

June 23, 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,
Docket No. ER03-683-009**

Dear Secretary Salas:

Enclosed please find the Motion for Leave to File Answer, and Answer, of the California Independent System Operator Corporation to Protest of 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., and Answer of the California Independent System Operator Corporation to Request for Clarification of Those Same Entities, submitted in the captioned docket.

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

Respectfully submitted,


Kenneth G. Jaffe
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Counsel for the California
Independent System Operator
Corporation

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System)
Operator Corporation) Docket No. ER03-683-009

**MOTION FOR LEAVE TO ANSWER, AND ANSWER, OF THE CALIFORNIA
INDEPENDENT SYSTEM OPERATOR CORPORATION TO PROTEST OF
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., AND ANSWER OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO
REQUEST FOR CLARIFICATION OF THOSE SAME ENTITIES**

On May 18, 2005, the California Independent System Operator Corporation (“ISO”)¹ filed in the captioned proceeding a refund report (“Refund Report”) in compliance with the Commission’s April 18, 2005 order in the captioned proceeding, 111 FERC ¶ 61,074 (“April 18, 2005 Order”). On June 8, 2005, 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. (jointly, the “Coral Group”) filed a protest of the Refund Report and filed a request for clarification concerning certain other matters. 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 respectfully requests leave to file an answer, and files its answer, to the Coral Group’s

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

protest.² Additionally, pursuant to Rule 212, the ISO files its answer to the Coral Group's request for clarification.

As explained below, the Coral Group improperly criticizes the ISO's Refund Report for failing to provide for additional refunds above and beyond those the Commission required in the April 18, 2005 Order. The Commission *only* directed the ISO to provide refunds arising from the "switching off" of a standard used by Potomac Economics ("Potomac"), which *only* applies to market-based bids for a Generating Unit's capacity between the Generating Unit's minimum operating level ("Pmin") and its maximum operating level ("Pmax"). The Coral Group contends that the ISO is also required to pay refunds for a Generating Unit's capacity that falls *below* Pmin. However, the Commission imposed no such requirement in the April 18, 2005 Order. The Coral Group improperly seeks to use this proceeding to attempt to resuscitate claims it raised unsuccessfully in a different proceeding – the proceeding on Amendment No. 61 to the ISO Tariff ("Amendment No. 61"). Indeed, the arguments that the Coral Group presents in the instant proceeding are almost entirely a rehash of Coral Group arguments that the Commission rejected in the Amendment No. 61 proceeding. Those arguments *continue to be unfounded on the merits*; they also have no place in this proceeding, which concerns only the conformity of the ISO's Refund Report with the requirements of the April 18, 2005 Order. The

² The ISO requests waiver of Rule 213(a)(2) (18 C.F.R. § 385.213(a)(2)) to permit it to make an answer to the Coral Group's protest. 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).

Commission should accordingly deny the Coral Group's protest and accept the Refund Report.

I. **ANSWER³**

A. **The April 18, 2005 Order Required the ISO Only to Make Refunds and Submit a Refund Report in This Proceeding to Reflect the "Switching Off" of the Potomac Standard.**

The instant proceeding concerns Potomac's use, pursuant to Section 7.2.6.1.1(a)(1) of the ISO Tariff, of a standard (the "Potomac standard") to determine when "competitive periods" exist for purposes of the ISO's application of Section 7.2.6.1.1, and thus the circumstances in which the limit on decremental bid reference levels stated in Section 7.2.6.1.1(a)(1) applies.⁴ In its January 6, 2005 Order in this proceeding, the Commission stated that the Potomac standard would not be effective until (1) the ISO filed tariff changes incorporating the Potomac standard in a filing pursuant to Section 205 of the Federal Power Act ("FPA"), to be effective on a prospective basis, and (2) the Section 205 filing was accepted by the Commission.⁵ The Commission also stated that "[b]ecause the implementation of the Potomac-proposed tariff revision without prior Commission approval has resulted in rates that are not currently on

³ For convenience, the ISO will use in this answer the same abbreviations for Commission orders that were defined in the Refund Report.

⁴ The instant filing uses the terms "decremental bid reference levels," "decremental reference levels" and "decremental reference prices" interchangeably. Also, the instant filing uses the phrase "determines decremental reference levels" as convenient shorthand for the process that Potomac undertakes pursuant to Section 7.2.6.1.1(a)(1) as described above.

