

April 4, 2005

**Via Electronic Filing**

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

**Re: Williams Power Company, Inc. v. California Independent  
System Operator Corporation, Docket No. EL05-57-000**

Dear Secretary Salas:

Enclosed please find the Motion for Clarification and Motion for Extension of Time of the California Independent System Operator Corporation, submitted in the captioned docket.

Feel free to contact the undersigned with any questions. Thank you for your attention to this matter.

Respectfully submitted,

/s/ Bradley R. Miliauskas  
J. Phillip Jordan  
Bradley R. Miliauskas

Counsel for the California  
Independent System Operator  
Corporation

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

<b>Williams Power Company, Inc.,</b>	)	
	)	
<b>Complainant</b>	)	
	)	
<b>v.</b>	)	<b>Docket No. EL05-57-000</b>
	)	
<b>California Independent System Operator Corporation,</b>	)	
	)	
<b>Respondent.</b>	)	

**MOTION FOR CLARIFICATION AND  
MOTION FOR EXTENSION OF TIME OF THE CALIFORNIA INDEPENDENT  
SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 212 and 2008 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. §§ 385.212, 385.2008, the California Independent System Operator Corporation (“ISO”)<sup>1</sup> respectfully submits this motion for clarification and motion for an extension of time concerning the directives in the Order Granting Complaint issued on March 4, 2005 in the above-captioned docket, 110 FERC ¶ 61,231 (“March 4, 2005 Order”). The March 4, 2005 Order addressed issues raised in the complaint proceeding initiated by Williams Power Company, Inc. (“Williams”).

As explained below, the ISO does not seek rehearing of or otherwise dispute the Commission’s findings in the March 4 Order that the ISO must

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

provide refunds and file a refund report with the Commission. The ISO requests clarification on two issues: (1) whether the finding in the March 4 Order that the ISO's application of the Tolerance Band to the output of must-offer units following the end of an ISO Dispatch Instruction was unauthorized also extends to the ramp rate the ISO has been applying in the same circumstance; and (2) whether the ISO may apply the Commission-approved minimum load Tolerance Band to a unit that has produced energy in an interval in response to an ISO Dispatch Instruction but subsequently has not returned to minimum load even though a reasonable period of time has elapsed for it to do so. In particular, it is not clear whether the ISO can deny MLCC once the period needed for the unit to return to minimum load has elapsed and the unit remains above minimum load by more than the Commission-approved minimum load Tolerance Band. The ISO also requests that the Commission grant an extension of time of 60 days after the issuance of an order on that issue, to provide any refunds and any refund report that the ISO might be required to make as a result of the Commission's clarification on that particular issue. In addition, as to the refunds and refund report otherwise required by the March 4 Order, the ISO requests that the Commission grant the ISO an extension of time until 60 days after today, *i.e.*, until June 3, 2005, to provide such refunds and refund report.

## I. BACKGROUND AND SUMMARY<sup>2</sup>

The ISO applies a Tolerance Band as a measure to monitor a generating unit's performance in order to determine its compliance with the must-offer obligation and eligibility for Minimum Load Cost compensation ("MLCC"). Prior to the issuance of the March 4 Order, the ISO's practice was that, after an ISO Dispatch Instruction had expired and the unit was supposed to be ramping back to its prior minimum load level (*i.e.*, the unit's "Pmin"), the ISO calculated the amount of energy that the unit should have been producing if it had been returning to that minimum load level at the ramp rate established in the ISO Master File. If the amount of energy produced by the unit in those subsequent intervals exceeded the sum of (1) the residual energy determined by this calculation, (2) the Tolerance Band, and (3) the minimum load level, the ISO rescinded MLCC in those intervals on the grounds that the unit was not operating within the calculated performance range.<sup>3</sup>

In its Complaint in this proceeding Williams argued that the ISO's application of the Tolerance Band in this manner was an extra-Tariff procedure and was contrary to Commission orders. In the March 4 Order, the Commission granted the Complaint. The Commission stated that "the rescission of payment to must-offer units that are ramping down after a dispatch instruction is inconsistent with Commission precedent," and that "the filed tariff does not allow

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<sup>2</sup> Further background concerning the must-offer obligation and the application of the Tolerance Band is provided in the answer the ISO submitted in this proceeding on February 7, 2005.

