

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

California Independent System)
Operator Corporation) Docket No. ER04-389-000

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO
PROTESTS AND COMMENTS**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.212 and 385.213, the California Independent System Operator Corporation (“ISO”) hereby requests leave to file an answer, and files its answer, to the protests and comments filed by certain intervenors in the captioned proceeding.

In support hereof, the ISO respectfully states as follows:

I. MOTION FOR LEAVE TO FILE ANSWER

Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure provides that answers to protests generally are not allowed “unless otherwise ordered by the decisional authority.” However, in the past the Commission has allowed the filing of answers to protests for various reasons demonstrating good cause.¹

¹ The Commission has held that good cause exists when an answer will facilitate the decisional process, help resolve complex issues, clarify the issues in dispute or a party’s position on the issues, lead to a more accurate and complete record or provide useful and relevant information which will assist in the decision making process. *East Tennessee Natural Gas Company*, 79 FERC ¶ 61,124 at 61,569 (1997); *Great Lakes Gas Transmission, L.P.*, 66 FERC ¶ 61,115 at 61,194 (1994); *Tennessee Gas Pipeline Company*, 55 FERC ¶ 61,437 at 62,306 n.7 (1994); *Transwestern Pipeline Company*, 50 FERC ¶ 61,362 at 62,090 n.19 (1980); *Transwestern Pipeline Company*, 50 FERC ¶ 61,211 at 61,672 n.5 (1980).

The ISO submits that good cause exists to grant the ISO leave to respond to the various protests filed in this proceeding. The ISO's Answer will lead to a more accurate and complete record and will assist the Commission in understanding the issues in this proceeding and reaching a decision. For these reasons, the ISO respectfully requests that the Commission accept the following Answer.

II. ANSWER

A. Procedural Background

On January 9, 2004, the ISO filed for acceptance by the Commission letter agreements with the Bonneville Power Administration ("BPA"), Reliant Energy Services ("Reliant") and Sempra Energy Resources ("Sempra"). The letter agreements set forth dynamic scheduling arrangements between the ISO and these parties that are interim in nature pending the ISO's development of formal, generally applicable dynamic scheduling policies. As the ISO indicated in its January 9, 2004 filing, the ISO is currently in the process of developing such policies. The ISO noted that the new policies would apply to BPA, Reliant and Sempra once they are finalized, as well as to all parties desiring dynamic scheduling arrangements.

Only a handful of parties filed motions to intervene in the captioned proceedings² and, of these intervenors, only one party --Powerex -- filed a protest. Reliant and El Dorado supported for the filing and urged the Commission

² Motions to intervene were filed by the following parties: Powerex Corp. ("Powerex"); Pinnacle West Energy Corporation ("Pinnacle West"); the Northern California Power Authority; Sempra Energy Resources ("Sempra"); Reliant Energy Services, Inc. ("Reliant"); El Dorado Energy LLC ("El Dorado"); Calpine Corporation ("Calpine"); and the Cities of Redding and Santa Clara, California and the M-S-R Public Power Agency, jointly ("Cities").

to promptly accept the letter agreements. The Cities and Calpine expressed their general support for dynamic scheduling stating that dynamic scheduling is an important mechanism for market participants. Another party – Pinnacle West – agreed that it would be appropriate for the Commission to accept the letter agreements on an interim basis and filed comments for the ISO’s consideration regarding the appropriate terms and conditions for a formal, generally applicable dynamic scheduling policy. The instant Answer addresses the protest filed by Powerex and the comments filed by Pinnacle West. As discussed in greater detail below, the ISO notes that no party has raised any issues that require rejection of or revisions to the letter agreements filed by the ISO. Accordingly, the Commission should accept such letter agreements effective on the dates specified in the January 9, 2003 filing.

B. As Requested By Powerex, The ISO Is Committed To Making A Tariff Filing By April 1, 2004 To Implement Formal, Generally Applicable Policies For Dynamic Transfers

Powerex states that, by letter dated December 17, 2002, it requested that the ISO permit it to engage in dynamic scheduling but that the ISO did not respond to such request. Powerex Protest at 5. Powerex suggests that it is unduly discriminatory to permit BPA, Reliant and Sempra to engage in dynamic scheduling on an interim basis but not Powerex. Accordingly, Powerex contends that the Commission should order the ISO to implement its final generic policies on dynamic scheduling by April 1, 2004 or permit other suppliers to participate in the “interim pilot program.” *Id.* at 6-7.