⁵ *California Independent System Operator Corporation*, 110 FERC ¶ 61,007, at P 31 (2005) ("January 6, 2005 Order"). The ISO had originally submitted Section 7.2.6.1.1(a)(1) in a compliance filing. See January 6, 2005 Order at P 25.

file with the Commission,” the ISO was directed to provide refunds for the period starting January 20, 2004 (the date the ISO issued a market notice stating that Potomac was going to start applying the Potomac standard) through the effective date of the prospective filing submitted pursuant to Section 205.⁶ Thus, the Commission directed the ISO to make refunds that were the result of the Commission-required “switching off” of the Potomac standard during that period.

In the April 18, 2005 Order, the Commission denied the ISO’s request for rehearing concerning the Commission’s directive to make refunds. April 18, 2005 Order at P 27. As required by that Order, the ISO submitted the Refund Report to provide “an assessment of the amount owed to and owing by each market participant” that resulted from the “switching off” of the Potomac standard. April 18, 2005 Order at P 27.

B. The Potomac Standard Only Applies to Market-Based Bids Between Pmin and Pmax, and Therefore the ISO was Only Required to Make Refunds for Generating Units’ Capacity that Fell Between Pmin and Pmax.

The Potomac standard only applies to the market-based bids of Generating Units for capacity that is between Pmin and Pmax. The Potomac standard does not apply to the capacity of Generating Units that is below Pmin, *i.e.*, between zero and Pmin.

Section 7.2.6.1 of the ISO Tariff states in relevant part that the ISO will “apply the decremental reference prices determined by” Potomac and that the

⁶ *Id.* To comply with the January 6, 2005 Order, the ISO submitted and the Commission accepted a compliance filing to, *inter alia*, remove Section 7.2.6.1.1(a)(1) from the ISO Tariff. See April 18, 2005 Order at Ordering Paragraph (B). Also, the ISO submitted and the Commission accepted the Section 205 filing described in the January 6, 2005 Order, effective February 18, 2005. *California Independent System Operator Corporation*, 111 FERC ¶ 61,073.

ISO “shall Dispatch Generating Units according to the decremental reference prices thus established . . .” Therefore, the ISO dispatches Generating Units based on the decremental reference prices that Potomac determines. Moreover, Section 7.2.6.1 states that “[w]here the ISO must reduce a Generating Unit’s output, the ISO shall Dispatch Generating Units according to the decremental reference prices . . . No Generating Unit shall be Dispatched below its minimum operating level or above its maximum operating level.” Thus, the ISO Tariff forbids the ISO from dispatching a Generating Unit below P_{min} based on the decremental reference prices that Potomac determines. As the Commission has stated, “[a] unit’s minimum operating level is the lower limit of the respective unit’s dispatchable range.” *California Independent System Operator Corporation*, 108 FERC ¶ 61,193, at P 5 n.5 (2004) (“Amendment No. 61 Order”). The Coral Group itself notes that “[r]unning below P_{min} is not operationally feasible. Instead, a unit must be completely shut down.” Coral Group at 4 n.1.⁷

Pursuant to Section 7.2.6.1.1(a)(1) of the ISO Tariff, Potomac uses the Potomac standard to determine decremental reference prices based on a Generating Unit’s market-based bids *only* for a Generating Unit’s capacity that falls between P_{min} and P_{max} , *not* for a Generating Unit’s capacity that falls between zero and P_{min} . As the ISO explained in the refund report:

⁷ There are sound practical reasons why the ISO only dispatches the capacity of units between their P_{min} and P_{max} . A Generating Unit’s capacity between P_{min} and P_{max} is dispatchable to different operating levels within that range, and, just as importantly, that capacity is “fractionally dispatchable,” *i.e.*, the ISO can dispatch only a fraction of the Generating Unit’s capacity if only a fraction is needed. In contrast, a Generating Unit’s capacity that falls between zero and P_{min} is not dispatchable, much less fractionally dispatchable. If the ISO were to attempt to dispatch a unit below its P_{min} , either fully or fractionally, the Generating Unit would – as the Coral Group notes in the text above – have to shut down. For this reason, reference levels for capacity between zero and P_{min} are often called “shut-down reference levels.”

