



October 22, 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 Nos. ER04-938-___**

Dear Secretary Salas:

Enclosed please find the Motion for Leave to File Answer and Answer to Motions to Intervene, Protest, Answers, and Comments of the California Independent System Operator Corporation submitted today in the above-captioned proceeding.

Thank you for your attention to this matter.

Respectfully Submitted,

/s/ Anthony J. Ivancovich

Anthony J. Ivancovich

Counsel for the California Independent System
Operator Corporation

Enclosures

cc: All parties of record

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

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

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER TO
MOTIONS TO INTERVENE, PROTESTS, ANSWERS, AND
COMMENTS OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213, the California Independent System Operator Corporation (“CAISO”)¹ hereby requests leave to file an answer, and files its answer, to the Protest and Request to Reject of the California Department of Water Resources (“CDWR”) and the Protest of Energia Azteca X, S. de R.L. de C.V., Energia de Baja California, S. de R.L. de C.V. and Coral Power, L.L.C (“Coral”) to the CAISO’s September 16, 2004, Compliance filing in this Docket.² As described below, the protests are without merit and the Compliance filing should be accepted by the Commission, with only the clarifications described in this Answer.

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

² The ISO requests waiver of Rule 213(a)(2) (18 C.F.R § 385.213(a)(2)) to permit it to make this answer to these protests. 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 to ensure a complete and accurate record in this 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).

I. BACKGROUND

On June 18, 2004, the CAISO submitted Amendment No. 61 in the captioned docket. In Amendment No. 61, the CAISO proposed to modify Section 7.2.6.1 of the CAISO 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, and (2) charge a resource thus shut off the lesser of the Market Clearing Price 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.

On August 17, 2004, the Commission accepted Amendment No. 61, subject to modification. *California Independent System Operator Corporation*, 108 FERC ¶ 61,193 (2004) ("August 17 Order"). On September 16, 2004, the CAISO made its Compliance Filing in accordance with the August 17 Order. On October 7, 2004, CDWR and Coral filed their respective protests.

II. ANSWER

A. Section 7.2.6.4 Complies With the Commission's Order And Should Be Accepted

CDWR protests that proposed Section 7.2.6.4 fails to follow the Commission's directives in the August 17 Order. More specifically, CDWR proposes that there are deficiencies with or non-complying aspects of the CAISO's proposed language with

respect to the Dispatch of hydroelectric resources after Dispatching "all other *reasonably effective* resources that could be used to manage [*apparently any kind of*] Congestion [*without limitation to real time or to avert a system emergency*]." CDWR at 2. Emphasis in original.

CDWR seems to take exception with the ISO's failure to structure this language similar to other language in Section 7.2.6.1:

The ISO shall only re-Dispatch Regulatory Must-Take or Regulatory Must-Run, Intermittent Resources or Qualifying Facilities to manage Intra-Zonal Congestion after fully re-dispatching all other available and effective generating resources, including Reliability Must-Run Units.

However, the "all" in Section 7.2.6.4 means just that – all other resources, including those listed in the language cited by CDWR in Section 7.2.6.1.

Next, by emphasis, CDWR seems to question the words "reasonably effective". Importantly, Section 7.2.6.1 also contains the word "effective." Including an effectiveness test is reasonable and appropriate. While resources could be available in a location remote, both electrically and physically, from the overload, dispatching those resources would have little effect on the overload. Accordingly, it is necessary that the Dispatch be *effective* in addressing the operational problem.

CDWR also questions whether the Congestion referenced in Section 7.2.6.4 is Intra-Zonal Congestion or Inter-Zonal Congestion. For the purposes of managing real-time Congestion, the distinction is without significance. Any Congestion, be it attributable to Intra-Zonal or Inter-Zonal causes, must be addressed for reliable system operations. The ISO's current market design classifies Congestion as either Inter-Zonal (Congestion occurring between two defined Congestion Zones) or Intra-Zonal (Congestion occurring within a Congestion Zone). However, from a physical real-time

operations perspective, there is no difference between Inter-Zonal and Intra-Zonal Congestion.³ In real time, an overloaded circuit is an overloaded circuit, and that overload must be immediately addressed to prevent permanent damage to the circuit or prevent the overloaded circuit from sagging beyond acceptable clearances and creating a public safety risk. Labeling Congestion as either Inter-Zonal or Intra-Zonal may affect how the costs of re-dispatching resources to manage the Congestion are allocated, but that is not CDWR's issue as it relates to the cited language. Instead, CDWR's assertion is that their hydroelectric resources should not be dispatched by the CAISO to manage Congestion, not whether the overload being addressed is Inter-Zonal or Intra-Zonal Congestion.

