

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

Turlock Irrigation District and Modesto Irrigation District)	
)	
v.)	Docket No. EL99-93-000
)	
California Independent System Operator Corporation)	

**AFFIDAVIT OF
MICHAEL D. DOZIER
ON BEHALF OF THE
CALIFORNIA INDEPENDENT SYSTEM
OPERATOR CORPORATION**

1. My name is Michael Dozier and I am the Manager of Contracts for the California Independent System Operator Corporation ("ISO"). My business address is 151 Blue Ravine Road, Folsom, California 95630.

Qualifications

2. As Manager of Contracts, I am responsible for drafting, negotiating, and administering ISO contracts and providing support for special projects, including drafting amendments to the ISO Tariff to implement those projects.
3. I have a degree in economics from Stanford University and J.D. and M.B.A. degrees from UCLA. I served as an attorney for Southern California Edison Company for 10 years, advising and representing the company in power plant

licensing and power contracts matters. I subsequently spent over seven years with the law firm of Marron, Reid & Sheehy, primarily advising and representing clients in power plant licensing and other electric regulatory matters. In 1997, I took a position as a consultant for Resource Management International, primarily providing analysis to municipal utility clients regarding the ongoing restructuring of the California electric industry, including the impact of the creation of the ISO on their interests. I joined the ISO in June 1998 in my current position. In that capacity, I have served as the ISO's leader of the Existing Rights Working Group ("ERWG"), which has served as an ISO stakeholder forum for considering and addressing the concerns of municipal utilities and other holders of Existing Contract rights regarding their accommodation in the new ISO structure and their interface with the ISO's new market rules.¹

4. I have submitted written testimony in Docket Nos. ER98-997-000 and ER98-1309-000 before this Commission, but I have not testified previously before either this Commission or any State commissions.

Summary

5. I provide this affidavit to address certain matters raised in the Complaint of Turlock Irrigation District and Modesto Irrigation District (the "Districts") dated September 17, 1999 ("Complaint") and in the accompanying affidavit of Mr. Paul G. Scheuerman, particularly certain of the matters raised in paragraphs 28-38 of Mr. Scheuerman's affidavit. This affidavit clarifies the circumstances regarding the ISO's discussion of Metered Subsystem ("MSS") and System Unit issues with

¹ Capitalized terms used herein and not otherwise defined conform to those terms in the amended ISO Tariff, Appendix A Master Definitions Supplement.

the Districts and the ERWG and the ISO's efforts to implement the MSS and System Unit concepts.

The ISO Has Worked Diligently and in Good Faith to Develop Metered Subsystem and System Unit Concepts that Can Be Implemented Consistent with Other Requirements of the ISO Market Structure

6. The concepts of MSS and System Units were incorporated into the ISO Tariff as originally filed with the Commission in 1997 and effective on the ISO Operations Date of March 31, 1998. However, those concepts were and still are linked by the ISO Tariff to the execution by a municipal utility or other MSS candidate of an Existing Operating Agreement with the ISO prior to the ISO Operations Date. No entity ever executed an Existing Operating Agreement prior to the ISO Operations Date. Therefore, the ISO is developing a revised approach that requires an amendment to the ISO Tariff in order to implement the MSS and System Unit concepts.

7. As described in Mr. Scheuerman's affidavit, as early as June 3, 1998 – just two months after the ISO Operations Date – the ISO solicited the participation of municipal utilities and others with Existing Contracts in the ERWG. The ISO's letter set forth in Exhibit C, Document No. 1 of Mr. Scheuerman's affidavit notes the ISO's intent to address “[p]articipation of generation under existing agreements in the ISO's ancillary services markets.” The ISO's initial identification of that issue clearly indicates the ISO's sensitivity to and focus on matters related to the implementation of the MSS and System Unit concepts. However, the ISO did not limit its statement of the issue just to those concepts, given the alternative options available to municipal utilities and other Existing Contract holders to participate in the ISO's markets through execution of a

Participating Generator Agreement (“PGA”).

8. Upon the inception of the ERWG, the ISO held stakeholder meetings or conference calls on June 23, July 7, July 22, September 11, September 17, October 14, October 20, November 3, November 13, November 16, and November 24, 1998. As indicated in Exhibit C, Document No. 2 of Mr. Scheuerman’s affidavit, the highest priority topic of those meetings and conference calls was the subject of MSS and System Unit issues. That extensive list of meetings and conference calls reflects the intensive effort on the ISO’s part devoted to the MSS and System Unit issues.

