

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

San Diego Gas & Electric Company,)	Docket Nos. EL00-95-106
)	EL00-95-107
v.)	
)	
Sellers of Energy and Ancillary Services)	
Into Markets Operated by the California)	
Independent System Operator and the)	
California Power Exchange Corporation)	
)	
)	
Investigation of Practices of the California)	Docket Nos. EL00-98-093
Independent System Operator)	EL00-98-094
Corporation and the California Power)	
Exchange)	

**MOTION FOR LEAVE TO FILE COMPLIANCE FILING
ONE DAY OUT-OF-TIME**

Pursuant to Section 212 of the Commission's Rules of Practice and Procedure, 18 C.F. R. § 385.212, the California Independent System Operator Corporation ("ISO") files this Motion for Leave to File Compliance Filing One Day Out-of-Time. In support whereof, the ISO states as follows.

In its order of July 5, 2005 in the above-captioned docket, 112 FERC ¶ 61,024 (2005), the Commission required the ISO to make a compliance filing to reflect certain modifications to the outage coordination provisions of the ISO Tariff and the ISO's Outage Coordination Protocol concerning the treatment of hydroelectric units operated by the California Department of Water Resources. Due to administrative oversight, the ISO was not able to deliver this filing to the Commission by the 5:00 p.m. deadline. The ISO submits that no party will be

prejudiced by accepting this compliance filing one day out-of-time. Therefore, the ISO respectfully requests that the Commission grant this motion and accept the attached compliance filing one day out-of-time.

Respectfully submitted,

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Date: August 5, 2005

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August 5, 2005

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

**Re: California Independent System Operator Corporation
Docket Nos. EL00-95-106, EL00-95-107, EL0098-093 and EL00-98-094
Compliance Filing**

Dear Secretary Salas:

The California Independent System Operator Corporation ("CAISO")¹ respectfully submits six copies of this filing in compliance with the Commission's Order of July 5, 2005² in the above-captioned dockets.

I. BACKGROUND

In April, 2001, the Commission adopted a market mitigation plan for California wholesale energy markets. As part of this plan, the Commission granted the ISO greater authority to coordinate outage scheduling for generators that have entered into a Participating Generator Agreement ("PGA") with the ISO. The California Department of Water Resources ("DWR"), however, challenged the Commission's decision to grant the CAISO authority over DWR's outage scheduling, contending that such authority would interfere with DWR's water management functions.

In an order issued on June 19, 2001,³ the Commission reaffirmed the CAISO's authority to coordinate outage scheduling for generators with PGAs,

¹ Capitalized terms not otherwise defined herein are defined in the Master Definitions Supplement, ISO Tariff Appendix A, as filed August 15, 1997, and subsequently revised.

² 112 FERC ¶ 61, 024 (2005) ("July 5 Order").

³ 95 FERC ¶ 61,418.

including DWR. DWR filed a petition for review of the Commission's April and June 2001 orders, and on August 27, 2003, the United States Court of Appeals for the Ninth Circuit vacated and remanded in pertinent part these orders, stating that the Commission had not answered the question of whether the differences between DWR and other generators were material for purposes of outage coordination.⁴ The Commission issued an Order on Remand on June 22, 2004.⁵ Therein, the Commission granted DWR an exemption for its hydroelectric generators from the CAISO's outage coordination procedures. The CAISO requested rehearing. On December 21, 2004, the Commission issued an order requesting comments from both the CAISO and DWR on the issues raised in the CAISO's rehearing request. Pursuant to that order, both the CAISO and DWR filed initial and reply comments.

On July 5, 2005, the Commission issued an order on the CAISO's request for rehearing, concluding that DWR's water management responsibilities will not be compromised by adhering to the CAISO's requirements concerning the submission and approval of outage schedules. However, the Commission found that the CAISO's authority to cancel DWR's approved outages should be more limited than currently allowed in some provisions of the Outage Coordination Protocol. Specifically, the Commission indicated that the CAISO would be permitted to deny an outage request or cancel DWR's approved outages for reasons of system reliability, but not in order to ensure "efficient use" of the CAISO Controlled Grid or because of "market impact." *Id.* at P 29. Moreover, the Commission indicated that if DWR determines that an action by the CAISO's Outage Coordination Office would result in a violation of a law affecting hydroelectric operations, or compromise DWR's ability to deliver water to its customers, then the CAISO must "first use every other option at its disposal to avoid a reliability problem before rejecting an outage request or requiring DWR to cancel any approved outage." The Commission directed the CAISO to reflect these restrictions in the Outage Coordination Protocol and Section 2.3.3 of the CAISO Tariff, and amend its compliance filing made in response to the June 22 Order to implement these changes ("July 22 Compliance Filing").

