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April 25, 2005

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
Compliance Filing
Docket Nos. ER03-1102-___ and EL05-14-___**

Dear Secretary Salas:

The California Independent System Operator Corporation ("ISO")¹ respectfully submits six copies of the present filing in compliance with the Commission's March 24, 2005 order in Docket Nos. ER03-1102-003, *et al.*, 110 FERC ¶ 61,333 ("March 24 Order"), concerning a compliance filing the ISO submitted on November 29, 2004.

Per-Day Limitation on the Amount of Sanctions Under Section 2 of the Enforcement Protocol

In the March 24 Order, the Commission directed the ISO to delete from the second sentence of Section 2.1(b) of the Enforcement Protocol ("EP"), and from EP 2.6, the phrase "except as provided in EP 2.5." March 24 Order at P 18. The Commission also directed the ISO to modify EP 2.5, which provides for the enhancement of and exception from Sanctions, to include the following sentence: "Any penalty amount that is tripled under this provision and would exceed the \$10,000 per day penalty limit shall not be levied against a Market Participant until the CAISO proposes and the Commission approves such an enhancement." *Id.* The ISO has modified the referenced sections of the EP as required by the Commission.

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

Criterion Used for Starting a Generator Under EP 2.4(a)

In the March 24 Order, the Commission accepted the ISO's proposal to add the following sentence to EP 2.4(a): "Notwithstanding the foregoing, no violation shall occur unless the Market Participant has been provided advance notice of the waiver revocation consistent with the relevant start-up time set forth in the ISO Master File." March 24 Order at PP 29-30. The ISO has so modified EP 2.4(a).

Section 206 Proceeding Concerning EP 5.1(a); Refund Report

EP 5.1(a) sets forth a standard for the provision of factually accurate information. In the March 24 Order, the Commission noted that, in an earlier order, it had found that the second half of the last sentence of EP 5.1(a), which states that such information must be "true, complete, and consistent with the operational plans of the company to the best knowledge of the person submitting the information," was inconsistent with the standard contained in the Commission's Market Behavior Rule 3. March 24 Order at P 57.² Therefore, the Commission had initiated a proceeding pursuant to Section 206 of the Federal Power Act on EP 5.1(a). *Id.* at P 58. In the March 24 Order, the Commission found that "in order for EP 5.1(a) to be a just and reasonable rule, the standard set forth therein must be consistent with the standard set forth in [the Commission's] Market Behavior Rule 3." *Id.* at P 59. For this reason, the Commission directed the ISO to revise EP 5.1(a) to provide the standard set forth in Market Behavior Rule 3. *Id.* The ISO has modified EP 5.1(a) accordingly.

The Commission also directed the ISO to file a refund report explaining whether the standard the ISO had proposed in EP 5.1(a) had been applied to any Market Participant and any Market Participant had been penalized as a result. March 24 Order at P 60. *In compliance with that directive, the ISO states that the standard in EP 5.1(a) has not been applied to any Market Participant and therefore no Market Participant has been penalized. In addition, the ISO was directed to calculate any refunds due because of penalties assessed pursuant to EP 5.1(a). Id. As stated above, no penalties have been assessed, so no refunds are due.*

² The Commission quoted the text of Market Behavior Rule 3:

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.

March 24 Order at P 57 (quoting *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218, at P 106 and Appendix A (2003)).

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Materials Included with the Present Filing

The tariff changes described above are shown in the revised sheets provided in Attachment A to the this letter, and are shown in black-line format in Attachment B. Additionally, the ISO submits, in Attachment C, a form notice of filing suitable for publication in the Federal Register, along with a computer diskette containing the notice of filing.

Two additional copies of this filing are enclosed to be date-stamped and returned to our messenger. If there are questions concerning this filing, please contact the undersigned.

Respectfully submitted,



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ATTACHMENT A

EP 2 COMPLY WITH OPERATING ORDERS

EP 2.1 Compliance with Orders Generally

- (a) **Expected Conduct.** Market Participants must comply with operating orders issued by the ISO as authorized under the ISO Tariff. For purposes of enforcement under this EP 2, an operating order shall be an order(s) from the ISO directing a Market Participant to undertake, a single, clearly specified action (e.g., the operation of a specific device, or change in status of a particular Generating Unit) that is feasible and intended to resolve a specific operating condition. A Market Participant's failure to obey an operating order containing multiple instructions to address a specific operating condition will result in a single violation of EP 2. If some limitation prevents the Market Participant from fulfilling the action requested by the ISO, then the Market Participant must promptly and directly communicate the nature of any such limitation to the ISO. Compliance with ISO operating orders requires a good faith effort to achieve full performance as soon as is reasonably practicable in accordance with Good Utility Practice.
- (b) **Sanctions.** The Sanction for a violation of this Section shall be the greater of the quantity of Energy non-performance multiplied by the applicable Hourly Ex Post Price or the following: for the first violation in a rolling twelve (12) month period, \$5,000; for the second and subsequent violations in a rolling twelve (12) month period, \$ 10,000. Sanctions under EP 2.1 will not be greater than \$10,000 per violation and will be subject to the limitation stated in EP 2.6. If a quantity of energy cannot be objectively determined, then the financial sanctions specified above will apply. A Market Participant may incur Sanctions for more than one violation per day.

