

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

<b>California Independent System Operator Corporation</b>	)	<b>Docket Nos. ER03-746-001</b>
	)	<b>ER03-746-002</b>
	)	<b>EL00-95-081</b>
	)	<b>EL00-98-069</b>
	)	
	)	

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO CALIFORNIA GENERATORS' MOTION FOR PRODUCTION OF MISLOGGING DATA AND INFORMATION FROM THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2001), the California Independent System Operator Corporation ("ISO") submits its answer to the California Generators' ("Generators") Motion for Production of Mislogging Data and Information from the California Independent System Operator Corporation ("Motion for Production"). The Generators request that the Commission direct the ISO to provide, subject to the Protective Order adopted by the Presiding Administrative Law Judge in this proceeding, "bid data and market information" underlying the ISO's mislogging corrections and calculation of updated market clearing prices ("MCPs") and mitigated market clearing prices ("MMCPs"). The Motion for Production is moot; as the ISO has produced the requested information, subject to the Protective Order, since the Motion for Production was filed. However, as explained below, the ISO requests that the Commission issue an order enabling the ISO

to produce a certain type of data during the course of the rerun process, prior to the ISO's compliance filing, in order to avoid the potential need for future similar motions.

**I. ANSWER**

The ISO takes seriously its commitment to assist Market Participants in understanding the adjustments that it is making as part of the rerun process. If the ISO did not distribute the data underlying the mislogging analysis and the revised MCPs and MMCPs to Market Participants during the rerun process, the ISO would file this data with the Commission as "supporting data" in the ISO's refund rerun compliance filing. See Order on Rehearing, 105 FERC ¶ 61,066 at P. 194 (2003) ("October 16 Order") (requiring the ISO to submit a compliance filing containing the results and supporting data of its settlements rerun). The ISO agrees with the Generators that it is appropriate, to provide Market Participants with this data prior to the ISO's compliance filing, in order to further the ISO's, other parties', and the Commission's common goal of resolving as many potential issues as possible before that filing.

As the Generators note, ISO Tariff, Section 20.3.2, requires the ISO to treat as confidential certain categories of information, including individual bids for Supplemental Energy and Ancillary Services. The data files requested by the Generators underlying the MCP/MMCP and mislogging calculations contain this type of information. Notwithstanding Section 20.3.2, however, the ISO may disclose such data if required to do so "in the course of administrative or judicial proceedings." ISO Tariff Section 20.3.4(b). Thus, the Generators are correct that a Commission order directing the ISO

to disclose this data would satisfy the ISO's confidentiality obligations under the ISO Tariff.

As to the specific data requested by the Generators, such an order is not necessary because, subsequent to the filing of the Motion for Production, the ISO was able to verify that, pursuant to formal discovery requests at an earlier stage of this proceeding, the confidential data underlying the MCP/MMCP and mislogging calculations had already been made available to the Generators and other parties, subject to the Protective Order. Over the past week, the ISO has distributed the data requested by the Generators to parties to this proceeding.

The ISO anticipates that during the remainder of the rerun process, it could develop other data that in the normal course it would provide as "supporting data" in its compliance filing pursuant to the Commission's October 16 Order, but that also contains data of the type that the ISO is required to keep confidential pursuant to Section 20.3.2 of the ISO Tariff. The ISO can, of course, provide that data as part of its compliance filing, consistent with the confidentiality provisions of the ISO Tariff, because the October 16 Order specifically required the ISO to file such "supporting data" with its compliance filing. However, the ISO may conclude that producing, pursuant to the Protective Order, some, or all, of this "supporting data" to Market Participants prior to the compliance filing would assist those Market Participants in better understanding the adjustments made by the ISO in the rerun process. The issue is one of timing. Because the Commission has ordered that the ISO to produce "supporting data" with its compliance filing, the confidentiality provisions of the ISO Tariff are satisfied so far as the ISO provides that data *at the time it makes its compliance filing*. In order to

produce this data *prior* to its compliance filing, however, the ISO would need a separate order from the Commission directing it to do so.<sup>1</sup>

In order to address this timing problem, the ISO requests that the Commission issue a blanket order permitting the ISO to distribute to Market Participants, subject to the Protective Order, and prior to its compliance filing, any data that the ISO, in good faith, determines it eventually would be required to include as “supporting data” with that compliance filing. Such an order will significantly facilitate the ISO’s ability to conduct an efficient and transparent rerun process, and will assist Market Participants in better understanding the ISO’s adjustments. In the end, the ISO believes that this will mean a shorter and less contentious compliance phase.<sup>2</sup>

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<sup>1</sup> This explanation assumes that the “supporting data” at issue has not already been provided to parties earlier in this proceeding. As with the MCP/MMCP and mislogging data specifically requested by the Generators in their Motion for Production, there is no need for a Commission order to permit the production of data that has already been provided to the same parties in the same proceeding.

<sup>2</sup> Such an order would also obviate the need to consider putting in place discovery procedures pursuant to 18 C.F.R. § 385.401(a), as alluded to by the Generators in their Motion for Production. Motion for Production at 6, n.18.

## II. CONCLUSION

Wherefore, the ISO requests that the Commission issue an order consistent with the discussion above.

Respectfully submitted,

Charles F. Robinson  
General Counsel  
Gene Waas  
Regulatory Counsel

The California Independent System  
Operator Corporation  
151 Blue Ravine Road  
Folsom, CA 95630  
Telephone: (916) 608-7049

/s/ J. Phillip Jordan

J. Phillip Jordan  
Michael Kunselman

Swidler, Berlin, Shereff and Friedman, LLP  
3000 K Street, Ste. 300  
Washington, D.C. 20007  
Telephone: (202) 424-7500

Dated: March 18, 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, CA, on this 18<sup>th</sup> day of March 2004.

/s/ Gene L. Waas  
Gene L. Waas