

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation)
Docket No. ER00-555-002)
)
)

**ANSWER OF CALIFORNIA
INDEPENDENT SYSTEM OPERATOR CORPORATION
TO MOTIONS TO INTERVENE, COMMENTS AND PROTESTS**

On February 7, 2000, the California Independent System Operator Corporation ("ISO") submitted a compliance filing in the above-captioned docket which included a number of modifications to the revisions to the ISO Tariff proposed, and accepted in part, in Amendment No. 23 to the ISO Tariff.¹ These modifications included revisions to Sections 7.2.6.2, 11.2.4.2, and 11.2.4.2.1 of the ISO Tariff submitted to comply with the Commission's January 7, 2000 Order in this proceeding.²

In accordance with the Notice of Filing issued on February 10, 2000, a number of parties submitted motions to intervene, comments and/or protests concerning this compliance filing by February 28, 2000. In addition, one party, the Independent Energy Producers Association ("IEP") filed a protest on February 29, 2000 with a motion for leave to file one day out-of-time. Pursuant to

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

² *California Independent System Operator Corp.*, 90 FERC ¶ 61,006 (2000) ("January 7 Order").

Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213, the ISO now files its Answer to the Motion to Intervene, Comments and Protests submitted in the above captioned docket.

As explained below, in response to certain comments, the ISO agrees to make one additional modification to the Tariff provisions proposed in Amendment No. 23. This change is reflected in a Tariff sheet attached to this Answer. The requests for other modifications to the ISO's February 7 compliance filing are unnecessary and unsupported. The Commission should accordingly accept the February 7 compliance filing with only such additional revisions as the ISO has made in this Answer.

I. BACKGROUND

On November 10, 1999, the ISO filed Amendment No. 23 to the ISO Tariff in the above-captioned docket. The ISO Tariff grants the ISO authority to Dispatch resources in certain circumstances, when market bids are not available from resources that could be adjusted to deal with a real-time system problem or emergency situation. In Amendment No. 23, the ISO proposed an alternative payment option for resources dispatched pursuant to this authority and modification of the allocation of costs so incurred. In addition, the ISO sought clarification that it could exercise this Dispatch authority to address Intra-Zonal Congestion in circumstances where it had made an advance determination that a competitive market for bids was not present and where non-competitive bids that could alleviate the Intra-Zonal Congestion had been submitted.

On January 7, 2000, the Commission issued its order accepting for filing in part, and rejecting in part, Amendment No. 23. In the January 7 Order, the Commission accepted those aspects of Amendment No. 23 that would establish an additional payment option to compensate resources for ISO Dispatch orders. The Commission also accepted the ISO's proposed allocation of costs resulting from ISO Dispatch orders. The Commission rejected aspects of Amendment No. 23, however, that would establish the ISO's authority to issue out-of-market ("OOM") Dispatch orders to manage Intra-Zonal Congestion where resources have submitted bids for managing Intra-Zonal Congestion to the ISO, but the ISO has determined that the markets for such bids are not competitive. January 7 Order, 90 FERC at 61,010. The Commission also directed the ISO to undertake a review of its approach to Intra-Zonal Congestion Management. The Commission directed the ISO to file Tariff revisions consistent with the January 7 Order within 30 days. *Id.* at 61,016.

On February 7, 2000, the ISO submitted its compliance filing in this proceeding.³ A number of parties submitted comments and/or protests on the compliance filing.⁴ While many of the parties submitting comments and/or

³ The ISO has a Motion for Clarification or, In the Alternative, Request for Rehearing, and Request for Expedited Consideration concerning certain aspects of the January 7 Order pending in this proceeding. In the February 7 compliance filing, the ISO reserved the right to submit further compliance changes, as appropriate, once the Commission acts on that Motion.