9. Mr. Scheuerman’s affidavit correctly reflects that ISO staff members indicated that implementation of the MSS and System Unit concepts as promoted by certain ERWG participants would require costly and time-consuming “workarounds,” a short-hand reference by the ISO to the need to deviate from its existing automated systems either by the use of additional personnel to perform manual operations or by the modification of the software programs that operate the ISO’s automated systems. However, Mr. Scheuerman’s affidavit suggests that the ISO treated the MSS/System Unit matter as very low on its “priority list.” This “priority list” is the extensive list of overall ISO priorities for software modifications that had been developed through a stakeholder process that included all of the ISO’s Market Participants. The ISO was simply pointing out to the ERWG participants that changes to ISO software programs had already been assigned priorities in a broader stakeholder forum, and that any software modifications required as a result of approach to implementing the MSS and System Unit concepts desired by the ERWG stakeholders would have to compete for priority in that overall process. The ISO also intended to make clear

to the ERWG participants that the process for establishing those software modification priorities for 1999 had nearly reached its conclusion by the time that the ISO's extensive discussions with the ERWG participants had narrowed the scope of the approach to implementation of the MSS and System Unit concepts that appeared to be favored by a significant group of ERWG stakeholders. Additionally, the ISO committed that if software changes were required and nine months of lead time was identified for implementation of MSS, the ISO would initiate those software changes as soon as agreement could be reached on the MSS approach and form of agreements. However, in no way did the ISO intend to indicate that the implementation of the MSS and System Unit concepts was a low priority for the ISO – as documented by the intensive efforts devoted by the ISO to that matter described in paragraph 8 above.

10. The ISO devoted extensive efforts towards (1) exploring alternative approaches in lieu of those “workarounds” in order to expedite the implementation of the MSS and System Unit concepts, and (2) developing its initial position on the extent to which the ISO could justify exceptions from the ordinary application of the ISO Tariff to an MSS and System Unit. Given the obstacles posed by the need for ISO system “workarounds” (described in paragraph 9 above) to the approach to implementing the MSS and System Unit concepts desired by the Districts, the ISO received express direction from the participants in the ERWG, including the representatives of the Districts, that the ISO was to endeavor to develop an “interim” approach to Existing Contract holder participation in the ISO's markets in an attempt to facilitate participation in the ISO's markets by the summer of 1999. In response to that direction, the ISO naturally explored the possibility that the Existing Contract holders and PG&E might be flexible enough in their administration of their Existing Contracts and their other operations to

accommodate the existing structure of the ISO's systems in the short term – pending the ISO's ability to implement any necessary software modifications in the long term. What Mr. Scheuerman characterizes as the ISO's expression of a preference that the Districts set aside their desire for a MSS really reflects the ISO's undertaking of dual efforts both to implement an interim accommodation of the desires of the Districts and other Existing Contracts holders and to continue to work on the long-term implementation of the MSS and System Unit concepts.

11. In addition to the ISO's efforts to develop the MSS and System Unit concepts with the ERWG, Mr. Scheuerman's affidavit alludes to, but does not describe the scope of, the effort that the ISO devoted to separate negotiations with Mr. Scheuerman and other representatives of one of the Districts, Turlock, regarding individual principles for Turlock's participation in the ISO's markets on an "interim" basis. Those negotiations included meetings or telephone calls with Turlock representatives regarding that matter on September 15, September 23, October 23, November 3, November 13, and November 18, 1998, plus the exchange of numerous drafts of proposed principles and other correspondence during the latter months of 1998. Those ISO efforts provide further indication of the ISO's high priority devoted to the Districts' desire to participate in the ISO's markets and the emphasis of the ISO's efforts in the latter part of 1998 on the desired "interim" approach pending resolution of long-term issues.
12. Mr. Scheuerman's affidavit references a set of principles dated November 23, 1998, developed by the ISO for discussion purposes only (Scheuerman Affidavit Exhibit C, Document No. 4), and asserts that those principles could properly implement a MSS. First, Mr. Scheuerman's affidavit correctly notes – but then improperly dismisses – the express proviso on the ISO draft that the proposed

principles were for discussion only and the ISO staff representation that the principles were proposed only for further review with ISO Management. Clearly, the ISO made no commitment to the implementation of those principles in providing them for review. Second, the representations in Mr. Scheuerman's affidavit regarding the effect of those principles appears to indicate a fundamental misunderstanding of the ISO's position on the part of the Districts, possibly based on the lack of detail in the November 23 principles.