Generating units' "shut-down" reference levels . . . and capacity between Pmin and zero are not relevant to this refund report and are therefore not considered here. They are not relevant because the Potomac standard is only applied to bid-based reference levels. Potomac has explained to the ISO that the shut-down reference levels generated by Potomac have not been subject to the Potomac standard. There are no bids available for the capacity between Pmin and zero and therefore there is no basis for bid-based reference levels with regard to that capacity.

Refund Report at 5 n.6. Since the Potomac standard was only used for bids for Generating Units' capacity falling between Pmin and Pmax for each respective Generating Unit, the "switching off" of the Potomac standard pursuant to the Commission's April 18, 2005 Order plainly can only affect bids for that capacity.⁸

For these reasons, to restore Market Participants to the positions they would have occupied if the ISO had not applied the Potomac standard during the relevant period, in compliance with the Commission's orders, the ISO needs to make refunds only for Generating Units' capacity between Pmin and Pmax. Generating Units' capacity between zero and Pmin was not affected by the use of the Potomac standard during this period and therefore is properly excluded from the scope of the ISO's refunds.

C. The Coral Group Improperly Uses This Proceeding to Reargue Issues It Raised Unsuccessfully in the Amendment No. 61 Proceeding.

The Coral Group argues that the ISO must pay refunds for capacity between zero and Pmin, even though bids from that capacity were not affected

⁸ Indeed, because the ISO only dispatches the capacity between Pmin and Pmax, and because it is only the market-based bids of those *Generating Units* that Potomac uses in determining decremental reference levels under the Potomac standard, it would not make sense for Potomac to even attempt to determine bid-based decremental reference levels for any capacity of *Generating Units* between Pmin and zero.

by the ISO's use of the Potomac standard. The Coral Group's arguments amount to an attempt to jumble together two entirely separate matters: the refunds required in the instant proceeding, and issues that the Coral Group unsuccessfully raised in the Amendment No. 61 proceeding. Even if the issues were the same, as the Coral Group contends, the Commission considered and rejected the Coral Group's claims in this regard in the Amendment No. 61 Order. The Coral Group may not relitigate those claims here.

As explained above, in the instant proceeding, the ISO was directed to make refunds to reflect the "switching off" of the Potomac standard mandated in the April 18, 2005 Order; the Potomac standard only applied to bids for capacity between Pmin and Pmax; and therefore the April 18, 2005 Order only required the ISO to make refunds for the capacity between Pmin and Pmax. Amendment No. 61, in contrast, had nothing to do with the application of the Potomac standard or the provision of Commission-directed refunds. Rather, Amendment No. 61 involved a proposal to use the decremental reference price for the range between zero and Pmin (the "shut-down" reference level) as determined by Potomac to determine which resources should be shut off to manage Intra-Zonal Congestion and to charge such resources the lesser of the Market Clearing Price or the decremental reference price for the range between zero and Pmin as determined by Potomac. Amendment No. 61 Order at P 5.⁹

⁹ Effective June 2, 2005, Potomac began to provide the shut-down reference price pursuant to the Amendment No. 61 Order. The ISO will make settlement reruns to Market Participants for the time period from the date that Amendment No. 61 was made effective (August 18, 2004) until June 2, 2005, to provide Market Participants the benefit of that shut-down reference price. See Attachment A to the instant filing (containing May 31, 2005 ISO market notice announcing the implementation by Potomac and the settlement reruns).

In the Amendment No. 61 proceeding, the Coral Group raised almost *all* of the arguments that it now raises in the instant proceeding – often in *exactly* the same words as are used in the instant Coral Group pleading.¹⁰ The only difference between the two sets of arguments is that, in the Amendment No. 61 proceeding, the arguments were directed at alleged violations of the ISO Tariff and Commission orders, and in the instant proceeding, the arguments were also directed at alleged deficiencies in the Refund Report and the use of the Potomac standard.