⁴ These parties include the following: Duke Energy North America LLC ("Duke"); Enron Power Marketing, Inc. ("Enron"); Reliant Energy Power Generation, Inc. ("Reliant"); Southern Energy California, L.L.C., Southern Energy Potrero, L.L.C., and Southern Energy Delta, L.L.C. ("Southern"); the Western Power Trading Forum ("WPTF"); Williams Energy Marketing & Trading Company ("Williams"); and a collective filing by the Transmission Agency of Northern California, the M-S-R Public Power Agency, the Modesto Irrigation District, and the Cities of Santa Clara and Redding, California ("TANC *et al.*").

protests are already intervenors in this proceeding, others also submitted motions to intervene. The ISO does not oppose the intervention of any party in this proceeding. With one exception noted below, however, the ISO does not believe that the further modifications to the Amendment No. 23 Tariff revisions proposed in these comments and/or protests are necessary or appropriate.

II. ANSWER TO COMMENTS AND PROTESTS⁵

A. The References to "Locational Requirement" and "Location-Specific Requirements" in Sections 11.24.2 and 11.2.4.2.1 Do Not Expand the ISO's Dispatch Authority And Are Necessary to Implement the Cost Allocation Provisions Approved in Amendment No. 23.

Most parties commenting on the February 7 compliance filing object to the fact that the ISO did not delete a reference in Section 11.2.4.2 to the ISO's dispatch of resources which have not bid into the ISO's markets in order "to satisfy a locational requirement" and a parallel reference in Section 11.2.4.2.1 that ISO dispatch of resources may result from "location-specific requirements of the ISO." See, e.g., Duke at 3; Reliant at 2-3; IEP at 1-2; *et al.* These objections are based on the false premise that these phrases reflect some improper attempt by the ISO to expand its authority to dispatch resources. The parties making these objections ignore the fact that the January 7 Order recognizes that the ISO has the authority to dispatch resources to address location-specific requirements

⁵ The parties filed pleadings variously titled "Comments", "Motions to Intervene", and "Protests." There is no prohibition on the ISO's responding to the comments in these pleadings. The ISO is entitled to respond to these pleadings and requests notwithstanding the label applied to them. *Florida Power & Light Company*, 67 FERC ¶ 61,315 (1994). In the event that any portion of this answer is deemed an answer to protests, the ISO requests waiver of Rule 213 (18 C.F.R. §385.213) to permit it to make this answer. Good cause for this waiver exists here given the nature and complexity of this proceeding and the usefulness of this answer in ensuring the development of a complete record. See, e.g., *Enron Corporation*, 78 FERC ¶ 61,179 at 61,733, 61,741 (1997); *El Paso Electric Company*, 68 FERC ¶ 61,181 at 61,899 & n.57 (1994).

where market bids that can address such requirements have not been submitted. Moreover, there is a need for the language in question to be included in Sections 11.2.4.2 and 11.2.4.2.1 because the distinction between whether a resource has been dispatched out-of-market to address a location-specific requirement or for some other purpose determines the entity to which the cost of that Dispatch order will be allocated. In addition, Sections 11.2.4.2 and 11.2.4.2.1 are pricing and cost allocation provisions which are included in the "Settlements and Billing" section of the ISO Tariff and do not bear on the ISO's authority to dispatch resources. These sections would therefore not provide a basis for any alleged attempt to expand the ISO's Dispatch authority in contradiction of the January 7 Order.⁶

In the January 7 Order, the Commission approved the ISO's proposal concerning the allocation of costs resulting from OOM Dispatch orders. The Commission explained that, under the ISO's proposal, "[t]he costs of a resource dispatched pursuant to an OOM call to address transmission outages *or a location-specific requirement* will be allocated to the [Participating Transmission Owner for the] transmission system where the transmission facility is located *or the location-specific requirement arose.*" 90 FERC at 61,015 (emphasis added). The Commission then declares: "We will accept the ISO's proposed cost allocation, effective as requested. When OOM results from a local reliability

