

ALSTON & BIRD LLP

601 Pennsylvania Avenue, N.W.
North Building, 10th Floor
Washington, DC 20004-2601

202-756-3300
Fax: 202-756-3333

Bradley R. Miliauskas

Direct Dial: 202-756-3405

Email: bradley.miliauskas@alston.com

November 17, 2005

VIA ELECTRONIC FILING

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

**Re: California Independent System Operator Corporation,
Docket No. ER06-54-000**

Dear Secretary Salas:

Attached please find the Motion for Leave to File Answer and Answer of the California Independent System Operator Corporation, submitted in the above-captioned docket.

Thank you for your assistance in this matter.

Respectfully submitted,

/s/ Bradley R. Miliauskas
Bradley R. Miliauskas

Counsel for the California Independent
System Operator Corporation

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

California Independent System)
Operator Corporation) Docket No. ER06-54-000

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

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2005), the California Independent System Operator Corporation (“ISO”)¹ submits its answer to the motions to intervene submitted in the captioned proceeding,² and pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213, the ISO moves to file an answer, and files its answer, to the motion to intervene, protest, and request for suspension submitted in the captioned proceeding.³ This proceeding concerns an Interconnected Control Area

¹ Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

² The Modesto Irrigation District (“Modesto”) and the Transmission Agency of Northern California submitted filings styled as motions to intervene that contain no substantive comments. The Turlock Irrigation District (“Turlock”) submitted a filing styled as a motion to intervene that contains substantive comments.

³ The City and County of San Francisco (“CCSF” or “City”) submitted the motion to intervene, protest, and request for suspension.

The ISO requests waiver of Rule 213(a)(2) (18 C.F.R. § 213(a)(2)) to permit it to make an answer to CCSF’s protest. Good cause for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case. See, e.g., *Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002); *Duke Energy Corporation*, 100 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Company*, 93 FERC ¶ 61,098, at 61,259 (2000).

Operating Agreement (“ICAOA”, contained in the “ICAOA Filing”) between the ISO and Turlock that the ISO submitted unilaterally due to time constraints. The ISO requested that the ICAOA be made effective on December 1, 2005, which is the date on which the new Turlock-operated Control Area is expected to become effective. Transmittal Letter for ICAOA Filing at 1.

I. STATEMENT OF ISSUES

In accordance with Rule 203(a)(7), 18 C.F.R. 385.203(a)(7), the ISO provides this Statement of Issues.

1. Whether there is a need for the Commission to take further action, pursuant to the Energy Policy Act of 2005 or otherwise, to ensure reliable interconnected operations with regard to the ICAOA.
2. Whether the issues raised by CCSF in the present proceeding should interfere with the Commission’s acceptance of the ICAOA, in light of the ISO’s unilateral filing of an Interim Operations Agreement between the ISO and CCSF to address those issues.

II. ANSWER

The ISO does not oppose any of the motions to intervene.

A. Turlock’s Comments Raise Concerns for Reliable Operations

In the comments included in its motion to intervene, Turlock takes issue with the following ISO statement from the ICAOA Filing:

The ISO has advised Turlock that the ISO’s process for scheduling transactions on Control Area interties requires that schedules be submitted into the ISO’s scheduling systems by a Scheduling Coordinator in order to assure reliable operation of the

Control Area interties. While the *pro forma* ICAOA and the ISO-Turlock ICAOA do not include such an express requirement relative to non-ISO Controlled Grid facilities within the ISO Control Area, one of the ISO-Turlock Control Area interties is comprised of non-ISO Controlled Grid facilities and the ISO has filed the ISO-Turlock ICAOA on the understanding that this requirement would apply to both non-ISO Controlled Grid and ISO Controlled Grid facilities.

Transmittal Letter for ICAOA Filing at 2 n.2. Turlock states that “the ISO’s expectations about the outcome of future negotiations between the parties . . . should not be at issue here” and that “reliable interconnected operations are of paramount importance and will be pursued by using scheduling and checkout procedures that are both consistent with WECC criteria and commonly practiced throughout WECC.” Turlock at 4.

