

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

California Independent System)	Docket Nos. ER98-1057-000,
Operator Corporation)	ER98-1058-000,
)	ER98-2199-000,
)	ER98-4106-000,
)	ER98-4107-000,
)	ER99-189-000, and
)	ER99-294-000

OFFER OF SETTLEMENT

Introduction

Pursuant to Rule 602 of the Federal Energy Regulatory Commission's (the "Commission") Rules of Practice and Procedure, 18 C.F.R. § 385.602 (1998), the California Independent System Operator Corporation ("ISO") hereby submits this Offer of Settlement. In support of this Offer of Settlement, the ISO states as follows:

On December 12, 1997, the ISO filed two separate Responsible Participating Transmission Owner Agreements ("RPTO Agreements") between the ISO and Pacific Gas and Electric Company ("PG&E") and Southern California Edison Company ("SoCal Edison"). The RPTO Agreements allow for the ISO to meet the Commission's requirement that it preserve the rights of Existing Rightholders, as defined in the RPTO Agreement, while still enabling the ISO to implement the overall market structure outlined in the ISO Tariff.¹ The RPTO Agreement with PG&E was designated as Docket No. ER98-1057-000. The

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

RPTO Agreement with SoCal Edison was designated as Docket No. ER98-1058-000. The Commission noticed the filings on January 8, 1998 with interventions and protests due by January 22, 1998.

Numerous parties filed motions to intervene, including: the Public Utilities Commission of the State of California; the Western Area Power Administration; the Los Angeles Department of Water and Power; the Modesto Irrigation District; Duke Energy Trading and Marketing, LLC; the Lassen Municipal District; the Transmission Agency of Northern California; the California Department of Water Resources; the California Manufacturers Association and the California Large Energy Consumers Association; SoCal Edison; PG&E; the City and County of San Francisco; the Metropolitan Water District of Southern California; Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency; the Northern California Power Agency; Turlock Irrigation District; San Diego Gas & Electric Company; the Independent Energy Producers Association; the Sacramento Municipal Utility District; and the Cities of Anaheim, Azusa, Banning, Colton and Riverside, California.

On February 25, 1998 the Commission issued an order granting all the motions to intervene pending at that time and conditionally accepting the two RPTO Agreements for filing to be effective commensurate with the start of ISO operations. California Independent System Operator Corporation, 82 FERC ¶ 61,174. The Commission required that the ISO modify the RPTO Agreements consistent with its order of December 17, 1997 in Pacific Gas & Electric Company, et al., 81 FERC ¶ 61,320. The Commission also established a hearing to determine the reasonableness of the proposed RPTO Agreements.

Prehearing conferences were held in these proceedings on March 17, 1998 and on April 15, 1998. On June 1, 1998, the ISO submitted its compliance filing incorporating the modifications to the RPTO Agreements required by the

Commission's December 17, 1997 and February 25, 1998, and March 30, 1998 orders.

The ISO has also submitted several amendments to Appendix A of the PG&E and SoCal Edison RPTO Agreements. On March 11, 1998, the ISO filed an Amendment to Appendix A of the RPTO Agreement with PG&E. This filing, designated as Docket No. ER98-2199-000, was accepted by the Commission and consolidated with the original filings in an Order dated March 30, 1998. On August 3, 1998, the ISO filed both a first amendment to Appendix A of the SoCal Edison RPTO Agreement and a second amendment to Appendix A of the PG&E RPTO Agreement. By Order dated September 29, 1998, the Commission accepted the filings in Docket Nos. ER98-4106-000 (SoCal Edison) and ER98-4107-000 (PG&E) and consolidated the proceedings with those for Docket Nos. ER98-1057-000 and ER98-1058-000.

On October 14, 1998, the ISO filed a second revision to Appendix A of the SoCal Edison RPTO Agreement. This was designated as Docket No. ER99-189-000. On October 23, 1998, the ISO filed a third revision to Appendix A of the PG&E RPTO Agreement. This filing was designated as Docket No. ER99-294-000. By Order dated December 11, 1998, the Commission accepted the filings in Docket Nos. ER99-189-000 and ER99-294-000 and consolidated them with the ongoing RPTO proceedings.

The intervenors in these proceedings have raised a variety of concerns with respect to the RPTO Agreements. In an effort to resolve these proceedings in a mutually acceptable manner, the ISO, the Intervenors and the Commission Trial Staff have been engaged in extensive settlement discussions. As a result of these efforts, the parties reached a resolution of these proceedings, which is embodied in this Offer of Settlement. If accepted by the Commission, this Offer

of Settlement would resolve all the issues pertaining to the RPTO Agreements set for hearing in these matters.