EP 2.2 Failure to Curtail Load

- (a) **Expected Conduct.** A UDC or MSS Operator shall promptly comply with any ISO operating order to curtail interruptible or firm load issued pursuant to the ISO's authority under Section 4.4.4 of the ISO Tariff.
- (b) **Sanctions.** The Sanction for non-compliance with an operating order to curtail load will be \$10,000 for each violation.

EP 2.3 Operations & Maintenance Practices

- (a) **Expected Conduct.** Market Participants shall undertake such operating and maintenance practices as necessary to avoid contributing to a major outage or prolonging response time as indicated by Section 2.3.2.9.3 of the ISO Tariff.

- (b) **Sanctions.** The Sanction for a violation of EP 2.3 will be \$10,000.

EP 2.4 Must-Offer Denials/Revocations

- (a) **Expected Conduct.** A Market Participant shall start a Generating Unit and have that Generating Unit operating at minimum load within 30 minutes of the time at which a must-offer waiver revocation becomes effective, or report the derate, outage or other event outside the control of the Market Participant that prevents the Generating Unit from being started by such time. Notwithstanding the foregoing, no violation shall occur unless the Market Participant has been provided advance notice of the waiver revocation consistent with the relevant start-up time set forth in the ISO Master File. A Market Participant that fails to perform in accordance with the expected conduct described in this EP 2.4(a) shall be subject to Sanction.
- (b) **Sanctions.** The Sanctions for a violation of EP 2.4 shall be as follows: for the first violation in a rolling twelve (12) month period, \$5,000; for the second and all subsequent violations in a rolling twelve (12) month period, \$10,000. A Market Participant is limited to one Sanction per Generating Unit per calendar day.

EP 2.5 Enhancements and Exceptions

Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of EP 2.1 through EP 2.4 if an ISO System Emergency exists at the time an operating order becomes effective or at any time during the Market Participant's non-performance. Notwithstanding the foregoing, violations of EP 2.1 through EP 2.4 are subject to penalty under this rule only to the extent that the ISO has issued a separate and distinct non-automated Dispatch Instruction to the Market Participant. Any penalty amount that is tripled under this provision and that would exceed the \$10,000 per day penalty limit shall not be levied against a Market Participant until the ISO proposes and the Commission approves such an enhancement. A Market Participant that is subject to an enhanced penalty amount under this EP 2.5 may appeal that penalty amount to FERC if the Market Participant believes a mitigating circumstance not covered in EP 9.2 exists. The duty of the Market Participant to pay the enhanced penalty amount will be tolled until FERC renders its decision on the appeal.

EP 2.6 Per-Day Limitation on Amount of Sanctions

The amount of Sanctions that any Market Participant will incur for committing two or more violations of EP 2.1 through EP 2.4 on the same day will be no greater than \$10,000 per day.

EP 3 SUBMIT FEASIBLE ENERGY AND ANCILLARY SERVICE BIDS AND SCHEDULES

EP 3.1 Bidding Generally

- (a) **Expected Conduct.** Market Participants must bid and schedule Energy and Ancillary Services from resources that are reasonably expected to be available and capable of performing at the levels specified in the bid and/or schedule, and to remain available and capable of so performing

- (b) **Sanctions.** The Sanctions for a violation of EP 4.2 shall be as follows: for the first violation within a rolling twelve (12) month period, \$5,000; for subsequent violations within a rolling twelve (12) month period, \$10,000. A "violation" shall mean each Outage undertaken for which all required approvals were not obtained.

EP 4.3 Explanation of Forced Outages

- (a) **Expected Conduct.** A Market Participant, within two working days of the commencement of a Forced Outage, must provide an explanation of the Forced Outage to the ISO that includes a description of the equipment failure or other cause and a description of all remedial actions taken by the Operator, in accordance with Section 2.3.3.9.5 of the ISO Tariff. An Operator must promptly provide information requested by the ISO to enable the ISO to review the explanation submitted by the Operator and to prepare a report on the Forced Outage.
- (b) **Sanctions.** The Sanction for failing to provide a timely explanation of Forced Outage shall be \$500 per day for each day the explanation is late. The Sanction for failing to provide a timely response to information requested shall be as specified in EP 6.1.

EP 4.4 Enhancements and Exceptions

Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of EP 4.1 through EP 4.3 that occurs during an ISO System Emergency. Violations of the above rules that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.2.4.1.2 of the ISO Tariff may be assessed shall not be subject to Sanction under this EP 4. A Market Participant that is subject to an enhanced penalty amount under this EP 4.4 may appeal that penalty amount to FERC if the Market Participant believes a mitigating circumstance not covered in EP 9.2 exists. The duty of the Market Participant to pay the enhanced penalty amount will be tolled until FERC renders its decision on the appeal.