The ISO agrees that reliable interconnected operations are of paramount importance, which is the reason the ISO raised the issue in the ICAOA Filing. However, in prior discussions with Turlock, and in correspondence received from Turlock in conjunction with Turlock’s execution of the ICAOA subsequent to the ISO’s filing of the unilateral version of the ICAOA in this docket, Turlock had indicated to the ISO that Turlock did not consider it necessary to submit schedules between the Turlock Control Area and non-ISO Controlled Grid facilities in the ISO Control Area into the ISO’s scheduling system. To the contrary, particularly in light of the size and location of the Turlock Control Area, the ISO believes that the maintenance of the reliability of the Control Area interties requires that Schedules be submitted into the ISO’s scheduling systems by a Scheduling Coordinator.

The ISO's Scheduling Infrastructure ("SI") system is its primary grid operations system, as well as its means of scheduling use of transmission, assuring adequate operating reserves, and power flow modeling to anticipate and mitigate transmission line overloads. The SI system is also the "front end" to the ISO's Energy Management System/Automatic Generation Control system, which is used to help manage real-time interchange with adjacent Control Areas. The SI system is the only direct link from the ISO's scheduling system to the ISO's congestion management and real-time operating systems. It is the means by which the ISO is able manage the scheduling and power flow associated with the thousands of individual Schedules and market bids that the ISO receives for every hour. This is especially important given the ISO's need to schedule and operate the 52 individual interties between the ISO Control Area and the 12 other Control Areas with which the ISO Control Area will be interconnected with the addition of Turlock.

Turlock has expressly agreed in the ICAOA that interchange schedules for one of its two new interties with the ISO Control Area (the Westley intertie) must be submitted through the ISO's SI system but not the other (the Oakdale intertie). Turlock based this distinction on the fact that CCSF's transmission facilities in the ISO Control Area that connect to the Turlock Control Area are not part of the ISO Controlled Grid. However, this distinction is entirely irrelevant to the ISO's obligations and methods for reliable operation of the ISO Control Area and its interties with adjacent Control Areas. The Oakdale intertie will be just one of the 52 interties that the ISO necessarily must use its SI system to manage, as

discussed above. The fact that CCSF's facilities are not formally part of the ISO Controlled Grid in no way changes the ISO's responsibilities as a Control Area operator to operate the Oakdale intertie reliably in just the same manner as it operates every other ISO Control Area intertie. Consequently, it would make no sense from the standpoint of operational reliability for the ISO to operate one of its two interties with Turlock through use of its SI system and not the other.

Every other entity scheduling interchange between the ISO Control Area and a neighboring Control Area, inclusive of other municipal and federal entities such as the Western Area Power Administration, Northern California Power Agency, Sacramento Municipal Utility District ("SMUD"), and Modesto, submits these hourly Schedules into the ISO's scheduling system electronically through a Scheduling Coordinator, in recognition of the importance of these ISO systems as its means of managing a very large and complex grid and Control Area. This is the case for both interties where the transmission facilities at the intertie are part of the ISO Controlled Grid and those where the transmission facilities are not part of the ISO Controlled Grid. There is no good reason why interchange schedules between the ISO Control Area and the new Turlock Control Area should be treated differently, such as through an exception to be administered manually via spreadsheet or by phone. This is particularly the case given the potential adverse impact on reliable operations if the ISO were to have to endeavor to create special arrangements to accommodate Turlock's unwillingness to follow the scheduling practices employed with respect to every other Control Area adjacent to the ISO Control Area – even as Turlock attempts

to demonstrate its ability to operate a Control Area reliably at the very outset of its existence, which it has decided to establish with full knowledge of the requirements of the ISO's scheduling systems.

Turlock's previously expressed reluctance to commit to follow applicable scheduling practices in scheduling with the ISO has been particularly unacceptable given the ISO's understanding that Turlock's primary concern is with ISO charges that accrue to Scheduling Coordinators. However, a concern about charges should not override concerns about reliability, as the former can be mitigated in a number of ways and can even be addressed retrospectively through refunds if necessary. Moreover, the ISO believes that Turlock's concerns about charges would be substantially mitigated by virtue of the Interim Operations Agreement between the ISO and CCSF that is described below, and Turlock can intervene in the proceeding on that agreement to express any concerns it may have regarding charges.

Notwithstanding the previous indications the ISO received from Turlock that it did not intend to submit schedules across the new Oakdale intertie into the ISO's SI scheduling system through a Scheduling Coordinator, the ISO has just this week been given indications by Turlock that it will nevertheless arrange for scheduling by this means for this intertie. The ISO is thus optimistic that Turlock will proceed with the necessary arrangements to implement this approach and, if Turlock does so, the ISO's concerns regarding reliable operations discussed above will be resolved. Nonetheless, the ISO has not been provided a legally binding commitment to this effect as of the date of this answer.

