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September 16, 2004

## **Via Electronic Filing**

The Honorable Magalie R. Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: California Independent System Operator Corporation  
Docket No. ER04-938-\_\_\_\_\_**

Dear Secretary Salas:

Enclosed please find the Request for Clarification and Rehearing of the California Independent System Operator Corporation, submitted in the captioned docket.

Feel free to contact the undersigned with any questions. Thank you for your attention to this matter.

Respectfully submitted,

/s/ Bradley R. Miliauskas  
Bradley R. Miliauskas

Counsel for the California  
Independent System Operator  
Corporation

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

**California Independent System            )       Docket No. ER04-938-\_\_\_\_  
Operator Corporation                    )**

**REQUEST FOR CLARIFICATION AND REHEARING  
OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 212 and 713 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.713, and Section 313(a) of the Federal Power Act, 16 U.S.C. § 825l(a), the California Independent System Operator Corporation (“ISO”)<sup>1</sup> hereby requests that the Commission grant clarification and rehearing of its “Order on Amendment No. 61” issued on August 17, 2004 in the captioned proceeding (“Amendment No. 61 Order”).<sup>2</sup>

In support hereof, the ISO respectfully states as follows:

**I. BACKGROUND**

On June 18, 2004, the ISO submitted Amendment No. 61 in the captioned docket. In Amendment No. 61, the ISO proposed to modify Section 7.2.6.1 of the ISO Tariff to (1) indicate that the price used to determine which resources should be shut off to manage Intra-Zonal Congestion will be the decremental reference price for the range between zero MW and the unit’s minimum operating level, as determined by the independent entity calculating decremental reference prices;

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<sup>1</sup> Capitalized terms not otherwise defined herein are defined in the Master Definitions Supplement, ISO Tariff Appendix A, as filed on August 15, 1997, and subsequently revised.

<sup>2</sup> *California Independent System Operator Corporation*, 108 FERC ¶ 61,193 (2004).

and (2) charge a resource thus shut off the lesser of the Market Clearing Price (“MCP”) or the decremental reference price for the range between zero MW and the unit’s minimum operating level, as determined by the independent entity calculating decremental reference prices. In addition, the ISO proposed to modify Section 7.2.6.1.1 of the ISO Tariff to recognize that the decremental reference level for the range from zero MW to the minimum operating level does not need to be monotonically non-decreasing.

The Commission accepted Amendment No. 61, subject to modification as described in the Amendment No. 61 Order. Amendment No. 61 Order at ordering paragraph (B). Among other things, the Commission directed that the ISO, when determining which Generating Units to shut down, should take into account the “expected total cost of the shut down.” *Id.* at P 20. The Commission also directed the ISO to submit revised Tariff sheets to provide that, if the ISO shuts down a Generating Unit to manage Intra-Zonal Congestion and the Generating Unit cannot start up in time to meet its Day-Ahead Energy Schedules, the ISO should charge that Generating Unit the lesser of the decremental reference price that corresponds to the Generating Unit’s Day-Ahead Schedule or the MCP. *Id.* at P 32.

## **II. SPECIFICATION OF ERROR**

The Commission erred in directing the ISO to charge the lesser of the MCP or the decremental reference price at the operating level specified in the Day-Ahead Schedule to a Generating Unit that cannot meet that Schedule

because it was shut down to manage Congestion and could not be restarted in time to meet that Schedule.

### **III. REQUEST FOR CLARIFICATION**

#### **A. The Commission Should Clarify what the Total Cost of a Shut-Down Comprises**

The Commission directed the ISO to base its decision as to which Generating Unit to shut down on the “expected total cost of the shut down.” Amendment No. 61 Order at P 20. Footnote 8 in the order explains that a unit shut down will be charged the lesser of the market clearing price or the “shut-down reference price” for the period of the shut-down. The phrase “shut-down reference price” appears to refer to the reference price to be determined for the range between 0 MW and the Generating Unit’s minimum operating level. However, paragraph 32 of the Amendment No. 61 Order directs the ISO to charge the lesser of the market clearing price or the decremental reference price corresponding to the Generating Unit’s day-ahead schedule. The price described in paragraph 32 is a difference reference price than the “shut-down reference price” referred to in footnote 8.

