

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

**California Independent System) Docket No. ER03-683-003
Operator Corporation)**

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO THE MOTION TO INTERVENE AND PROTESTS CONCERNING
THE JULY 18, 2003 ADDENDUM FILING**

I. INTRODUCTION AND SUMMARY

On March 31, 2003, the California Independent System Operator Corporation (“ISO”)¹ submitted Amendment No. 50 to the ISO Tariff (“Amendment No. 50”) in the above-referenced docket. Amendment No. 50 had two purposes: (1) to make market-related changes to the ISO Tariff to provide a means to improve current management of Intra-Zonal Congestion and mitigate local market power; and (2) to make data-sharing changes to the ISO Tariff to allow the ISO to share Generator Outage information with entities operating transmission and distribution systems affected by the Outage.

On May 30, 2003, the Commission issued an Order (103 FERC ¶ 61,265) (“May 30 Order”) concerning Amendment No. 50. In that Order, the Commission (1) rejected the ISO’s use of a cost-based proxy bid to Dispatch Generating Units to mitigate Intra-Zonal Congestion, (2) authorized the ISO to Dispatch units using a decremental reference price to mitigate Intra-Zonal Congestion, (3) rejected the ISO’s proposal to publish transfer capability limits in advance, (4) authorized the

¹ Capitalized terms not otherwise defined herein shall have the meaning set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

ISO to share generator outage information with certain affected parties, and (5) directed the ISO to submit a compliance filing in which the ISO should further explain the procedure it intends to utilize in Dispatching Generating Units in dealing with Congestion.

On June 30, 2003, the ISO submitted its compliance filing (“June 30 Compliance Filing”). The ISO submitted an Addendum to the June 30 Compliance Filing on July 18, 2003 (“July 18 Addendum”). The July 18 Addendum contained, *inter alia*, details on how the independent entity calculating reference prices, Potomac Economics, Ltd. (“Potomac”), would determine decremental reference prices.

On August 8, 2003, in response to the Commission’s July 22, 2003 notice of filing, various parties² submitted filings in response to the June 30 Compliance Filing. Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213, the ISO hereby requests leave to file an answer, and files its answer, to the motion to intervene and protests submitted in the above-referenced docket.³ The ISO does not oppose the

² Protests or comments concerning the July 18 Addendum were submitted by the following entities: the California Electricity Oversight Board; Coral Power, L.L.C., Energia Azteca X, S. de R.L. de C.V., and Energia de Baja California, S. de R.L. de C.V (collectively “Coral”); Dynegy Power Marketing, Inc., El Segundo Power, LLC, Long Beach Generation LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, Mirant Americas Energy Marketing, L.P., Mirant California, LLC, Mirant Delta, LLC, Mirant Potrero, LLC, Reliant Energy Power Generation, Inc., Reliant Energy Services, Inc., and Williams Energy Marketing & Trading Company (collectively, the “Indicated Generators”); and Termoelectrica De Mexali (“TDM”).

³ Some of the parties commenting on the July 18 Filing request affirmative relief in pleadings styled as protests. The ISO is entitled to respond to these requests for relief notwithstanding the labels applied to them. *Florida Power & Light Co.*, 67 FERC ¶ 61,315 (1994). To the extent 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 because the Answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help

intervention of the party that has sought leave to intervene in this proceeding. As explained below, however, the ISO believes that the July 18 Addendum should be accepted as submitted to the Commission, and that the relief requested in the filings submitted in opposition to the July 18 Addendum should be denied.

II. ANSWER

A. The ISO Has Complied with the Commission's Directive to Have a Third Party Establish Decremental Reference Prices for Use in Managing Intra-Zonal Congestion

As relevant here, the May 30 Order directed the ISO to “use mitigated bids to manage intra-zonal congestion and mitigate local market power, but only as it applies to decremental bids,”⁴ and to “use reference prices for dec bids to be administered by an independent entity, and applied to all generators – thermal and non-thermal.”⁵ The ISO has complied with these directives. As explained in the July 18 Addendum, when the ISO decrements resources to manage Intra-Zonal Congestion, it does so using decremental reference prices determined by Potomac Economics, Ltd. (“Potomac”), the independent entity initially retained to determine reference prices for the ISO's Automated Mitigation Procedures.⁶

The vast majority of the protests of the June 30 Compliance Filing and the July 18 Addendum seek to modify the process established by Potomac to determine the decremental reference prices.⁷ The Commission provided no direction in its May 30 Order on how the decremental reference prices should be

to ensure a complete and accurate record in the case. See, e.g., *Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002); *Duke Energy Corporation*, 100 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Company*, 93 FERC ¶ 61,098, at 61,259 (2000).

⁴ May 30 Order at P 40.

⁵ May 30 Order at P 41.

⁶ Transmittal Letter for July 18 Addendum at 2.

calculated. The Commission's only directive in that regard was that the prices should be determined by an independent entity.⁸ Had the Commission intended a specific process to be used to determine reference prices, it would have ordered the use of such a specific process. Because the ISO has complied with the directives in the May 30 Order, all protests regarding the specific process Potomac uses to determine the decremental reference price should be disregarded.

B. Coral's Proposal to Require a Finding that a Bid Represents a Departure from the Result of a Competitive Market, Constitutes an Untimely Request for Rehearing of the May 30 Order

Coral erroneously asserts that the process established to determine a decremental reference price will lead in every instance to a cost-based proxy. Consequently, Coral proposes that the decremental reference price not be used absent a finding that the submitted market bid represents a "substantial departure from that which would be the result of a competitive market."⁹ First, Coral's assertion that the reference price will always turn out to be a cost-based proxy is incorrect. Given the priority order for determining decremental reference prices set forth in the July 18 Addendum, Coral's reference price could and most likely would be determined by as few as one decremental bid accepted under competitive conditions (*i.e.*, when the bid was not required to be used to mitigate Intra-Zonal Congestion). While this reference level will be adjusted for change in the gas price, that adjustment is equitable. It will increase the reference level when gas prices go up and reduce the reference level when gas prices do down.

⁷ See, e.g., Coral at 5-9; Indicated Generators at 3-6; TDM at 2-7.

⁸ See May 30 Order at P 41.

Moreover, Coral's proposal to require a finding that the bid represents a departure from what a competitive market would produce is not in fact a protest of the July 18 Addendum. Rather, it constitutes an untimely request for rehearing of the May 30 Order. Therefore, Coral's proposal should be rejected.

III. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission accept the June 30 Compliance Filing and the July 18 Addendum as submitted to the Commission.

Respectfully submitted,

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Date: August 25, 2003

⁹ Coral at 2-5 (footnote omitted).



August 25, 2003

The Honorable Magalie Roman Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**Re: California Independent System Operator Corporation
Docket No. ER03-683-003**

Dear Secretary Salas:

Enclosed for electronic filing please find Motion for Leave to File Answer and Answer of the California Independent System Operator Corporation to the Motion to Intervene and Protests Concerning the July 18, 2003 Addendum Filing, submitted in the above-referenced docket.

Thank you for your assistance in this matter.

Respectfully submitted,

Anthony J. Ivancovich
Counsel for The California Independent
System Operator Corporation

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 the above-captioned docket.

Dated at Folsom, California, on this 25th day of August, 2003.

Anthony J. Ivancovich