Given the expressed interest in dynamic scheduling, the ISO has reevaluated its approach. Specifically, the ISO is undertaking its best efforts to develop the generic dynamic scheduling program as soon as possible and strongly desires to make a Section 205 filing with the Commission by April 1, 2004 to implement formal standards and operating procedures for dynamic transfers. The ISO intends to circulate its dynamic scheduling proposal for stakeholder comment by March 1, 2004.³ The ISO plans to seek stakeholder input regarding the proposal and publicly discuss such proposal with stakeholders. Following the stakeholder process, the ISO will present any required Tariff modifications to the ISO Board for approval prior to filing them with the Commission.

The ISO is willing to work with Powerex, Calpine⁴ and other market participants to execute letter agreements for “interim” dynamic scheduling that are consistent with the terms and conditions set forth in the letter agreements with BPA, Sempra, and Reliant.⁵ The ISO’s intent is not to exclude any market participant that is similarly situated to BPA, Reliant and Sempra from engaging in dynamic scheduling under the same terms and conditions accorded them.

³ Additionally, the ISO notes that NERC is currently in the final phase of drafting a “Dynamic Transfer White Paper,” parts of which may be immediately incorporated into NERC’s Policy 3. A draft of the white paper is available on NERC’s Internet site. It is the ISO’s intent to ensure that the final dynamic policy filing is consistent with all applicable provisions of the NERC white paper and standards governing implementation and use of dynamic scheduling functionality. Findings from the August 14, 2003 Northeast Blackout investigation conducted by NERC and the U.S. Department of Energy indicate that issues associated with dynamic scheduling may have been a contributing factor in the blackout. As a result, there is a movement at the NERC level toward requiring that new dynamic scheduling functionality proposed in any control area must undergo peer review and NERC approval prior to implementation.

⁴ In its Comments, Calpine requests that the ISO permit other suppliers to participate in the “interim” dynamic scheduling program on a non-discriminatory basis.

⁵ In addition, discussions with market participants could help “inform” the ISO in its development of a formal dynamic scheduling policy.

However, now that the ISO has decided to expedite its timeline for finalizing a formal dynamic scheduling policy, the ISO would prefer to spend its limited resources on developing the generally-applicable policy rather than negotiating individual agreements and implementation arrangements, which would have to include, at a minimum, implementation of the proper system controls between all involved Control Areas, modification of all affected business systems, and mutual understanding of, and agreement on, the applicable settlements rules, on an entity-by-entity basis. Given the ISO's efforts to expedite the timeline for filing a formal dynamic scheduling policy, the execution of additional "interim" agreements will likely be moot (because the formal policy should be effective before any new dynamic scheduling functionality actually can be implemented, or at least close in time to the implementation of such functionality).⁶

Moreover, it does not necessarily follow that Powerex is similarly situated to BPA, Sempra and Reliant. The generating resources operated by Powerex are not located in an adjoining control area as are BPA's units and the El Dorado Merchant Plant. Consequently, any dynamic schedule signal from Powerex would have to be approved by BPA and routed through, and be properly implemented on, the BPA EMS. Specifically, Powerex must have the ability and have necessary arrangements in place to dynamically schedule energy through BPA. Further, the necessary transmission reservations would have to be made

⁶ The ISO notes that the three "interim" letter agreements were executed to memorialize certain operational aspects of the dynamic scheduling functionalities with BPA, Reliant and Sempra with the full intent (and agreement) to either terminate the letter agreements or change their provisions should the provisions in such agreements be inconsistent with the ISO's forthcoming general policy.

not only on the ISO and BC Hydro ties but, also through the BPA Control Area. Indeed, Powerex recognized in its December 17, 2002 letter that it needs to have formal arrangements in place with BPA before it can dynamically schedule energy into the ISO Control Area. Although Powerex indicated that BPA was receptive to the idea of facilitating dynamic scheduling by Powerex, the ISO did not receive any formal confirmation from BPA (or Powerex) that BPA was, in fact, ready to participate in the development of such dynamic scheduling functionality with Powerex. Absent the necessary formal arrangements between Powerex, BPA and BC Hydro being in place, it is a moot issue whether the ISO can accommodate dynamic scheduling by Powerex. In any event, the ISO is ready to work with Powerex, BPA, and BC Hydro to develop an arrangement whereby Powerex can dynamically schedule energy into the ISO from its resources in the BC Hydro Control Area. Any arrangement must recognize Powerex's unique circumstances and the need for the willing participation of a third party to wheel energy from Powerex to the ISO Control Area.