In its order on Amendment No. 61, the Commission summarily dismissed the Coral Group’s pleading: “The Commission’s Rules of Practice and Procedure expressly provide for the filing of complaints, and the Commission has determined that such complaints must be filed separately from motions to intervene and protests. Therefore, the proper recourse for [the Coral Group] is to file a complaint under section 206 of the FPA.” Amendment No. 61 Order at P 37 (citing *Entergy Services Inc.*, 52 FERC ¶¶ 61,317, 62,270 (1990)). There is no

¹⁰ Compare the Motion to Intervene, Protest in Part, and Request for Refunds of the Coral Group, Docket No. ER04-938-000 (filed July 9, 2004), at 1-2 (“Coral Group Amendment No. 61 Pleading”), with the instant Coral Group pleading at 5-6; compare the Coral Group Amendment No. 61 Pleading at 2-3 with the instant Coral Group pleading at 10; compare the Coral Group Amendment No. 61 Pleading at 4-6 with the instant Coral Group pleading at 6-8; compare the Coral Group Amendment No. 61 Pleading at 6-7 with the instant Coral Group pleading at 9-10; compare the Coral Group Amendment No. 61 Pleading at 9-11 with the instant Coral Group pleading at 11-14, 15-16.

In its instant pleading, the Coral Group does make the new argument that the Coral Group submitted bids for capacity of Generating Units between zero and Pmin prior to October 1, 2004 (at which time the ISO implemented software changes to preclude such submissions), and that “Potomac could have calculated decremental Reference Level prices for energy bid below Pmin.” Coral Group at 8-9. However, even if the Coral Group did submit bids for capacity between zero and Pmin, it would still have been nonsensical for Potomac to attempt to use such bids in determining decremental reference prices using the Potomac standard. *See supra* Section I.B. Thus, any Coral Group bids between zero and Pmin were not valid for purposes of the Potomac standard and therefore could not be considered by Potomac to be “available bids.” *See* Refund Report at 5 n.6.

reason for the Commission to consider the arguments that the Coral Group has copied out of its Amendment No. 61 pleading and pasted into its instant pleading.¹¹ The Coral Group's arguments do not improve with age or repetition. As was the case in the Amendment No. 61 proceeding, the Coral Group's pleading in the instant proceeding amounts to a procedurally defective complaint that is masquerading as a protest. Therefore, even if the Coral Group's arguments were germane to the Refund Report at issue in this proceeding – and they are not – the Commission should deny them here, as it did in the *Amendment No. 61 Order*.

D. The Commission Should Accept the Timeline Stated in the Refund Report for Providing Refunds.

The Refund Report contained an estimate of the refunds to be provided, and explained that the ISO will determine the final settlement amounts and will provide the refunds in either the third quarter or fourth quarter of 2005. Refund Report at 7, 8. The Coral Group asks the Commission to direct the ISO to accelerate the refund process and conclude it by September 1, 2005. Coral Group at 12-13. The Commission should deny that request. As the ISO has explained, it is already committed to calculating a number of reruns of its settlements system in other proceedings, most notably the California refund proceeding. Refund Report at 8. Contrary to the implication of the Coral Group (at 12), there is still significant work to be done on those other reruns. The Coral Group has provided no justification for requiring the ISO to set aside work on the

¹¹ The Coral Group fails to note anywhere in its pleading in the instant proceeding that it is repeating arguments that were dismissed by the Commission in the Amendment No. 61 proceeding.

reruns in order to push the rerun in the instant proceeding to the front of the queue. Further, as explained below, all parties that will receive refunds in the instant proceeding will also receive interest on their refund amounts.

E. The ISO Will Provide Interest on the Refund Amounts at the Rate Specified in the Commission's Regulations, Through the Date the Refunds are Provided.

The Coral Group asks the Commission to clarify that the ISO will be required to "include interest in [sic] the refunds calculated at the Commission's interest rate under 18 C.F.R. § 35.19a through the date the refunds are provided." Coral Group at 13. No such clarification is needed. As the Coral Group notes, counsel for the ISO has explained that the ISO will include interest when it provides the refunds. Moreover, "Interest," as defined in Appendix A to the ISO Tariff, is "calculated in accordance with the methodology specified for interest on refunds in the regulations of FERC" The ISO will provide the interest through the date the refunds are provided.

