

December 28, 2001

The Honorable Linwood A. Watson, Jr.
Acting Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: California Independent System Operator Corporation
Docket No. ER02-____-000
Amendment No. 41 to the ISO Tariff**

Dear Secretary Watson:

Pursuant to Section 205 of the Federal Power Act ("FPA"), 16 U.S.C. § 824d, and Sections 35.11 and 35.13 of the Commission's regulations, 18 C.F.R. §§ 35.11, 35.13, the California Independent System Operator Corporation ("ISO")¹ respectfully submits for filing an original and six copies of an amendment ("Amendment No. 41") to the ISO Tariff. Amendment No. 41 would modify the Tariff in the following respects:

- Changes in the use of interest received by the ISO on payments in default to permit the use of such interest to pay unpaid creditors first and secondly to offset the Grid Management Charge ("GMC");
- New provisions to create a "safe harbor" mechanism to permit the ISO to provide confidential information to governmental agencies that have established their own confidentiality provisions and procedures;
- Changes to the definition of the Non-Emergency Clearing Price Limit ("NECPL") to provide for a negative maximum; and

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.

- Correction of a typographical error in Tariff Section 9.2.6.

Revised Tariff sheets reflecting the changes proposed herein are contained in Attachment A.

I. THE PROPOSED AMENDMENTS

The proposed modifications to the ISO Tariff are the products of ISO self-initiated work and have been approved by the ISO Governing Board.

A. Interest on Defaulted Market Payments

Under Section 11.12 of the ISO Tariff and Settlements and Billing Protocol ("SABP") Section 6.10.5, if a Scheduling Coordinator fails to pay any sum due to the ISO on a timely basis and the ISO is unable to enforce any Security of that Scheduling Coordinator, the Scheduling Coordinator is assessed interest on the overdue amount at the ISO Default Interest Rate² for the period from the Payment Date until the date on which the payment is remitted to the ISO Clearing Account.

Pursuant to SABP Section 6.5.2(a), "[a]ny amounts paid to the ISO in respect to acts or defaults giving rise to default interest referred to in SABP 6.10.5 . . . shall be credited to the Surplus Account." Under SABP Section 6.5.2(b), the funds referred to SABP Section 6.5.2(a) "shall first be applied towards any expenses, loss or costs incurred by the ISO." Any excess remains in the Surplus Account.

Disbursement of funds in the Surplus Account is governed by SABP Section 6.5.3, which provides as follows:

In the event that there are funds in the ISO Surplus Account in excess of an amount to be determined by the ISO Governing Board and posted by the ISO on the WEnet, the amount of such excess will be distributed to Scheduling Coordinators using the same method of apportioning the refund as the method employed in apportioning the liability for the Grid Management Charge.

The ISO believes that this provision did not anticipate the significant defaults that have occurred in the ISO Markets. In light of the significant sums involved from defaulting Scheduling Coordinators, the ISO proposes to

² The "ISO Default Interest Rate" is a rate equal to 2% above the average rate of interest which the ISO Bank charges to the ISO in respect of its borrowings. See Master Definitions Supplement, ISO Tariff Appendix A.

apply all default interest in the Surplus Account to any unpaid creditor balances rather than disbursing the interest payments in accordance with “the method employed in apportioning the liability for the Grid Management Charge.” In essence, the ISO seeks to ensure that all unpaid amounts are satisfied before any “surplus” is redistributed to offset the ISO’s GMC.

The ISO notes that the treatment of interest payments due suppliers for purchaser defaults and due purchasers for supplier overcharges for the period October 2000 through June 20, 2001 is at issue before the Commission in Docket Nos. EL00-95-045, *et al.*³ This filing is not meant to prejudice the outcome of that proceeding in any way.

B. ISO Release of Confidential Information

Earlier this year, the ISO Board of Governors directed the ISO to develop an information policy and to propose modifications to the ISO Tariff to provide state authorities with greater access to confidential data. In the instant filing, the ISO proposes Tariff revisions that create a safe harbor by which the ISO may provide confidential information to the California Electricity Oversight Board (“EOB”) providing that it has in place appropriate protections for the receipt, review, and storage of ISO confidential information. The Tariff modification also confirms that the ISO will continue to provide confidential information to the Commission in accordance with the Commission’s rules and regulations. This approach allows the ISO to expedite information requests, establishes equity and symmetry among the regulatory entities, and retains the ability of third parties to acquire information via subpoena or notification methods.