CDWR next appears to object that Section 7.2.6.4 does not differentiate between real-time and the forward markets. The excerpt that CDWR included in its protest does not specifically indicate that the CAISO will use this provision in real-time. Section 7.2.6.4 in full reads:

If the ISO must dispatch hydroelectric resources for which no Supplemental Energy bids have been submitted to manage Congestion, the ISO shall do so only after dispatching all other reasonably effective resources that could be used to manage the Congestion.

The current deadline for submitting Supplemental Energy bids is 62 minutes prior to the operating hour. Thus, the CAISO cannot practically apply the provisions of Section 7.2.6.4 until after that deadline has passed. Nevertheless, to address CDWR's concerns that Section 7.2.6.4 might be used to dispatch hydroelectric resources to

³ The ISO's forward market congestion management process is based on the use of Adjustment Bids to set Congestion Usage Charges. The Usage Charges are set based on the difference in the Adjustment Bids used on both sides of the Congestion to relieve the Congestion. However, the ISO has experienced problems with using forward market bids to manage real-time Congestion. In the October 22, 2003 Order on Amendment No. 54, *California Independent System Operator Corporation*, 105 FERC ¶ 61,091 at P69 (2003), the Commission approved the ISO's proposal to eliminate the use of Adjustment Bids left over from the forward markets to manage Inter-Zonal and Intra-Zonal Congestion in real-time.

manage Congestion prior to real-time, the CAISO would propose to amend the section as follows if directed to do so by the Commission:

If the ISO must dispatch hydroelectric resources for which no Supplemental Energy bids have been submitted to manage Congestion **in real time**, the ISO shall do so only after dispatching all other reasonably effective resources that could be used to manage the Congestion.

Finally, CDWR-inserted comments note that the CAISO has not proposed to condition the use of Section 7.2.6.4 to avert a system emergency. Such conditions are unnecessary. In real-time, congestion – an overload on the grid – *is* a system emergency. As noted above, when Congestion occurs in real time, the CAISO must take immediate action to prevent damaging equipment or to prevent jeopardizing public safety.

CDWR also notes the CAISO's willingness to exclude MSS resources from the re-dispatch process set forth in Section 7.2.6 of the ISO Tariff, except as provided for in the MSS Agreement. The CAISO is not aware of anything that would prevent CDWR from entering into an MSS Agreement should it desire similar treatment, and stands ready to work with CDWR to enter into such an agreement.

In summary, while CDWR calls the CAISO's proposed Section 7.2.6.4 into question in its protest, the language is reasonable. If necessary for further clarification, CAISO will modify it to specify its application to real time as directed by the Commission.

B. Start-Up Costs Associated With Inter-Zonal Congestion Management Are Small And Will Be Allocated According To Commission Precedent

CDWR protests that the CAISO is creating a "new cost" to manage Inter-Zonal Congestion. CDWR at 5-11. This argument is without merit. The CAISO is not in any

way seeking to circumvent its existing means to manage Inter-Zonal Congestion in the forward markets.

Since the CAISO's filing of Amendment No. 50, the CAISO is aware of only one instance when it was required to shut down a Generating Unit to manage Inter-Zonal Congestion. In this instance, the CAISO faced real-time Inter-Zonal Congestion that was not present or even anticipated in the forward market Congestion Management process.⁴ The Commission previously granted the CAISO the authority to allow a Generating Unit to invoice the CAISO for its Start-Up Costs if the unit was shut down to manage Intra-Zonal Congestion.⁵ Per the Commission's prior orders, these Start-Up Costs are collected from all ISO Control Area Demand and from in-state exports.⁶ In requesting authority to pay a Generating Unit shut down to manage Inter-Zonal Congestion its Start-Up Costs, the CAISO was not intending to bypass its existing forward market Inter-Zonal Congestion Management process (which would not have proved effective in the single event at issue, because the Inter-Zonal Congestion in that event occurred in real time), but merely to eliminate the meaningless distinction that

⁴ The congestion on Path 15 that required the CAISO to direct the Generating Unit to shut down was created by a transmission outage that was extended beyond its scheduled duration. The CAISO's Inter-Zonal Congestion management process had adjusted forward market schedules to mitigate Congestion for the duration of the scheduled outage, but could not have anticipated that the outage would be extended in real time.