<sup>3</sup> The ISO does not apply the Tolerance Band to condition the payment of Minimum Load Costs in intervals in which the ISO dispatches Imbalance Energy from a unit operating during a Waiver Denial Period.

the CAISO to rescind minimum load cost payments to must-offer units that are ramping down to minimum load status following a CAISO dispatch instruction.” March 4 Order at PP 21, 23. Based on these findings, the Commission directed the ISO to “refund to Williams and all other must-offer generators the minimum load cost compensation that they were denied based on the unauthorized application of the tolerance band” and to file a refund report, within 30 days of the issuance of the March 4 Order. March 4 Order at P 23.

## **II. REQUESTS FOR CLARIFICATION**

The ISO requests clarification on the scope of the March 4 Order, and specifically whether it extends to the ISO’s use of a unit’s ramp rate to determine its eligibility for MLCC in the interval(s) immediately following the end of an ISO Dispatch Instruction. The ISO’s uncertainty about the scope of the March 4 Order exists because prior to the March 4 Order, the ISO had been determining a must-offer unit’s eligibility for MLCC based on the sum of (1) the residual energy the unit would produce if it returned to its minimum load level at the ramp rate established in the ISO Master File, (2) the Tolerance Band, and (3) the minimum load level. The ISO had been applying the ramp rate in conjunction with the Tolerance Band under the same precedent and authority that the March 4 Order expressly rejected as support for the Tolerance Band in post-Dispatch Instruction intervals.<sup>4</sup> Williams’ Complaint, however, did not challenge the ISO’s use of a

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<sup>4</sup> See, e.g., the Commission’s October 31, 2002 Order on Compliance Filing and Compliance Report, 101 FERC ¶ 61,112 (2002); March 13, 2003 Order on Compliance Filing, 102 FERC ¶ 61,285 (2003); October 22, 2003 Order on Proposed Tariff Amendment No. 54, 105 FERC ¶ 61,091 (2003); November 14, 2003 Order on Compliance Filing, 105 FERC ¶ 61,196 (2003); and August 5, 2004 Order on Rehearing and Compliance on Proposed Tariff Amendment No. 54, 108 FERC ¶ 61,142 (2004).

ramp rate as a component of the MLCC eligibility calculation, nor did the March 4 Order expressly address that point. Certain language in the March 4 Order could be read as an indication that the ramp rate should remain a component of the MLCC eligibility calculation. Specifically, the Commission directed the ISO to “make refunds and file a refund report identifying each instance in which the CAISO denied minimum load cost compensation to a must-offer generator *while it was returning to minimum load status* following a CAISO dispatch instruction based on the un-filed tolerance band.” March 4 Order at P 23 (emphasis added).

In the interest of avoiding any further challenge to the calculation or rescission of MLCC payments, the ISO seeks guidance from the Commission as to whether the March 4 Order extends to the ISO’s use of the ramp rate as well as to the Tolerance Band.

Moreover, the ISO requests clarification as to whether it may apply the Commission-approved minimum load Tolerance Band to a unit that has produced energy in an interval in response to an ISO Dispatch Instruction but subsequently has not returned to minimum load even though a reasonable period of time has elapsed for it to do so.

In response to Williams’ Complaint, the Commission found that the ISO was not permitted to rescind MLCC to must-offer units “that are ramping down” to minimum load status following an ISO Dispatch Instruction. March 4 Order at PP 21, 23. However, the March 4 Order did not address the situation of a unit that still has not returned to minimum load after sufficient time has elapsed for it to do so. This unit should no longer be “ramping down” and may, in fact, not be

ramping down. The ISO requests clarification that it may deny MLCC if a unit is above minimum load by more than the Commission-approved minimum load Tolerance Band once enough time has elapsed for the unit to again be at minimum load. The ISO Tariff and Commission precedent provide for the ISO to deny MLCC to a unit that should be at minimum load and should not be exceeding its minimum load Tolerance Band, but in fact is exceeding such Tolerance Band.<sup>5</sup> The ISO believes the situation for which it seeks clarification falls squarely within this Tariff and Commission authority.

A unit has to return to minimum load at some point after receiving an ISO Dispatch Instruction or lose its MLCC. Otherwise, after a dispatch period ended, a unit could stay above minimum load *indefinitely* – servicing a bilateral contract – without the ISO’s being able to deny MLCC that should rightly be compensated pursuant to the bilateral contract. Further, the amount of time needed to return to minimum load must be a *reasonable* amount of time, and no more.<sup>6</sup> The best evidence of what is a reasonable amount of time to return to minimum load is the

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<sup>5</sup> ISO Tariff, § 5.11.6.1.1 (“When, on a 10-minute Settlement Interval basis, a Must-Offer Generator generating at minimum load in compliance with the must-offer obligation, produces a quantity of Energy that varies from its minimum operating level by more than the Tolerance Band, the Must-Offer Generator shall not be eligible to recover Minimum Load Costs for any such Settlement Intervals during hours within a Waiver Denial Period.”); *San Diego Gas & Electric Co., et al.*, 99 FERC ¶ 61,158, at 61,632 (2002) (“With respect to the ISO’s proposed eligibility restriction of Minimum Load Cost recovery [*i.e.*, the Tolerance Band] . . . , we find this proposal reasonable. We agree with the ISO that units at minimum load should not have significant changes in output and that units partially committed to bilateral contracts that may have variability are not eligible for recovery of Minimum Load Costs.”).

