intervene**

The ISO is a non-profit public benefit corporation organized under the laws of the State of California and responsible for the reliable operation of an electric grid comprising the transmission systems of SDG&E, Southern California Edison Company, and Pacific Gas and Electric Company. SDG&E would have the Commission set an inflexible limit (“hard-wire”) of indefinite duration on the maximum prices that could be bid into the Ancillary Services<sup>1</sup> and real-time energy markets operated by the ISO in discharge of its reliability responsibility. As a consequence, the ISO has a unique, vital interest in this proceeding that cannot adequately be represented by any other participant. Therefore, the ISO requests that it be permitted to intervene with the full rights of a party.

**II. Communications**

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<sup>1</sup> Capitalized terms are references to terms that are defined in the ISO Tariff.

### **III. Background and Summary**

SDG&E's Complaint is predicated on price increases experienced over recent weeks in California's electricity markets. Based on that experience, SDG&E alleges that "prices that now prevail in those markets do not reflect legitimate forces of supply and demand," and that "California wholesale markets are, particularly at high demand levels, dysfunctional, allowing sellers to exact prices considerably above levels that would prevail in open competition." Complaint at 1-2. In response, SDG&E would have the Commission limit all sellers of Energy and Ancillary Services in the markets administrated by the ISO and PX to bids no greater than \$250 per MWh "while overhaul of the California market proceeds, and until those markets are workably competitive." *Id.* at 2-3.

Although without apparent relevance to the gravamen of its complaint, SDG&E fills much of its filing with criticism of the ISO's market redesign stakeholder review process, a process that is benefiting from a wide representation of market participants, including SDG&E, in an effort to reach broad consensus. SDG&E's proposal to hard-wire bid caps has not been reviewed by these stakeholders, who consequently have been denied the ability to assess how adoption of SDG&E's recommendation would impact the market restructuring ideas under consideration. Plainly it would be most premature for the Commission to act on SDG&E's request at this time. Instead, to the extent that SDG&E believes its proposal should be part of market redesign, it should submit it to the stakeholder process, and, if it is excluded from the final proposal filed with the Commission in November, raise it in response to that filing.

At this point, it is difficult to understand SDG&E's request for preemptory Commission action. SDG&E knows full well that the ISO has imposed a price cap of \$250 per MWh to be in effect at least until October 15, 2000 (i.e., through the period of peak demand that gives rise to the circumstances of which SDG&E complains), that the ISO price cap effectively restrains prices in the PX market as well (see Complaint at 16), and that the ISO has committed to address the continuation of its price cap authority in a filing to be made with the Commission by no later than September 15<sup>th</sup>.<sup>2</sup> To the extent that SDG&E perceives any deficiency in the ISO's filing, or believes that bid caps remain a necessary interim measure, it can make its views known to the Commission in response to that filing.

SDG&E cannot rightfully contend that action beyond that the ISO has already taken, which will be in effect at least until October 15<sup>th</sup>, is necessary now.<sup>3</sup> At the same time, SDG&E's effort to induce the Commission to speak prematurely to complicated market design issues should be given the summary rejection it deserves. It is a disservice to the Commission, and a circumvention of the

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<sup>2</sup> The specific nature of the filing has not as yet been determined, but it will of course be informed by the decision in Morgan Stanley Capital Group Inc. v. California Independent System Operator Corp., 92 FERC ¶ 61,112 (2000). While continuation of the ISO purchase price cap authority may best be achieved by deletion of inconsistencies in the ISO's tariff, global bid caps, if proposed, would first be the subject of stakeholder review and then submitted as part of market redesign.

<sup>3</sup> SDG&E requests expedited processing of its Complaint. Complaint at 18-19. However, the Commission has stated that expedited processing should be employed in only limited circumstances and only in the most unusual cases. See, e.g. Amoco Energy Trading Corporation, et al., v. El Paso Natural Gas Company, 89 FERC ¶ 61,165 (1999), reh'g denied, 90 FERC ¶ 61,354 (2000). SDG&E has made no showing that such treatment is justified. Moreover, Rule 206(b)(7) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.206(b)(7), requires that requests for preliminary relief include a detailed justification for the relief addressing (i) the likelihood of success on the merits, (ii) the nature and extent of the harm if preliminary relief is denied; (iii) the balance of relevant interests; and (iv) the effect on the public interest. SDG&E provided no such justification; nor did it even acknowledge its ability to address the issues raised in the Complaint in response to the ISO's forthcoming filing addressing the continuation of its price cap authority.

stakeholder process, to urge action on market redesign before the Commission has the benefit of the views all constituency groups, the majority of whom, we believe, do not share SDG&E's negative perspective. Neither should the Commission act without the benefit of the comprehensive record that painstakingly is being developed as part of that stakeholder process.

The Complaint should be summarily rejected.