F. The ISO Should Not Be Directed to Provide its Work Papers for its Rerun in the Instant Proceeding.

The Coral Group requests that the Commission direct the ISO to provide the work papers for its rerun in the instant proceeding, in order to "enable SCs to verify the ISO's refund calculations." Coral Group at 13-15. There is no requirement that the ISO provide work papers when it conducts settlement reruns (see ISO Tariff, § 11.6.3), nor is it the ISO's practice to provide such work papers. Moreover, the Coral Group should possess all of the information it needs in order to check the ISO's settlement rerun results for the Coral Group. The ISO has explained the methodology used to determine the refunds. Refund

Report at 5-7. The pieces of information that the Coral Group requires in order to check the settlement rerun results are the following:

- The original reference levels with the Potomac standard “switched on.” These are contained on the Coral Group’s Scheduling Infrastructure “SI” Workspace.
- The new reference levels with the Potomac standard “switched off.” These have already been provided to the Coral Group by the ISO.
- Records of the decrements of the Coral Group’s Generating Units. The Coral Group *already has these records for its own Generating Units.*
- *The Market Clearing Prices* for the period covered by the refunds. The Market Clearing Prices are available on the ISO’s website.

Thus, there is no need for the ISO to provide any work papers.

G. Correction of a Typographical Error

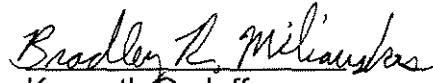
The Refund Report stated that the “estimated total amount of refunds owed is \$2,128.221.” Refund Report at 7. In order to eliminate any ambiguity, the ISO now clarifies that the decimal point in the quoted dollar amount should be replaced with a comma, so that the quoted dollar amount is “\$2,128,221.”

II. CONCLUSION

Wherefore, for the foregoing reasons, the ISO respectfully requests that the Commission accept the Refund Report as submitted and deny the relief requested by the Coral Group.

Respectfully submitted,

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Dated: June 23, 2005

ATTACHMENT A

From: CRCommunications [CRCommunications@caiso.com]
Sent: Tuesday, May 31, 2005 2:42 PM
Subject: CAISO: Market Operations/ Implementation of FERC Order A61 effective for trade date 6/2/2005

CAISO MARKET NOTICE

Requested Client Action: Information Only

Categories: Market Operations

Subject: Implementation of FERC Order A61 effective for trade date 6/2/2005

Summary:

In compliance with FERC Order A61, the ISO will incorporate a unit's shutdown reference price when managing intra-zonal congestion.

This Market Notice provides the following:

- * Summary of change
- * Effective trade date of change
- * New report information
- * Link to the report's download template
- * Link to the Operating Procedure description
- * Settlement re-run dates

Main Text:

The current method for managing intra-zonal congestion determines a solution based on the operating cost of dispatching the unit from its operating point to Pmin. The implementation of A61 will add the shutdown cost associated with dispatching a unit from Pmin to zero. This new method provides a more cost-effective solution as it takes into account a unit's total cost rather than just the operating cost of dispatching the unit from its operating point to Pmin. Effective for trade date 6/2/2005, the independent entity, Potomac Economics, will begin to provide the shutdown reference price. A new report will be made available to Market Participants from a GUI in the SC Workspace - Day Ahead AMP Reference Level DEC Shutdown Information. The report will include the new shutdown value as a single \$/MW price per hour. Participants can find the SI System Templates and Validation Rules V 23 as well as the updated procedure description M-401 Real-Time Intra-Zonal Congestion Management using the following links:

- * Download Template

<<http://www.caiso.com/docs/09003a6080/35/b9/09003a608035b9a8.pdf>>

Note: Version 23 includes updates for Versions 20 - 22. Version 19a was the last posted.

- * Operating Procedure

<<http://www.caiso.com/docs/2000/07/19/200007191535315040.pdf>>

Once implemented and in accordance with the effective date granted by FERC, the ISO will perform settlement re-runs dating back to August 18, 2004.

For More Information Contact:

Liz Bellamy at (916) 351 - 2117 or ebellamy@caiso.com <<mailto:ebellamy@caiso.com>> or your Account Manager

Client Relations Communications.1026

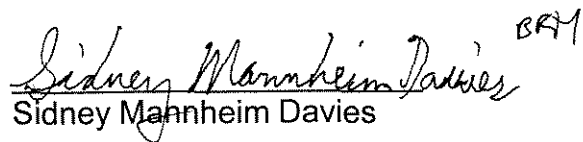
CRCommunications@caiso.com <<mailto:CRCommunications@caiso.com>>

The California ISO strives to be the preferred provider of superior electrical transmission services for the benefit of our customers in California and the West.

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 23rd day of June, 2005.


Sidney Mannheim Davies