13. Mr. Scheuerman's affidavit emphasizes the characterization of the ISO's November 23 principles (and the position of the Districts in general) that an MSS should not be required to schedule its total Generation and total Load with the ISO. Based on iterative revisions to the first principle of the November 23 principles, the ISO had unfortunately failed to make its position on that matter absolutely clear – simply referring to the ISO's need for “necessary data regarding internal MSS generation and load for operational purposes.” In order for the ISO's operating systems to operate in an automated manner, however, information regarding total Generation and total Load must be entered into the ISO's scheduling infrastructure, which ISO staff had related to ERWG participants previously. In an attempt to reach a consensus on the principles, the ISO had presumed that the information referenced in the first principle would be taken in the form provided by the MSS (or “interim” Existing Contract holder) and entered into the ISO's scheduling infrastructure to accommodate the interrelationship of the ISO's automated systems for operating purposes. After additional discussion with the participants and internal discussions with ISO Management regarding the November 23 principles, it became clear to the ISO that the principles needed to be clarified to reflect the exact intent of the ISO.

14. After further discussions with ISO Management, on March 30, 1999, ISO staff circulated a far more detailed set of principles (which Mr. Scheuerman's affidavit fails to include as an exhibit) elaborating and expanding on the November 23 principles. (See Exhibit 1 hereto.) Those ISO principles attempted to add substantial detail to the potential terms of a long-term approach to implementation of the MSS concept and to elaborate on the "interim" approach of implementing a System Unit for a limited set of participants on a short-term basis. The March 30, 1999 principles included an express clarification of the ISO's need to have information regarding total Generation and total Load entered into the ISO's scheduling infrastructure.
15. Moreover, contrary to the representation in Mr. Scheuerman's affidavit, the ISO clearly provided that any settlement implications resulting from the submittal of information regarding Loads and Generation into the ISO's scheduling infrastructure would be governed by the terms of the ISO's settlement in the Commission proceeding on the ISO Grid Management Charge ("GMC") and other ISO charges. That settlement currently provides Existing Contract holders special exemption from the application of the GMC and other specified charges, and the ISO's March 30, 1999 principles proposed to honor that settlement for as long as it continued in effect, stating: "These schedules will be 'deemed delivered' for the purpose of ISO settlements and will be settled in accordance with the ISO FERC rate proceeding settlement agreement or in accordance with any successor rate methodology." Exhibit 1 at 2.
16. Mr. Scheuerman concedes in his affidavit that ISO staff stated that GMC and other ISO charges would not apply to the portion of an MSS's Load served by an MSS's System Unit. However, he reaches exactly the opposite conclusion in his

affidavit, notwithstanding (1) that ISO representation, (2) the language quoted above from the ISO's March 30, 1999 principles, and (3) the ISO's obligation to adhere to the terms of its settlement in the FERC proceeding on its GMC and other charges. As a result, Mr. Scheuerman's affidavit is incorrect regarding the financial consequences to the Districts of the ISO's March 30, 1999 principles. Based on the incorrect assumptions utilized by Mr. Scheuerman, he has substantially overestimated any potential costs to the Districts to have participated in the ISO's markets in 1998. While Mr. Scheuerman's affidavit does not appear to set forth all of the assumptions that he has used in his calculations, it appears that use of accurate assumptions would demonstrate that the Districts could have earned several million dollars in 1998 by participating in the ISO's markets as postulated by Mr. Scheuerman.

17. Accordingly, Mr. Scheuerman is incorrect in characterizing the ISO's March 30, 1999 principles as a "totally different approach." His affidavit also fails to describe the extent to which the documents provided to the ISO by the Districts over the period from March through May 1999 varied from the terms of the ISO Tariff and principles that the ISO had indicated would be acceptable for the potential implementation of the MSS and System Unit concepts. The ISO did not consider the documents to be sufficiently developed or sufficiently consistent with the ISO's March 30, 1999 principles to serve as the basis for negotiations and did not respond directly to those documents.
18. The ISO is currently in the process of developing a unified approach to all matters that affect municipal utilities and other Existing Contract holders within the ISO Control Area in conjunction with the ISO's mandated obligation to develop a new transmission Access Charge ("TAC") methodology. Because the

form of that methodology may have significant financial consequences for municipal utilities and other Existing Contract holders that would overwhelm the financial implications of the MSS and System Unit concepts, the ISO has attempted to integrate a new proposal for implementation of the MSS and System Unit concepts with a proposed approach to the TAC. That proposal is currently part of confidential settlement negotiations. The Districts are aware of the ISO's new proposal, and the ISO expects to engage in further discussions with the Districts in that forum.