C. Price Limitation During Non-System Emergency Periods

In the ISO’s July 10, 2001 compliance filing submitted in response to the Commission’s June 19, 2001 “Order On Rehearing Of Monitoring and Mitigation Plan For The California Wholesale Electric Markets, Establishing West-Wide Mitigation, And Establishing Settlement Conference” (95 FERC ¶ 61,418 (2001)), the ISO proposed Tariff modifications to Section 2.5.23.3.1.2 that, among other things, provided that notwithstanding any other provision of the ISO Tariff, during hours in which the ISO has not declared a System Emergency, the BEEP Interval Ex Post Price shall not exceed the NECPL. The ISO had implemented its previous price caps symmetrically, that is, the cap applied to both positive and negative prices. The ISO believes that the NECPL should have a lower limit as well. Both upper and lower limits are necessary to mitigate market power under all circumstances, including during periods of over generation. The ISO is considering the appropriate lower limit for mitigated prices, but, to provide

³ See *San Diego Gas & Electric Company, et al.*, 96 FERC ¶ 61,120, at 61,499 (2001).

immediate protection against unreasonable decremental bids, proposes for now a lower limit that is symmetrical to the upper limit.

D. Typographical Error in Section 9.2.6

The ISO proposes to correct a single-word typographical error in ISO Tariff Section 9.2.6. Correction of the misspelled word "provided" is non-substantive and does not alter the meaning of the Section in any way.

II. EFFECTIVE DATE

The ISO respectfully requests that the Commission approve the effective dates for these Tariff revisions provided in the following table. To the extent necessary, the ISO requests waiver of the prior notice provisions of Section 205(d) of the FPA, 16 U.S.C. § 824d(d), and Section 35.3 of the Commission's regulations, 18 C.F.R. § 35.3, to permit these Tariff revisions to be made effective on certain specific dates.

Subject	Tariff Section	Requested Effective Date	Reason for Effective Date
Default Interest	SABP § 6.5.2	November 1, 2001	The ISO will be in possession of significant sums of default interest arising from transactions in November 2001. The effective date will permit these sums to be paid to ISO Creditors.
Confidential Information	§ 20.3.4	February 26, 2002	The ISO proposes the regular 60-day schedule for implementation of this modification as consistent with the Commission's Rules of Practice and Procedure.
NECPL	§ 2.5.23.3.1.2	February 26, 2002	The ISO proposes the regular 60-day schedule for implementation of this modification as consistent with the Commission's Rules of Practice and Procedure.
Typographical Error	§ 9.2.6	February 26, 2002	The ISO proposes the regular 60-day schedule for implementation of this modification as consistent with the Commission's Rules of Practice and Procedure.

III. COMMUNICATIONS

Communications regarding this filing should be addressed to the following individuals, whose names should be placed on the official service list established by the Secretary with respect to this submittal:

Charles F. Robinson
Margaret A. Rostker
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IV. SERVICE

The ISO has served copies of this letter, and all attachments, on the Public Utilities Commission of the State of California, the California Energy Commission, the California Electricity Oversight Board, and on all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff. In addition, the ISO is posting this transmittal letter and all attachments on the ISO Home Page.

V. ATTACHMENTS

The following documents, in addition to this letter, support this filing:

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| Attachment A | Revised Tariff Sheets |
| Attachment B | Black-lined Tariff provisions showing changes to the treatment of default interest |
| Attachment C | Black-lined Tariff provisions showing changes to create a safe harbor mechanism to permit the ISO to provide confidential information to governmental agencies |
| Attachment D | Black-line Tariff provisions showing changes to the definition of the NECPL to provide for a negative maximum |
| Attachment E | Black-lined Tariff provisions showing a correction of the typographical error in ISO Tariff Section 9.2.6 |

The Honorable Linwood A. Watson, Jr.

December 28, 2001

Page 6

Attachment F Notice of this filing, suitable for publication in the
Federal Register (also provided in electronic
format).

Two extra copies of this filing are also enclosed. Please stamp these
copies with the date and time filed and return them to the messenger.

Please feel free to contact the undersigned if you have any questions
concerning this matter.

Yours truly,

Charles F. Robinson
Margaret A. Rostker
Counsel for The California Independent
System Operator Corporation

Enclosure