II. THE COMPLIANCE FILING

In the July 5 Order, the Commission indicated that DWR's operations are not so unique that they cannot comply with the annual outage scheduling requirement of the CAISO Tariff and the Protocol. However, the Commission directed the CAISO to make certain changes to its Tariff and Outage Control Protocol to indicate that the CAISO would be permitted to deny an outage request or cancel DWR's approved outages only in order to ensure system reliability.

⁴ California Department of Water Resources v. FERC, 341 F.3d 906 (9th Cir.2003), reh'g denied, 361 F.3d 517 9th Cir. 2004).

⁵ 107 FERC ¶ 61294 (2004) ("June 22 Order").

In order to reflect this directive, the CAISO proposes a new Section 2.3.3.1.1, entitled "California Department of Water Resources," which would replace the Section 2.3.3.1.1 proposed by the CAISO in the July 22 Compliance Filing. This section states that DWR is subject to the provisions of Section 2.3.3 as well as the provisions of the Outage Coordination Protocol, except that with respect to CDWR's hydroelectric units, the CAISO shall only be permitted to deny a requested Maintenance Outage or change to an Approved Maintenance Outage, or cancel an Approved Maintenance Outage, for reasons relating to the reliable operation of the CAISO Controlled Grid.

This section also specifies that if DWR informs the CAISO that an action taken by the CAISO Office of Outage Coordination, pursuant to its authority under Section 2.3.3 of the CAISO Tariff and/or the Outage Coordination Protocol, would violate a federal or state law affecting hydroelectric operations, or interfere with DWR's ability to deliver water to its customers, then the CAISO will use all other available options at its disposal to ensure reliable operation of the CAISO Controlled Grid before rejecting a requested Maintenance Outage or change to an Approved Maintenance Outage, or cancel an Approved Maintenance Outage, relating to the hydroelectric resources operated by CDWR.

The CAISO is also proposing a new section OCP 1.3.4 of the Outage Coordination Protocol, to replace the version filed in the July 22 Compliance Filing. This new OCP 1.3.4 will reflect the limitations set forth in Section 2.3.3.1.1. The CAISO has indicated an effective date for these provisions of July 22, 2004, consistent with the July 22 Compliance Filing, which the Commission ordered the CAISO to amend in the July 5 Order.

Clean Tariff sheets reflecting the above language are included with this filing as Attachment A. Blackline sheets showing the changes to the currently effective CAISO Tariff and Outage Coordination Protocol are included as Attachment B.

Attachment C contains a form of notice suitable for publication in the Federal Register for the filing. The CAISO is also providing a computer diskette containing the form of notice for this filing.

The CAISO is serving copies of this compliance filing on all parties on the official service list for the captioned docket. Because the compliance filing proposes changes to the CAISO Tariff the CAISO is also serving copies of this filing on the following entities: the California Public Utilities Commission, the California Energy Commission, the California Electricity Oversight Board, and all parties with effective Scheduling Coordinator Service Agreements under the CAISO Tariff. In addition, the CAISO is posting this filing on its Home Page. If there are questions on this filing, please contact the undersigned.

The Honorable Magalie R. Salas
August 5, 2005
Page 4

Respectfully submitted,



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Counsel for the California Independent
System Operator Corporation

August 5, 2005

ATTACHMENT A

2.3.2.9.3 Imposing Sanctions. If the ISO finds that the operation and maintenance practices of any Participating TOs, Participating Generators, Eligible Customers, or UDCs prolonged the response time or contributed to the Outage, the ISO may impose sanctions on the responsible Participating TOs, Participating Generators, Eligible Customers, or UDCs provided that no sanction shall be imposed in respect of actions taken in compliance with the ISO's instructions or pursuant to a Remedial Action Scheme. The ISO shall develop and file with FERC a schedule of such sanctions. Any dispute concerning whether sanctions should be imposed under this Section shall be resolved through the ISO ADR Procedures. The schedule of sanctions filed with FERC (including categories and levels of sanctions) shall not be subject to the ISO ADR Procedures. The ISO shall publish on the ISO Home Page details of all instances in which a sanction has been imposed.

2.3.3 Coordination of Outages and Maintenance.

2.3.3.1 ISO Outage Coordination Office. The ISO Outage Coordination Office shall be established by the ISO and shall coordinate and approve Maintenance Outages of: (i) all facilities that comprise the ISO Controlled Grid and (ii) Participating Generators. The ISO shall additionally coordinate and approve Outages required for new construction and for work on de-energized and live transmission facilities (e.g., relay maintenance or insulator washing) and associated equipment.

2.3.3.1.1 California Department of Water Resources. The provisions of Section 2.3.3, and the provisions of the Outage Coordination Protocol, shall apply to the California Department of Water Resources ("CDWR"). However, the ISO shall be permitted to deny a requested Maintenance Outage or a requested change to an Approved Maintenance Outage, or cancel an Approved Maintenance Outage, relating to hydroelectric Generating Units owned and operated by the CDWR, only if, in the reasonable opinion of the ISO, the requested Maintenance Outage, Approved Maintenance Outage, or requested change to an Approved Maintenance Outage, is likely to have a detrimental effect on the reliable operation of the ISO Controlled Grid.