⁶ Duke properly notes that "[t]he ISO's counsel has informed counsel for DENA that . . . the language is not intended as an additional grant of authority to the ISO, and pointed out that the language appears in a paragraph dealing with compensation for out-of-market calls rather than the scope of the ISO's authority" Duke at 3. Duke's pleading neglects to mention that counsel for Duke was also informed that the references to "locational requirements" and "location-specific requirements" are necessary to implement the cost allocation provisions approved by the Commission in the January 7 Order.

problem, it is appropriate that transmission users paying rates on the basis of the affected system pay this additional reliability cost." *Id.*

Thus, far from adding ambiguity to the Tariff, as some intervenors suggest, the references to "locational requirements" and "location-specific requirements" in Sections 11.2.4.2 and 11.2.4.2.1 are necessary to implement and reflect an aspect of Amendment No. 23 that the Commission approved.

These references are also entirely consistent with the January 7 Order's discussion of the ISO's existing Dispatch authority, which states that the ISO may dispatch resources to address "real-time system problems or emergency conditions" that are either "in existence or imminent" where "the supply that has bid into the market is less than the amount needed to physically satisfy the ISO's need." 90 FERC at 61,011. As the discussion quoted above makes clear, the Commission has appropriately recognized that such needs may be locational in nature.

However, certain intervenors identify another phrase in Section 11.2.4.2.1 that the ISO does agree to eliminate. *See, e.g.,* WPTF at 9-20 and Southern at 3. As revised by the February 7 compliance filing, the first two sentences of Section 11.2.4.2.1 read as follows:

Pursuant to Section 11.2.4.2, the ISO may, at its discretion, dispatch any Participating Generator, Participating Load and import, that has not bid into the Imbalance Energy or Ancillary Services markets, to avoid an intervention in market operations or to prevent or relieve a System Emergency. Such dispatch may result from, among other things, planned and unplanned transmission facility outages; bid insufficiency in the Ancillary Services and Real-Time Energy markets; and location-specific requirements of the ISO that cannot be meaningfully provided through the market.

The phrase "that cannot be meaningfully provided through the market" is arguably inconsistent with the ISO's Dispatch authority as discussed in the January 7 Order. The failure to delete this phrase in the February 7 compliance filing was an oversight. While the first sentence of this provision, as revised by the February 7 compliance filing, makes it clear that Section 11.2.4.2.1 refers only to the dispatch of resources that have not bid into the ISO's markets, the ISO believes it is also appropriate to delete the phrase "that cannot be meaningfully provided through the market." A revised Tariff sheet reflecting this deletion is provided as Attachment A to this filing.

B. The References to "Resources" and "Imports" in Sections 11.2.4.2 and 11.2.4.2.1 Are Consistent With the ISO's Authority to Call on Resources In the Event of An Imminent or Actual System Emergency.

TANC, *et al.* contend that the ISO has failed to comply with the January 7 Order by failing to replace the terms "resources" and "imports" in Sections 11.2.4.2 and 11.2.4.2.1 with the term "Participating Generators." The sole basis for this complaint appears to be the fact that, in the January 7 Order's discussion of "[t]he ISO's Pre-Existing Authority to Issue OOM Calls," the Commission discusses the ISO's current authority to dispatch Participating Generators and includes a footnote defining that term. TANC, *et al.* at 3-4. TANC, *et al.* ignore the fact that elsewhere in that same discussion, the Commission discusses the ISO's authority in the more general context of "generators", "generating units", and "resources." 90 FERC at 61, 011. For example, the Commission specifically discusses the ISO's authority under Section 5.1.3 of the ISO Tariff, which

describes the ISO's authority to assume control over "Generating Units" in the event that a "real-time system problem or emergency condition" is "in existence or imminent." The term "Generating Unit is defined in the ISO Tariff as:

An individual electric generator and its associated plant and apparatus whose electrical output is capable of being separately identified and metered or a Physical Scheduling Plant that, in either case, is:

- (a) located within the ISO Control Area;
- (b) connected to the ISO Controlled Grid, either directly or via interconnected transmission, or distribution facilities; and
- (c) that is capable of producing and delivering net Energy (Energy in excess of a generating station's internal power requirements).

