

**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            | ) |                        |

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION IN OPPOSITION TO MOTION OF THE SACRAMENTO  
MUNICIPAL UTILITY DISTRICT FOR LEAVE TO RESPOND**

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213 (1999), the California Independent System Operator Corporation (“ISO”) respectfully submits this Answer in opposition to the motion of the Sacramento Municipal Utility District (“SMUD”), dated October 22, 1999, for leave to file an answer to the ISO’s answer (“October 7 Answer”) to the complaint filed by the Turlock Irrigation District and the Modesto Irrigation District. As discussed below, waiver of Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (1999), to accept SMUD’s pleading is not warranted because that pleading does not clarify the record or assist the Commission’s consideration of issues raised in the complaint.

## ARGUMENT

### I. **SMUD's Filing Does Not Clarify the Record, But Instead Presents an Untenable Misinterpretation of the ISO Tariff**

The Commission has waived the prohibition of Rule 213(a)(2) on the submission of an answer to an answer upon a showing that the proposed pleading clarifies the record, thereby aiding the Commission's understanding of the issues in the proceeding. See, e.g., Arizona Pub. Serv. Co., 82 FERC ¶ 61,132, 61,477 n.11 (1998); El Paso Natural Gas Co., 82 FERC ¶ 61,052, 61,200, reh'g denied, 83 FERC ¶ 61,286 (1998). SMUD's filing in this instance does not qualify for waiver. SMUD's claim that the ISO's answer is "rife with factual misstatements, errors, and contradictions," SMUD Answer at 2, is wholly without merit. To the contrary, SMUD's pleading exhibits a misunderstanding of the ISO Tariff and seeks to inject extraneous issues into this proceeding.

#### A. **There is No Conflict Between Sections 5.1.3 and 11.2.4.2 of the ISO Tariff**

In its answer to the complaint the ISO noted that while it does have the authority to "order a generating unit to increase or decrease generation to alleviate congestion (such as overloads and voltage problems), provide balancing energy, satisfy reserve requirements, and manage over-generation,' it may do so only as a Control Area operator to take action to avoid or resolve an operating emergency." October 7 Answer at 10 (quoting Attachment A to the

October 7 Answer, Affidavit of Trent A. Carlson, at ¶ 12). Among other provisions, the ISO cited Section 5.1.3 of the ISO Tariff, which states:

The ISO plans to obtain the control over Generating Units that it needs to control the ISO Controlled Grid and maintain reliability by purchasing Ancillary Services from the market auction for these services. When the ISO responds to events or circumstances, it shall first use the generation control it is able to obtain from the Ancillary Services bids it has received to respond to the operating event and maintain reliability. Only when the ISO has used the Ancillary Services that are available to it under such Ancillary Services bids which prove to be effective in responding to the problem and the ISO is still in need of additional control over Generating Units, shall the ISO assume supervisory control over other Generating Units. It is expected that at this point, the operational circumstances will be so severe that a real-time system problem or emergency condition could be in existence or imminent.<sup>1</sup>

SMUD states that “the ISO’s authority in reality should be limited by Section 5.1.3 of the ISO Tariff” but “the ISO refuses to incorporate that reality in other parts of its Tariff and protocols.” SMUD Answer at 3. Specifically, SMUD cites a proposed (but as yet unfiled) amendment to Section 11.2.4.2, which it claims “would allow the ISO to dispatch generation not bid into the ISO’s markets for reasons other than averting or responding to an emergency.” Id. The draft language cited by SMUD reads as follows: “Pursuant to Section 11.2.4.2, the ISO may, at its discretion, dispatch any Participating Generator, Participating Load and import, to avoid an intervention in market operations or to prevent or relieve a System Emergency.” Id. SMUD’s implication is that avoidance of “an intervention in market operations” conflicts with the limitation in 5.1.3 of the ISO Tariff that the ISO will only assume supervisory authority where the ISO has used all of the effective Ancillary Service bids and where there still could be a real-time system problem or an emergency condition could be in existence of imminent.

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<sup>1</sup> The ISO also noted that Section 7.2.6.2 of the ISO Tariff authorizes the ISO to redispatch resources to relieve Intra-Zonal Congestion, but only when there are no Adjustment Bids or Imbalance Energy bids that would be effective for that purpose.