If the ISO is to include this additional charge in the determination of “total shut-down cost,” the Commission’s directive to charge the Generator the lesser of the market clearing price or the decremental reference price until the unit can again meet its Day-Ahead Schedules creates a quandary. The ISO must use this information to determine which unit to shut down, but the ISO cannot possibly determine what this component of total shut-down cost is because it

cannot know *a priori* when the Generating Unit will again be able to meet its Day-Ahead Schedules.

When a Generating Unit is shut down under Section 7.2.6.1, the ISO has agreed to pay the start-up cost. For the sake of the parties paying that cost, the ISO should try to minimize the cost. The Commission has also directed the ISO to charge the Generator the lesser of the shutdown reference price or the market clearing price for its minimum operating level energy – essentially, the cost of purchasing energy from the ISO to replace the minimum operating level energy that goes away when the unit is shut down. For the sake of parties who will have to pay the cost if the price the ISO charges the shut-down Generating Unit is less than the MCP for Energy, the ISO should try to maximize that charge. Finally, the Commission directed the ISO to charge the Generator the lesser of the market clearing price or the decremental reference price at the Day-Ahead Schedules output if the Generating Unit cannot return to service to meet its Day-Ahead Schedules. Again, for the sake of parties who will have to pay the cost if the price the ISO charges the shut-down Generating Unit is less than the MCP for Energy, the ISO should try to minimize that charge. All of these things define the cost of shutting the unit down. It is not clear to the ISO, however, that the Commission ordered or intended that they all be included in the “total shut-down cost.”

In summary, the ISO respectfully requests the Commission clarify what the “total cost of a shut-down” is.

**B. The Commission Should Clarify how Charging the Lesser of the Market Clearing Price or the Decremental Reference Price is Consistent with the Methods used to Determine the Shut-Down Reference Price**

The ISO does not understand how charging the lesser of the market clearing price or the decremental reference price is consistent with the proposed methodology for determining shut down reference level, despite the Commission's conclusion that it is.<sup>3</sup> As the Commission notes in paragraph 12 of the Amendment No. 61 Order, the procedures for determining decremental reference levels – including the shut-down reference level - are set forth in Section 7.2.6.1.1. These provisions, which include using submitted bids, consultation between the independent entity and the Generator, a cost-based default bid, and MCPs, in that order, do not include a methodology based on charging a Generator the lesser of the MCP or the decremental reference price. The ISO requests that the Commission clarify how paying a Generating Unit the lesser of the MCP or its decremental reference price is consistent with the provisions for establishing reference prices.

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<sup>3</sup> “We find that, if a generating unit has been ordered by the ISO to shut down to relieve intra-zonal congestion and is unable to restart in order to meet the unit's day-ahead energy schedule due to legitimate operational limitations, the ISO should charge the resource the lesser of the decremental reference price corresponding to that resource's day-ahead energy schedule or the MCP. We find this approach to be consistent with the proposed methodology for determining and evaluating the shut down reference level.” Amendment No. 61 Order at P 32.

#### IV. REQUEST FOR REHEARING

**A. Allowing Schedules that Cannot be met to Stand is a Violation of the Commission's Market Behavior Rules and, Contrary to the Commission's Conclusion, is Not Consistent with the Proposed Methodology for Determining and Evaluating the Shut-Down Reference Level**

If a Generating Unit cannot meet its forward Energy Schedules, it is reasonable to expect that the Scheduling Coordinator for that Generating Unit would change that Generating Unit's forward Energy Schedules in the Hour-Ahead Market. This would apply to any Generating Unit that is shut down, including a Generating Unit that is shut down because of Congestion. Knowingly providing forward Energy Schedules that cannot be met because the Generating Unit cannot operate to meet those Schedules to stand is a violation of Market Behavior Rule 3, which states as follows:

3. **Communications**: Seller will provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, Commission-approved market monitors, Commission-approved regional transmission organizations, or Commission-approved independent system operators, or jurisdictional transmission providers, unless Seller exercised due diligence to prevent such occurrences.<sup>4</sup>

For the ISO to comply with the Commission's direction in the Amendment No. 61 Order to charge the Generating Unit the lesser of the decremental reference price at the Scheduled operating level or the market clearing price, the Generating Unit's forward Schedule would have to remain in place. In other words, the ISO – and the Generating Unit's Scheduling Coordinator – would have

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<sup>4</sup> *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218, at Appendix A (2003).

to pretend that the shut-down Generating Unit was still operating as if nothing had happened. Permitting such “a wink and a nod” to take place is not contemplated in Market Behavior Rule 3.

The responsible action is to not leave the Generating Unit’s forward Energy Schedule in place, but for the shut-down Generating Unit’s Scheduling Coordinator to “zero out” that Unit’s Schedule – at least until the time that the Generating Unit can be restarted – and serve the Demand that would have been served by that Generating Unit from another source in the Scheduling Coordinator’s portfolio. To knowingly leave a Schedule that cannot be delivered in place is a violation of Market Behavior Rule 3.

**B. The Additional Cost that will Result from Allowing a Generating Unit that Cannot meet its Energy Schedules to buy Imbalance Energy at a Favorable Price will not Serve as a Meaningful Price Signal to Address the Causes of the Problem**

Charging a Generating Unit that is shut down to manage Intra-Zonal Congestion the lesser of the decremental reference price or the Imbalance Energy MCP for its Day-Ahead Schedule amount creates bad incentives, and is tantamount to allowing that Generating Unit to purchase replacement Energy from the ISO to meet its Scheduled obligation at the most favorable price possible (apart from giving it to the generator for free, or actually paying the generator not to generate Energy). A Generator in the Congestion pocket would have no incentive to adjust its Day-Ahead Schedules to account for the likely Congestion. Rather, it would have an incentive to provide “inflated” schedules in the Day-Ahead, knowing that it would at most be charged at the discounted decremental reference price to replace the scheduled Energy it cannot deliver.



Allowing a Generating Unit to buy Imbalance Energy to meet its Schedule at a discount price when its own output is not deliverable because of Congestion creates the wrong incentive. Additionally, such a directive does not reflect cost causation principles. The ISO will have to dispatch additional Imbalance Energy to make up for the Scheduled output of the Generating Unit if the Scheduling Coordinator does not respond properly, i.e., “zero out” that unit’s Schedule and substitute a different resource for the Generating Unit that can no longer meet its Schedule. The price of Imbalance Energy may go up because of this additional need. This additional cost will not to be borne by the Demand that was being served by the shut down Generating Unit’s Schedule, because the Generating Unit will pay no more than the Generating Unit’s decremental reference price for that Energy, not the actual price for Imbalance Energy. The additional cost of Imbalance Energy will be borne by all parties purchasing Imbalance Energy from the ISO, even parties completely remote from the Congestion location. This additional cost will not serve as a price signal for the Generating Unit to perform the additional maintenance that might have allowed the Generating Unit to be restarted in time to meet its Schedule, nor will it serve as a price signal that might lead to upgrading the Congested transmission element.

**V. CONCLUSION**

WHEREFORE, for the foregoing reasons, the ISO respectfully requests that the Commission grant the instant request for clarification and rehearing.

Respectfully Submitted,

/s/ Anthony J. Ivancovich  
Charles F. Robinson  
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Anthony J. Ivancovich  
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Filed: September 16, 2004

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list for the captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California, on this 16<sup>th</sup> day of September, 2004.

/s/ Anthony J. Ivancovich  
Anthony J. Ivancovich