Furthermore, if CDWR informs the ISO Outage Coordination Office that an action of the ISO Outage Coordination Office, made pursuant to Section 2.3.3 and/or the provisions of the Outage Coordination Protocol, will result in a violation of federal or state law affecting hydroelectric operations or compromise CDWR's ability to deliver water to its customers, the ISO will use all other options at its disposal under Section 2.3.3 and the Outage Coordination Protocol in order to ensure the reliable operation of the ISO Controlled Grid before rejecting a requested Maintenance Outage or a requested change to an Approved Maintenance Outage, or canceling an Approved Maintenance Outage, relating to the hydroelectric Generating Units owned and operated by the CDWR.

OCP 1.3 Scope

OCP 1.3.1 Scope of Application to Parties

OCP applies to the ISO and to the following:

- (a) Operators;
- (b) Participating Generators;
- (c) Connected Entities, to the extent the agreement between the Connected Entity and the ISO so provides; and
- (d) Utility Distribution Companies (UDCs).

OCP 1.3.2 [Not Used]

OCP 1.3.3 Liability of the ISO

Any liability of the ISO arising out of or in relation to this Protocol shall be subject to Section 14 of the ISO Tariff as if references to the ISO Tariff were references to this Protocol.

OCP 1.3.4 California Department of Water Resources

The provisions of Section 2.3.3, and the provisions of the Outage Coordination Protocol, shall apply to the California Department of Water Resources ("CDWR"). However, the ISO's authority to deny a requested Maintenance Outage or a requested change to an Approved Maintenance Outage, or cancel an Approved Maintenance Outage, relating to hydroelectric Generating Units owned and operated by the CDWR, shall be limited as set forth in Section 2.3.3.1.1 of the ISO Tariff.

OCP 2 PLANNING OF GENERATING UNIT OUTAGES

OCP 2.1 Reporting for Regulatory Must-Take Generation

Information regarding planned outages for resources providing Regulatory Must-Take Generation shall be provided to the ISO Outage Coordination Office by the Participating TO or UDC having an existing contract with such resource or by a Participating Generator.

Information provided will be that obtained by the Participating TO, UDC or a Participating Generator pursuant to the terms of the existing agreement with the Regulatory Must-Take Generation resource or as requested by the ISO.

OCP 2.2 Data to ISO

All information submitted in relation to planned Generating Unit Outages must be submitted in accordance with OCP 7.

ATTACHMENT B

2.3.3.1.1 California Department of Water Resources. The provisions of Section 2.3.3, and the provisions of the Outage Coordination Protocol, shall apply to the California Department of Water Resources (“CDWR”). However, the ISO shall be permitted to deny a requested Maintenance Outage or a requested change to an Approved Maintenance Outage, or cancel an Approved Maintenance Outage, relating to hydroelectric Generating Units owned and operated by the CDWR, only if, in the reasonable opinion of the ISO, the requested Maintenance Outage, Approved Maintenance Outage, or requested change to an Approved Maintenance Outage, is likely to have a detrimental effect on the reliable operation of the ISO Controlled Grid.

Furthermore, if CDWR informs the ISO Outage Coordination Office that an action of the ISO Outage Coordination Office, made pursuant to Section 2.3.3 and/or the provisions of the Outage Coordination Protocol, will result in a violation of federal or state law affecting hydroelectric operations or compromise CDWR’s ability to deliver water to its customers, the ISO will use all other options at its disposal under Section 2.3.3 and the Outage Coordination Protocol in order to ensure the reliable operation of the ISO Controlled Grid before rejecting a requested Maintenance Outage or a requested change to an Approved Maintenance Outage, or canceling an Approved Maintenance Outage, relating to the hydroelectric Generating Units owned and operated by the CDWR.

* * *

Outage Coordination Protocol

OCP 1.3.4 California Department of Water Resources

The provisions of Section 2.3.3, and the provisions of the Outage Coordination Protocol, shall apply to the California Department of Water Resources (“CDWR”). However, the ISO’s authority to deny a requested Maintenance Outage or a requested change to an Approved Maintenance Outage, or cancel an Approved Maintenance Outage, relating to hydroelectric Generating Units owned and operated by the CDWR, shall be limited as set forth in Section 2.3.3.1.1 of the ISO Tariff.

ATTACHMENT C

Coordinator Agreements under the CAISO Tariff, as well as all parties of record in the above-captioned dockets.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at <http://www.ferc.gov>, using the **eLibrary** (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll-free at (866)208-3676, or for TTY, contact (202)502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: _____