First, the ISO notes the incongruity of challenging the reasonableness of existing tariff provisions based on a not-filed proposal that is currently undergoing stakeholder review. Clearly, SMUD's action in attaching the draft does not promote a free-flowing stakeholder exchange. Moreover, the language quoted by SMUD is in the existing version of Section 11.2.4.2.<sup>2</sup> Accordingly, the use of the draft proposal was unnecessary.

Second and more significantly, SMUD's analysis of the ISO Tariff is fundamentally flawed. Section 11.2.4.2 does not establish the authority of the ISO to intervene in market operations; it specifies the price that the ISO will pay for resources that it dispatches to avoid such an intervention. Under existing Section 11.2.4.2 of the ISO Tariff, the ISO has the authority to dispatch Generating Units, Loads, and imports which have not bid into the Imbalance Energy markets in order to avoid an intervention in market operations or to prevent a System Emergency. The ISO must settle with the generator using the Uninstructed Imbalance Energy Charge price. Thus, Section 11.2.4.2 provides the payment provision for the "supervisory control" exercised under Section 5.1.3. Another section of the ISO Tariff -- Section 2.3.2.3 -- gives the ISO the authority to intervene in market operations, but only if "necessary in order to contain or correct a System Emergency." An actual or imminent System Emergency is thus required to trigger ISO intervention in market operations.

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<sup>2</sup> The existing Section 11.2.4.2 (with emphasis added) reads as follows:

With respect to Regulatory Must-Take and Regulatory Must-Run Generation, and with respect to Generation Units, Loads and imports which have not bid into the Imbalance Energy markets but which have been dispatched by the ISO to avoid an intervention in market operations or to prevent a System Emergency, the ISO shall calculate, account for and settle deviations from the Final Schedule submitted on behalf of each such Generating Unit, Load or import with the relevant Scheduling Coordinator for each Settlement Period for each such Generating Unit, Load or import by way of the Uninstructed Imbalance Energy Charge price as calculated in accordance with Section 11.2.4.1.

Rather than demonstrating the ISO's "overreaching position" and "contradictory message" (SMUD Answer at 4), the language cited by SMUD is fully consistent with the ISO's prior statements regarding Section 5.1.3. Far from clarifying the record, SMUD's pleading thus serves only to create controversies where none should exist.

**B. SMUD's Filing Reinforces the ISO's Statement that the Issues Raised In the Complaint Are Pending In Other Proceedings**

In its answer, SMUD acknowledges that the issues concerning the ISO's dispatch authority are currently pending in Docket No. ER98-3760-000. SMUD Answer at 4. SMUD offers no explanation as to why it is either necessary or appropriate to consider the same issues in a new proceeding.

In fact, there are compelling reasons not to consider dispatch authority issues outside the forum provided by Docket No. ER-3760-000. As the ISO has previously explained, the complaint constitutes an attempted "end run" around the "Unresolved Issues" process that the Commission established in that docket. See October 7 Answer at 40-45; California Independent System Operator Corporation, et al., 87 FERC ¶ 61,102 (1999). The Commission's stated goal was to "ensure an orderly, efficient process for reaching a determination" concerning the over 120 unresolved issues. See 87 FERC at 61,425. To resolve, in a piecemeal fashion, the issues rehashed by SMUD would be to circumvent the Commission's established procedures, and to encourage other participants similarly to attempt to use the complaint process to seek special consideration by the Commission of their particular concerns. The Commission's goal of an orderly process should not be undermined in this way.

The briefing of the Unresolved Issues in Docket No. ER98-3760-000 is triggered by the filing of an Offer of Settlement resolving many of the issues. The

ISO notes that it circulated a revised version of the Offer of Settlement on October 22, 1999. In accordance with the procedural schedule proposed by the Commission Trial Staff, parties are to provide comments by early November. Accordingly, the ISO expects that it file the Unresolved Issues Settlement later this month (assuming other parties adhere to this schedule). Therefore, briefing of the remaining Unresolved Issues will commence shortly. SMUD therefore cannot claim that consideration of the issue that it seeks to raise through its pleading will be unduly delayed.

### **CONCLUSION**

For the reasons described above, the Commission should deny SMUD's motion for leave to respond to the ISO's Answer.

Respectfully submitted,

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Dated: November 3, 1999

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 3<sup>rd</sup> day of November, 1999.

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