Article I

Revision to the RPTO Agreements

All issues pertaining to the RPTO Agreements at issue in Docket Nos. ER98-1057-000, ER98-1058-000, ER98-2199-000, ER98-4106-000, ER98-4107-000, ER99-189-000, and ER99-294-000 are settled as follows:

- 1.1 The ISO, PG&E, and SoCal Edison shall amend their respective executed RPTO Agreements to be fully consistent with the revised pro forma Agreement attached to this Offer of Settlement as Attachment A.
- 1.2 The revised pro forma Agreement set forth in Attachment A will be the basis for any future negotiations between the ISO and any Market Participant that is a Responsible Participating Transmission Owner, and the terms thereof will be varied only to the extent necessary to preserve Existing Rights or to reflect specific or unique circumstances of the Market Participant involved. Therefore, the parties do not intend that the Commission's acceptance of this Offer of Settlement or of a RPTO Agreement incorporating the terms of Attachment A will foreclose a future RPTO Agreement entered into by the ISO and any Market Participant from preserving Existing Rights or reflecting specific or unique circumstances of that Market Participant.
- 1.3 If the ISO submits a new RPTO Agreement or a revision to an existing RPTO Agreement that incorporates terms that vary from the pro forma

terms and conditions pursuant to section 1.2 of this Offer of Settlement, the ISO will identify in its transmittal letter the revisions and the specific or unique circumstances that necessitated a departure from the pro forma Agreement.

- 1.4 With respect to Existing Contracts as defined in the ISO Tariff and which are not listed in Appendix A of the RPTO Agreement, PG&E, and SoCal Edison agree: (1) not to amend the Existing Contract in any way that may affect the ISO in its operation of the ISO Controlled Grid without first consulting the ISO as Control Area operator; (2) to use reasonable efforts to ensure that, to the extent possible, honoring of Existing Contracts does not adversely affect the safe and reliable operation of the ISO Controlled Grid or degrade ISO Control Area performance.

Article II

General Terms and Conditions

- 2.1 Supporting or failing to oppose this Offer of Settlement by any party shall not be deemed in any respect to constitute an admission by such party that any allegation or contention made by any other party in these proceedings is true or valid. This Settlement represents a negotiated compromise for the sole purpose of settling the captioned dockets. No signatory, participant, or affiliate of any party shall be deemed by virtue of this Offer of Settlement to have approved, accepted, agreed to, or consented to any fact, concept, theory, rate methodology, principle or method relating to jurisdiction, prudence, reasonable cost of service, cost classification, cost allocation, rate design, ISO Tariff provisions, or the matters underlying or purported to underlie any of the resolutions of issues provided herein.
- 2.2 The Commission's acceptance and approval of this Offer of Settlement and Section 2.7 of the RPTO Agreement will not affect the right of any Party or the Commission Trial Staff to argue in any other Commission proceeding that the shortfalls and surpluses referenced in RPTO Agreement Sections 3.3 and 4.1 should not be recovered through the Transmission Revenue Balancing Account Adjustment described in Section 5.5 of the TO Tariffs.
- 2.3 The Commission's acceptance of the Offer of Settlement shall not constitute approval of, or precedent regarding, any principle or issue in this proceeding and shall not relieve the Commission or any party, or affiliate thereof, of the burden, under Section 205 or 206 of the Federal

Power Act, to establish the justness and reasonableness of any aspect of any superseding amendment or agreement. Nothing herein shall affect any party's rights under Existing Contracts. No provision of this Offer of Settlement or the revised pro forma agreement in Attachment A shall be deemed to waive the right of any party to protest, or challenge in any manner, whether a RPTO Agreement, or any action or proceeding arising under or relating to a RPTO Agreement, is subject to the jurisdiction of the Federal Energy Regulatory Commission.

- 2.4 This Offer of Settlement is submitted with the strong desire that it be accepted by the Commission in its entirety. In the event that the Commission does not by order accept the Offer of Settlement and the revised pro forma agreement in their entirety, each party shall have thirty days to notify the Commission, the ISO, Commission Trial Staff, and the other Parties that it objects to the modifications required by the Commission. If no such objection is made, the changes required by the Commission shall become part of this Offer of Settlement. If such an objection to the modification is made, this Offer of Settlement shall be deemed withdrawn and, upon such withdrawal, it shall not constitute any part of the record in this proceeding or be used for any purpose.
- 2.5 The discussions among the participants that have produced this Offer of Settlement have been conducted on the explicit understanding, pursuant to Rule 602(e) of the Commission's Rules of Practice and Procedure, that, unless approved by the Commission, all offers of settlement and any comments on offers are privileged and not admissible as evidence against any participant who objects to their admission and that any discussion of

the participants with respect to offers of settlement is not subject to discovery or admissible in evidence.

- 2.6 In the event the Commission approves this Offer of Settlement without modification, the Settlement shall become effective when the order accepting it becomes final and nonappealable under the terms of the Federal Power Act. In the event the Commission approves the Settlement with modification and no objection is lodged as specified in Section 2.3, the Settlement shall become effective when the order accepting the Settlement as modified becomes final and nonappealable under the terms of the Federal Power Act.

Conclusion

The Offer of Settlement presents an acceptable resolution of the issues in this proceeding and should be accepted by the Commission.

Respectfully submitted,

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Dated: March 12, 1999

ATTACHMENT A

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 these proceedings, and upon the additional persons required to be served by 18 C.F.R. § 602(d)(1).

Dated at Washington, DC, this 12th day of March, 1999.

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