If Turlock does not provide the ISO and the Commission with assurance that these arrangements will be implemented as of November 30 for the requested December 1 implementation date for the ICAOA, the ISO submits that the Commission should take action to protect reliable operation of the ISO and Turlock Control Areas by ordering Turlock to ensure these scheduling arrangements are implemented. The ISO believes that Commission action pursuant to the Energy Policy Act of 2005 (“EPAAct”)⁴ will facilitate reliable interconnected operations with regard to the ICAOA. The EPAAct gives the Commission jurisdiction over “all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f) [of the Federal Power Act (“FPA”)], for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.” EPAAct, § 1211(a) (quoting amended Section 215(b) of the FPA). As an entity described in Section 201(f) of the FPA, Turlock is subject to this provision of the EPAAct.

The ISO plans to seek certification as an “Electric Reliability Organization” under the EPAAct, and intends to file reliability standards pursuant to such a certification for Commission approval. EPAAct, § 1211(a) (citing amended Sections 215(c) and 215(d) of the FPA). The ISO standards would include provisions that will have the effect of requiring interchange between the Turlock Control Area and the ISO Control Area to use the ISO’s scheduling systems for

⁴ Pub. L. No. 109-58, 119 Stat. 594 (2005).

Control Area intertie schedules. In the interim, however, if Turlock cannot provide assurance that the scheduling concerns described above will not arise, the ISO believes that the Commission should take action to impose that requirement on Turlock pursuant to its EPCRA authority. Absent such action by the Commission, the ISO will have no choice but to consider alternative actions, including potentially withdrawing its support of the ICAOA and the implementation of the new Turlock Control Area effective on December 1, 2005. Pursuing such an alternative would trigger a number of undesirable consequences, including complications relating to concurrent transfer of Modesto to the SMUD Control Area and the new relationship between CCSF and the ISO addressed below. All of these are consequences that will be avoided if Turlock simply ensures that arrangements are established for the submittal of schedules into the ISO's scheduling systems electronically by a Scheduling Coordinator.

B. The Concerns Raised in CCSF's Protest Should Be Addressed in a Proceeding on the ISO's Proposed Interim Operations Agreement with CCSF and Should Not Delay Acceptance of the ICAOA

CCSF raises the issues that (1) the creation of a new Control Area by Turlock should not adversely affect CCSF or cause a change of Control Area for CCSF facilities; (2) the creation of a new Control Area by Turlock should not result in an unauthorized and uncompensated use of CCSF facilities that have not been turned over to the ISO's operational control; (3) the creation of a new Control Area by Turlock should not cause CCSF to incur additional ISO charges for existing transactions; and (4) the Commission should clarify that the ICAOA does not govern the use or operation of CCSF facilities. See CCSF at 2, 4-8.

The ISO is sympathetic to CCSF's concerns. In order to address those concerns, the ISO proposes to make a unilateral filing of a special agreement, an Interim Operations Agreement between the ISO and CCSF. The ISO is submitting that agreement on the same day that it is submitting the present filing. With the filing of the proposed Interim Operations Agreement, the ISO submits that CCSF's concerns should be addressed in the proceeding on that agreement.

CCSF requests that the Commission suspend the effective date of the ICAOA for the maximum time allowed [*i.e.*, five months⁵] to provide time for resolution of the outstanding issues" that CCSF has raised concerning the ICAOA. CCSF at 4. In light of the filing of the Interim Operations Agreement described above, the ISO submits that there is no need for a suspension and that the Commission should accept the Amendment and make it effective as of December 1, 2005 as requested.

⁵ See Section 205(e) of the FPA, 16 U.S.C. § 824d(e).

III. CONCLUSION

Wherefore, the ISO respectfully requests that the Commission approve the ICAOA subject to the discussion provided above.

Respectfully submitted,

Charles F. Robinson
General Counsel
John Anders
Senior Counsel
The California Independent
System Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 351-4400
Fax: (916) 608-7222

/s/ Michael E. Ward
Michael E. Ward
Bradley R. Miliauskas
Alston & Bird LLP
601 Pennsylvania Avenue, NW
North Building, 10th Floor
Washington, D.C. 20004-2601
Tel: (202) 756-3405
Fax: (202) 756-3333

Dated: November 17, 2005

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary in the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

/s/ John Anders
John Anders