This definition is not limited to "Participating Generators," a term which is separately defined in the ISO Tariff. Thus, it is clear that the Commission's discussion in the January 7 Order is not limited to Participating Generators.

Moreover, TANC itself has conceded that the ISO's authority to call on resources out-of-market in certain circumstances extends beyond Participating Generators. In the "Unresolved Issues" proceeding in Docket No. ER98-3760, TANC and the Sacramento Municipal Utility District were among the "Joint Proponents" that submitted a brief concerning Issue No. B(5)(c) in that proceeding. TANC discusses the ISO's authority pursuant to Section 5.1.3 as follows: "The ISO can only assert authority over *resources* not bid into its markets in order to remedy a pending or existing system emergency" Joint Proponents Brief at 3 (emphasis added). TANC goes on to state, "It should be noted that Joint Proponents do not believe that the ISO should be limited to being

able to call only on *participating* generators to respond to potential or actual emergencies. That is a duty all control area participants must acknowledge." *Id.* at 6 (emphasis in original). If resources that are not Participating Generators are dispatched by the ISO to respond to potential or actual emergencies under this acknowledged authority, they will be reimbursed pursuant to the payment options set forth in Sections 11.2.4.2 and 11.2.4.2.1. Thus, it would be inappropriate to limit the applicability of those provisions to "Participating Generators."

There is no basis for the argument of TANC, *et al.* that the term "resource" should not be used in these provisions because it is not a defined term in the ISO Tariff. The term is used in other provisions of the Tariff approved by the Commission. For example, Section 7.2.6.2 as currently approved by the Commission makes it clear that, "[i]n the event no Adjustment Bids or Imbalance Energy bids are available [to manage Intra-Zonal Congestion], the ISO will exercise its authority to direct the redispatch of resources." Moreover, the Amendment No. 23 transmittal letter makes it quite clear that the term "resource" includes Generating Units and imports. These statements were reinforced when, on February 11, 2000, the ISO issued a Market Notice concerning the procedures for Scheduling Coordinators representing "Generating Units and other resources" to make the annual election described in Section 11.2.4.2.⁷

Similarly, TANC, *et al.* have no basis for objecting to the inclusion of the term "imports" in Section 11.2.4.2.1. That term is included within the definition of the term "resource." While the ISO does not suggest that it has the authority to

⁷ The Market Notice is provided as Attachment B to this Answer.

direct the dispatch of resources outside the ISO Control Area under the provisions of Section 5.1.3, there are circumstances where the ISO will make OOM calls to import Energy or services from outside the ISO Control Area. For example, Section 10.3 of the Dispatch Protocol establishes that the ISO may solicit Ancillary Services from other Control Areas on a real time basis if it cannot obtain necessary resources from within the ISO Controlled Grid. If the ISO coordinates with another Control Area for imports from resources outside the ISO Control Area pursuant to an "OOM call," and not pursuant to a bid or other arrangement for that resource, the ISO will compensate that resource under the payment options approved by the Commission in Sections 11.2.4.2 and 11.2.4.2.1. Scheduling Coordinators for resources that may be called out-of-market to provide such imports are free to make the annual election described in Section 11.2.4.2. It is therefore wholly appropriate to refer to "imports" in these provisions.

III. CONCLUSION

For the foregoing reasons, the Commission should accept the ISO's February 7 compliance filing in this proceeding with only such modifications as are described above and reflected in the attached Tariff sheet.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all parties on the official service list compiled by the Secretary in the above-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).

Dated at Washington, D.C. this 14th day of March, 2000.

Sean A. Atkins