⁵ In response to a protest of the CAISO's June 30, 2003 compliance filing in Docket No. ER03-683, the ISO proposed to pay Start-Up Costs for a Generating Unit that was shut off to manage Intra-Zonal Congestion. On April 16, 2004, the Commission issued an order noting the CAISO's offer to pay Start-Up Costs but not expressly ruling on that offer. *California Independent System Operator Corporation*, 107 FERC ¶ 61,042 (2004). The CAISO sought clarification of this matter on May 17, 2004.

⁶ The Commission directed the CAISO to pay Start-Up Costs in an order in Docket No. EL00-95, *San Diego Gas & Electric Company*, 95 FERC ¶ 61,417 at 62,563 (2001).

⁷ In response to a protest of the CAISO's June 30, 2003 compliance filing in Docket No. ER03-683, the ISO proposed to pay Start-Up Costs for a Generating Unit that was shut off to manage Intra-Zonal Congestion. On April 16, 2004, the Commission issued an order noting the CAISO's offer to pay Start-Up Costs but not expressly ruling on that offer. *California Independent System Operator Corporation*, 107 FERC ¶ 61,042 (2004). The CAISO sought clarification of this matter on May 17, 2004.

would have allowed a Generating Unit shut down to manage Intra-Zonal Congestion to collect its Start-Up Costs but not allowed a Generating Unit shut down to manage Inter-Zonal Congestion to collect its Start-Up Costs. Further, the CAISO was not seeking to change the constituency to whom Start-Up Costs would be allocated.

CDWR asserts in their October 7, 2004 protest that “escalating tens and hundreds of millions of dollars in costs is attributable to inter-zonal congestion management activities outside of the tariff-established market-based CONG congestion management scheme.” CDWR at 8. CDWR is apparently basing this alarmist rhetoric on data provided by the CAISO in a proceeding in Dockets ER04-835 and EL04-103 regarding the allocation of Minimum Load Costs incurred under the must-offer obligation which showed, for 2003, \$25.5 million dollars of Minimum Load Costs attributed to “Zonal” reasons. However, in an October 5, 2004 scheduling and discovery conference *attended by CDWR*, the CAISO acknowledged that the classification of the cost data as for Inter-Zonal Congestion Management reasons for 2003 was erroneous. In fact, CDWR and the other parties to that proceeding were alerted to the error in an e-mail dated September 28, 2004 which stated:

Judge Young and Parties --

The ISO has recently identified a significant error in its supporting data that is likely to affect Intervenor testimony and positions. The data in question represent the ISO's attempt to identify how Minimum Load Cost would have been allocated in 2003 and early 2004 had Amendment No. 60 been effective during that period. Specifically, after a number of intervenors raised questions about the ISO's use of the must-offer obligation to manage inter-zonal congestion, the ISO re-examined a portion of the data that attribute \$25.5 million in Minimum Load Costs to zonal reasons in 2003. The initial "snap-shot" examination indicates that a large part of that Minimum Load Costs attributed to "Path 26" should have been attributed to other causes and that the remainder of the data

must be reexamined. This reexamination would take a minimum of two weeks.

In light of this development, the ISO respectfully requests that the Presiding Judge convene a scheduling/discovery conference as soon as is convenient in order to address the issues that this presents.

A copy of the e-mail is attached. The ISO agreed to re-file its previously submitted testimony after reviewing and correcting operations logging data to provide for the right classification of the Minimum Load Costs, and the parties in that proceeding filed a unanimous motion to change the procedural schedule to accommodate this new information. For CDWR to knowingly use incorrect data in its October 7 pleading as the basis for allegations that the CAISO is amassing huge costs to manage Inter-Zonal Congestion outside of its tariff authority is improper, as those facts have not been established.