#### **IV. Argument**

##### **A. The ISO Has Taken Responsible Steps to Protect Electric Ratepayers**

The Governing Board of the ISO ("Board") has not been indifferent to the price spikes that have impacted consumers in the SDG&E service area during periods of high demand. On August 2<sup>nd</sup>, two days before the filing of the instant Complaint, the Board voted to reduce the purchase price cap in the ISO-administered markets to \$250 per MWh and to cap replacement reserve capacity payments at \$100 per MW. These actions effectively constrain prices in the earlier PX markets as well, given that demand is free to migrate to the ISO's real-time market. The Board felt comfortable taking this action only in concert with a call for action on the part of those best positioned to address the root causes of the price spike issue, including: the need to accelerate the approval of additional investments in generation and transmission, the need to enhance the ability of distribution companies to enter into long-term hedging arrangements, and the need to provide

load with the information and technical capability it needs to respond to price signals.<sup>4</sup>

It should be noted that the Board explicitly exempted from the \$250 per MWh purchase price cap payments for certain out-of-market calls and certain demand-responsive initiatives. This flexibility is important both to ensure the ISO's ability to maintain reliability and to encourage the emergence of demand-response initiatives. It is not clear whether SDG&E's proposed bid caps contemplated preserving this flexibility. However, the ISO must retain its purchase price flexibility in order to respond to changing market conditions, whether this entails setting price caps higher or lower than some fixed amount that may have seemed appropriate in response to past circumstances. Hard-wiring a cap at this time would compromise that flexibility. Moreover, it is not necessary to do so. The very purchase price cap sought by SDG&E will remain in place during the period for which SDG&E seeks protection, the summer period of peak demand.

#### **B. The Commission Should Not Preempt the ISO's Market Reform Process**

In California Independent System Operator Corp., 90 FERC ¶ 61,006 (2000), the Commission ordered the ISO to initiate a comprehensive review of its market structure, observing that "this redesign should be pursued with input from all stakeholder groups, as well as from the Market Surveillance Committee." Id. at 61,014. The ISO began the process of soliciting and receiving stakeholder input at once, and subsequently held a series of working meetings with stakeholders and

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<sup>4</sup> A copy of the full Board Resolution is attached as Attachment 1. In addition, we note that on August 11<sup>th</sup>, the ISO filed with the Commission, for informational purposes, a detailed "Action Plan", wherein the ISO calls on all involved parties to move forward on certain explicit initiatives to further address the causes of price volatility in California's energy markets.

market participants. The various reform proposals offered by the stakeholders are posted on the ISO Home Page. A first comprehensive draft of a market redesign was issued on July 11. Comments on this draft were received in a variety of formats, including stakeholder meetings on July 13 and 14, and based on these comments a new draft was circulated on July 28.<sup>5</sup> The ISO is currently holding stakeholder meetings to receive further comments to assist in the preparation of its final recommendation on these matters. This recommendation and the proposed implementation of the market redesign will be presented to the ISO Governing Board in September and October.

In addition, the initial results of empirical studies in support of market redesign have just been completed. These studies are focused on three areas: (1) the locational price variation, based on 1999 costs, within the ISO system (the Locational Price Dispersion (LPD) Study) , (2) the economic impact of the Market Separation Rule, and (3) the actual historical costs of mitigating Intra-Zonal Congestion.<sup>6</sup> The ISO and stakeholders are and will be reviewing the results of these studies over the next month, but at this time have not had the opportunity to complete the analysis of their implications for the redesign effort.

While the ISO is gratified with the progress made to date in the effort to reach consensus among a widely divergent stakeholder group, this process is not

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<sup>5</sup> These documents are all available on the ISO Home Page at <http://www.caiso.com/clienterv/congestionreform.html>.

<sup>6</sup>The initial results of the LPD Study were originally released on July 11<sup>th</sup> as part of the ISO's draft Congestion Management Reform (CMR) recommendation (Appendix B). The assessment of Intra-Zonal Congestion costs was released as part of the July 28<sup>th</sup> update to the July 11<sup>th</sup> draft (Appendix H). The initial results of the study on the impact of the Market Separation Rule are due to be released and presented to stakeholders the week of August 14<sup>th</sup>.

complete. We are concerned that a principal motivation of the SDG&E filing (since the price protection it purports to seek already is in place) is to elicit premature commentary by the Commission on market redesign issues based on SDG&E's one-sided perspective. The views of SDG&E surely should be considered as part of the stakeholder process being undertaken at the Commission's direction. SDG&E has not hesitated to advance them in the stakeholder process and they have and will continue to be taken into consideration.<sup>7</sup> But they should be considered as part of a methodical, consensual process, along with the views of all stakeholders, and in the context of a full, analytical record. That is precisely the process that is underway. Circumvention of that stakeholder process would be inappropriate (see PJM Interconnection, 88 FERC ¶ 61,072 at 61,169 (1999)), and should not be condoned.

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<sup>7</sup> Despite SDG&E's assertions to the contrary (Complaint at 13), the ISO's July 28<sup>th</sup> draft CMR recommendation does indeed address alternative designs. In fact, Appendix E to the July 28<sup>th</sup> draft, released five days prior to the filing of SDG&E's Complaint, specifically addresses an alternative design proposed by SDG&E.



**C. Conclusion**

For the foregoing reasons, SDG&E's Complaint should summarily be rejected.

Respectfully submitted,

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