C. The ISO Will Consider Pinnacle West's Comments In Developing Its Final Dynamic Scheduling Policies

Pinnacle West expresses its support for dynamic scheduling and submits that it would be appropriate for the Commission to accept the letter agreements on an interim basis. Pinnacle West Comments at 3. However, in connection with the ISO's development of a formal prospective dynamic scheduling policy, Pinnacle West believes that the letter agreements are too restrictive and impose unnecessary requirements. *Id.* Specifically, Pinnacle West submits that three aspects of the letter agreements should not be adopted when the ISO adopts

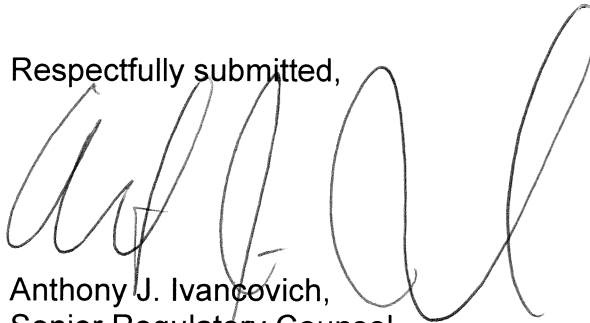
final dynamic transfer requirements. First, Pinnacle West argues that there should not be a requirement for a single certification, by the System Resource, including the Regulation Support requirements. *Id.* at 4. Second, Pinnacle West argues that penalties for Uninstructed Deviation should not be imposed without some threshold determination of system impact. *Id.* Third, Pinnacle West states that there should not be a rigid implementation of a 20-minute, top of the hour ramp limitation. *Id.* a 5.

The ISO appreciates Pinnacle West's comments and will consider such comments, and any other input that Pinnacle West provides, in developing a final dynamic transfers policy. In developing such formal policy, the ISO hopes to allow as much flexibility as is reasonable —provided that such flexibility (1) does not have any detrimental effect on the reliable operation and integrity of the ISO Control Area and the Western Interconnection and (2) is consistent with the treatment of generators located within the ISO's Control Area and existing regional practice.

III. CONCLUSION

Wherefore, for the foregoing reasons, and the reasons set forth in the ISO's January 9 Filing, the ISO requests that the Commission accept the three letter agreements with BPA, Reliant and Sempra effective on the dates specified in the filing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Anthony J. Ivancevich', written over the typed name below.

Anthony J. Ivancevich,
Senior Regulatory Counsel
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Attorney for the California Independent
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Filed: February 17, 2004



February 17, 2004

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

**Re: Docket No. ER04-389-000
California Independent System Operator Corporation**

Dear Secretary Salas:

Enclosed for electronic filing please find Motion For Leave to File Answer and Answer of The California Independent System Operator Corporation to Protests and Comments in the above captioned docket.

Thank you for your assistance in this matter.

Respectfully submitted,

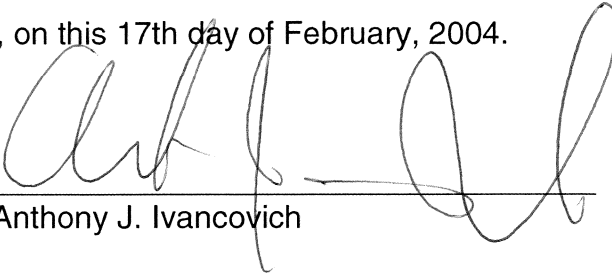
A large, stylized handwritten signature in black ink, appearing to read 'Anthony J. Ivancovich'. The signature is written over the typed name and title.

Anthony J. Ivancovich
Counsel for The California Independent
System Operator Corporation

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-captioned docket.

Dated at Folsom, California, on this 17th day of February, 2004.



Anthony J. Ivancovich