In fact, the costs at issue in this docket regarding shutting down a Generating Unit to manage Inter-Zonal Congestion are small – amounting to only a few tens of thousands of dollars. Rhetoric aside, the ISO took actions in its September 16, 2004 compliance filing it believed were acceptable to address a narrow equity issue. In the transmittal letter for its September 16, 2004 compliance filing, the CAISO did not try to hide the modifications pertaining to the payment of Start-Up Costs for a Generating Unit shut down to manage Inter-Zonal Congestion. The CAISO did not propose those modifications in a new Section 205 filing because the effect of paying Start-Up costs for Generating Units shut down to manage Inter-Zonal Congestion is *de minimus* given the Commission's apparent approval of payment of Start-Up Costs for Generating Units shut down to manage Intra-Zonal Congestion, and because, if the Commission did indeed approve payment of Start-Up Costs for Generating Units shut down in real time

to manage Intra-Zonal Congestion, there was no reason not to apply the same treatment to Generating Units shut down in real time to manage Inter-Zonal Congestion.

C. The CAISO Clarifies Those Provisions of The A-61 Compliance Filing That Can Be Implemented Immediately

Coral protests that it was unclear from the ISO's transmittal letter accompanying the September 16, 2004 compliance filing which provisions the ISO could implement immediately and which it could not. In the transmittal letter, the ISO noted:

The ISO can immediately implement (1) the provisions to dispatch hydroelectric Generating Units to manage Congestion only after all other effective resources have been used, and (2) charging the lesser of the Market Clearing Price or the decremental reference price to a unit shut down until it is restarted. The ISO cannot immediately implement (1) the new shutdown reference price (due to limited availability of Market Operations staff), and (2) basing a shut-down decision on total shut-down costs (because the ISO does not yet have those costs, and because of limited availability of Market Operations staff to incorporate those costs into the tool that will be used to make shut-down decisions). The ISO estimates it may be able to implement these directives by January 30, 2004. The ISO acknowledges that, should it be required to apply some provisions of Section 7.2.6.1 between now and the time the modifications can be made, it will have to continue to apply existing charges and later re-run settlements to apply the proper charges. The ISO also notes that there are some provisions that it cannot immediately implement that cannot be "re-run." As an example, because the ISO cannot implement the directive to base a decision as to which unit should be shut down on the unit's Start-Up Costs (which it does not currently have), the ISO cannot go back later and determine that it should have shut down a different Generating Unit than it did when considering the total shutdown costs because the event will have already occurred.

September 16, 2004 Compliance Filing Transmittal Letter at 5.

On October 7, 2004, at Coral's request, the CAISO sent Coral the following marked-up Section 7.2.6.1 indicating which provisions the CAISO could not immediately implement (noted in highlight):

7.2.6.1 Decremental Bids. With regard to decremental bids, if Final Hour-Ahead Schedules cause Congestion on the Intra-Zonal

interface, the ISO shall, after Dispatching available and effective Reliability Must-Run Units to manage the Congestion, apply the decremental reference prices determined by the independent entity that determines the reference prices for the Automatic Mitigation Procedure (AMP) as described in Appendix A to the Market Monitoring and Information Protocol. The ISO shall Dispatch Generating Units according to the decremental reference prices thus established, the resource's effectiveness on the Congestion, and other relevant factors such as Energy limitations, existing contractual restrictions, and Regulatory Must-Run or Regulatory Must-Take status, to alleviate the Congestion after Final Hour-Ahead Schedules are issued. Where the ISO must reduce a Generating Unit's output, the ISO shall Dispatch Generating Units according to the decremental reference prices and not according to Adjustment Bids or Supplemental Energy Bids to alleviate Intra-Zonal Congestion. No Generating Unit shall be Dispatched below its minimum operating level or above its maximum operating level. No Reliability Must-Run Unit shall be Dispatched below the operating level determined by the ISO as necessary to maintain reliability. If Congestion still exists after all Generating Units are Dispatched to their minimum operating levels, the ISO shall instruct Generating Units to shut off in merit order based on their total shut-down costs, beginning with the most expensive unit, where such shut-down costs include the lesser of the cost to start up the Generating Unit or to keep the Generating Unit warm for each Generating Unit with a non-zero Final Day-Ahead Schedule for Energy for the next day. Units shut off due to Congestion as set forth in this Section 7.2.6.1 shall be charged the lesser of the decremental reference price for the operating range between zero MW output and the unit's minimum operating level or the relevant Market Clearing Price.

Coral indicates it was confused by the CAISO's statement which indicated that:

...should [the ISO] be required to apply some provisions of Section 7.2.6.1 between now and the time that modifications will be made, it will have to continue to apply existing charges and later re-run settlements to apply the proper charges.