<sup>6</sup> Williams acknowledged this point in its Complaint, where it stated that “it necessarily follows from the Commission’s directives that [waiver-denied must-offer units] must be afforded a reasonable amount of time to ramp down to minimum load status before the minimum load Tolerance Band may be applied.” Williams Complaint at 16 (original emphasis omitted). Williams went on to argue that “MLCC must be paid *during this ramp-down period*,” *id.* (emphasis added), and the Commission agreed with Williams in the March 4 Order. The ISO’s request for clarification does not deal with this ramp-down period, but with what happens *after that period ends*.

ramp rate in the ISO's system multiplied by the elapsed time since the end of the ISO dispatch period. Once the period needed for the unit to return to minimum load has elapsed, the ISO should be permitted to apply the Commission-approved Tolerance Band and deny MLCC on the basis of the authority cited in footnote 5, above, if the unit remains above minimum load by more than the Tolerance Band.

This request for clarification is not merely academic. In one real-world case, a unit with a Pmin of 90.19 MW produced energy in response to an ISO Dispatch Instruction and then, instead of promptly ramping down from 154.23 MW following an ISO Dispatch Instruction, the unit essentially "leveled off" for eight hours (*i.e.*, the unit "ramped down" only from 144.5 MW to 141.65 MW over the eight-hour period).<sup>7</sup> Finally, ten hours after the end of the period for which the ISO had dispatched the unit, the unit reached Pmin. This is merely one example of occurrences the ISO regularly faces. Sometimes units have taken an hour to reach Pmin (after they should have reached Pmin based on their ramp rate), and other times units have taken a significant number of hours, even days. The Commission must clarify whether the Commission-approved minimum load Tolerance Band should be applied in these instances.

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<sup>7</sup> Based on the ramp rate in the Master File for the unit at the time (2.2 MW's per minute), the unit should have returned to its Pmin of 90.19 MW from 154.23 MW within 29 minutes and a few seconds. Based on the ramp rate in the Master File now (1.5 MW's per minute), the unit should have returned within about 43 minutes. In either case, within the hour immediately following the ISO Dispatch Instruction, the unit should have returned to Pmin. Further, based on the way the Dispatch Instruction was issued, the unit should have actually returned within the hour in which it had the real-time dispatch.



### III. REQUESTS FOR EXTENSION OF TIME

The Commission may, for good cause shown, extend the time for compliance with a statute, rule, or Commission order (except as otherwise provided by law). 18 C.F.R. § 385.2008(a). To determine if good cause exists, the Commission will review the facts surrounding a request for an extension of time. *Salt Lake County Water Conservancy District*, 31 FERC ¶ 61,201, at 61,413 (1985). Good cause exists here for the Commission to grant the requests for extension of time explained below.

The ISO requests that the Commission grant an extension of time of 60 days after the issuance of an order on the issue for which the ISO seeks clarification in Section II, above, to provide any refunds and any refund report that the ISO might be required to make as a result of the Commission's clarification on that issue. Good cause exists for granting the extension because the ISO requires Commission guidance in order to determine whether refunds and a refund report are required.

The ISO also requests that the Commission grant an extension of time of 60 days from today (*i.e.*, until June 3, 2005), to comply with the directives in the March 4 Order to provide refunds and file a refund report. Good cause exists for the extension because the ISO's Settlements personnel are working around the clock and are completely occupied with other critically important work at this time. The ISO, and in particular its Settlements personnel, are resource-constrained and need more time to do the refunds ordered by the Commission. Therefore, granting the requested 60-day extension is appropriate.

#### IV. CONCLUSION

WHEREFORE, for the above-stated reasons, the ISO respectfully requests that the Commission grant clarification and the extensions of time requested above.

Respectfully submitted,

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Dated: April 4, 2005

## 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 proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California, on this 4<sup>th</sup> day of April, 2005.

/s/ Anthony Ivancovich  
Anthony Ivancovich