EP 5 PROVIDE FACTUALLY ACCURATE INFORMATION

EP 5.1 Accurate Information Generally

- (a) **Expected Conduct.** All applications, Schedules, reports, and other communications by a Market Participant or agent of a Market Participant to the ISO, including maintenance and outage data, bid data, transaction information, and load and resource information, must be submitted by a responsible company official who is knowledgeable of the facts submitted. The Market Participant shall provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with FERC, FERC-approved market monitors, FERC-approved regional transmission organizations, or FERC-approved independent system operators, or jurisdictional transmission providers, unless the Market Participant exercised due diligence to prevent such occurrences.

ATTACHMENT B

EP 2.1

Compliance with Orders Generally

- (a) **Expected Conduct.** Market Participants must comply with operating orders issued by the ISO as authorized under the ISO Tariff. For purposes of enforcement under this EP 2, an operating order shall be an order(s) from the ISO directing a Market Participant to undertake a single, clearly specified action (e.g., the operation of a specific device, or change in status of a particular Generating Unit) that is feasible and intended to resolve a specific operating condition. A Market Participant's failure to obey an operating order containing multiple instructions to address a specific operating condition will result in a single violation of EP 2. If some limitation prevents the Market Participant from fulfilling the action requested by the ISO, then the Market Participant must promptly and directly communicate the nature of any such limitation to the ISO. Compliance with ISO operating orders requires a good faith effort to achieve full performance as soon as is reasonably practicable in accordance with Good Utility Practice.
- (b) **Sanctions.** A Sanction for violation of this Section shall be the greater of the quantity of Energy non-performance multiplied by the applicable Hourly Ex Post Price or the following: for the first violation in a rolling twelve (12) month period, \$5,000; for the second and subsequent violations in a rolling twelve (12) month period, \$10,000. Sanctions under EP 2.1 will not be greater than \$10,000 per violation and will be subject to the limitation stated in EP 2.6 ~~except as provided in EP 2.5~~. If a quantity of energy cannot be objectively determined, then the financial sanctions specified above will apply. A Market Participant may incur Sanctions for more than one violation per day.

EP 2.4

Must-Offer Denials/Revocations

- (a) **Expected Conduct.** A Market Participant shall start a Generating Unit and have that Generating Unit operating at minimum load within 30 minutes of the time at which a must-offer waiver revocation becomes effective, or report the derate, outage or other event outside the control of the Market Participant that prevents the Generating Unit from being started by such time. Notwithstanding the foregoing, no violation shall occur unless the Market Participant has been provided advance notice of the waiver revocation consistent with the relevant start-up time set forth in the ISO Master File. A Market Participant that fails to perform in accordance with the expected conduct described in this EP 2.4(a) shall be subject to Sanction.
- (b) **Sanctions.** The Sanctions for a violation of EP 2.4 shall be as follows: for the first violation in a rolling twelve (12) month period, \$5,000; for the second and all subsequent violations in a rolling twelve (12) month period, \$10,000. A Market Participant is limited to one Sanction per Generating Unit per calendar day.

EP 2.5

Enhancements and Exceptions

Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of EP 2.1 through EP 2.4 if an ISO System Emergency exists at the time an operating order becomes effective or at any time during the Market Participant's non-performance. Notwithstanding the foregoing, violations of EP 2.1 through EP 2.4 are subject to penalty under this rule only to the extent that the ISO has issued a separate and distinct non-automated Dispatch Instruction to the Market Participant. Any penalty amount that is tripled under this provision and that would exceed the \$10,000 per day penalty limit shall not be levied against a Market Participant until the ISO proposes and the Commission approves such an enhancement. A Market Participant that is subject to an enhanced penalty amount under this EP 2.5 may appeal that penalty amount to FERC if the Market Participant believes a mitigating circumstance not covered in EP 9.2 exists.

The duty of the Market Participant to pay the enhanced penalty amount will be tolled until FERC renders its decision on the appeal.

EP 2.6 Per-Day Limitation on Amount of Sanctions

The amount of Sanctions that any Market Participant will incur for committing two or more violations of EP 2.1 through EP 2.4 on the same day will be no greater than \$10,000 per day ~~except as provided in EP 2.5.~~

* * *

EP 5.1 Accurate Information Generally

- (a) **Expected Conduct.** All applications, Schedules, reports, and other communications by a Market Participant or agent of a Market Participant to the ISO, including maintenance and outage data, bid data, transaction information, and load and resource information, must be submitted by a responsible company official who is knowledgeable of the facts submitted. ~~All such information submitted must be true, complete, and consistent with the operational plans of the company to the best knowledge of the person submitting the information.~~ The Market Participant shall provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with FERC, FERC-approved market monitors, FERC-approved regional transmission organizations, or FERC-approved independent system operators, or jurisdictional transmission providers, unless the Market Participant exercised due diligence to prevent such occurrences.
- (b) **Sanctions.** The Sanctions for a violation of EP 5.1 shall be as follows: for the first violation within a rolling twelve (12) month period, \$2,500; for the second violation within a rolling twelve (12) month period, \$5,000; subsequent violations within a rolling twelve (12) month period, \$10,000.

ATTACHMENT C