September 16, 2004 Compliance Filing Transmittal Letter at 6.

The CAISO's intent was to indicate that the Commission, *not the CAISO*, had discretion to determine when the effective date of the proposed language would be. If the Commission determined that all of the proposed changes would be effective on August 18, 2004, including those provisions that the CAISO could not immediately

implement, the CAISO would have to continue to apply existing charges until it could modify its systems. After its systems were modified, the CAISO would then have to re-run the markets back to August 18, 2004, to modify the previous charges. However, the Commission determined that provisions the CAISO could not implement immediately should not be effective on August 18, 2004 but, instead, should be effective on the date that the systems necessary to implement such provisions were modified, then the CAISO would apply the revised charges at that time and would not have to undertake another re-run of the market.

The CAISO was not in any way trying to reserve authority for itself over the effective date of these provisions, but was simply trying to identify for the Commission the consequences of making effective provisions that the ISO could not yet implement.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, the CAISO respectfully requests that the Commission accept the compliance filing without the minor clarifications described in this Answer.

Respectfully Submitted,

/s/ Anthony J. Ivancovich

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Filed: October 22, 2004

From: Moore, Julia

Sent: Tuesday, September 28, 2004 9:01 AM

To: Moore, Julia; Miliauskas, Bradley; Brown, Andy; Andrew Hughes; Anna Valdborg; Bob McDiarmid; Blair, Bonnie; Bradley Tracey; Wozniak, Chad; Strother, Channing; Chrystina Black; Arthur, Dave; Dockham, Dave; David Marcus; Rubin, Dave; Sandino, David; Deborah Barnes; Bolton, Debra Raggio; Mahmud, Diana; eolivo@olivo-plascencia.com; Edward Gross; Grammer, Elisa; e-recipient; Hahn, Ernest; Franco Vincenzo; Glen Ortman; Gopal Swaminathan; Ottinger, Gregg; Holly Chapman; Holly McMickle; Cuillier, James; Pembroke, Jim; jackie.java@bracepatt.com; Lam, Jeff; McDonald, Jeffrey; Key, Jennifer; Joanna Moore; Somoano, Jorge C.; Morton, Kelly; Ken Kohtz; Sims, Ken; Laurence Chaset; Brown, Layne; Terry, Lee; Linda Deos; Linda Lee; Linda Patterson; Sherif, Linda; Dowden, Lisa; Gast, Lisa; Manuel Sandoval; Marcia C. Hooks; Mark Parsons; Ward, Mike; Michael Wentworth; Werner, Michael; Postar, Mike; Monica Gonzalez; Kissel, Peter; Peter Young; VanHoy, Roger; Black, W. Shannon; Neal, Sean; Settanni Andrea; Firooz, Sharon; Theaker, Brian; Tholan, Geeta; Nichols, Tim; Solomon, Tom; Alemu, Abraham; Hansen, Bert; LWolfe@eob.ca.gov; Matthews, Daisey; Patrizio, Mark; Kubitz, Kermit; Kozlowski, Lanette; Kargoll, Bob; Hunt, Erich; Goldbeck, Glenn; Greif, Claudia; ExH7@pge.com

Subject: ER04-835 (Am. 60) ISO Request for Scheduling/Discovery Conference

Importance: High

Judge Young and Parties --

The ISO has recently identified a significant error in its supporting data that is likely to affect Intervenor testimony and positions. The data in question represent the ISO's attempt to identify how Minimum Load Cost would have been allocated in 2003 and early 2004 had Amendment No. 60 been effective during that period. Specifically, after a number of intervenors raised questions about the ISO's use of the must-offer obligation to manage inter-zonal congestion, the ISO re-examined a portion of the data that attribute \$25.5 million in Minimum Load Costs to zonal reasons in 2003. The initial "snap-shot" examination indicates that a large part of that Minimum Load Costs attributed to "Path 26" should have been attributed to other causes and that the remainder of the data must be reexamined. This reexamination would take a minimum of two weeks.

In light of this development, the ISO respectfully requests that the Presiding Judge convene a scheduling/discovery conference as soon as is convenient in order to address the issues that this presents.

Thank you.

David Rubin, Michael Ward, and Julia Moore on behalf of the ISO

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CERTIFICATE OF SERVICE

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

Dated at Folsom, CA, on this 22nd day of October, 2004.

/s/ Brian D. Theaker
Brian D. Theaker