

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

<b>California Electricity Oversight Board</b>	)	<b>Docket No. EL00-104-000</b>
	)	
<b>Complainant</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>All Sellers of Energy and Ancillary Services Into The Energy and Ancillary Services Markets Operated By the California Independent System Operator Corporation And the California Power Exchange;</b>	)	
	)	
<b>All Scheduling Coordinators Acting on behalf of the Above Sellers;</b>	)	
	)	
<b>California Independent System Operator Corporation; and</b>	)	
	)	
<b>California Power Exchange Corporation</b>	)	
	)	
<b>Respondents</b>	)	

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO COMPLAINT OF THE CALIFORNIA ELECTRICITY OVERSIGHT BOARD**

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213, and the Commission's August 29, 2000 Notice

of Filing, the California Independent System Operator Corporation (“ISO”)<sup>1</sup> hereby files its Answer to the Complaint of the California Electricity Oversight Board (“EOB”). As described below, the ISO does not oppose the consolidation of the present proceeding with ongoing proceedings concerning the same issues, but believes that, consistent with those ongoing proceedings, no further action should be taken at this time.

**I. THE PRESENT PROCEEDING CAN PROPERLY BE CONSOLIDATED WITH ONGOING PROCEEDINGS CONCERNING THE SAME ISSUES**

The EOB filed its complaint on August 29, 2000. In the complaint, the EOB requested that the Commission find that the wholesale electricity markets in California “are not workably competitive and take such action as necessary to ensure that California’s wholesale rates are just and reasonable . . . .”<sup>2</sup> The EOB also requested that the Commission direct the ISO to maintain price caps that are no greater than \$250 per MWh for Energy, \$250 per MW for Ancillary Service products, and \$100 for Replacement Reserves, “until demonstrable evidence exists that California’s wholesale markets are workably competitive and that rates are just and reasonable.”<sup>3</sup> The EOB recognized that its complaint reiterated issues that had already been placed before the Commission by an earlier complaint and the Commission’s own action.<sup>4</sup> For this reason, the EOB

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<sup>1</sup> Capitalized terms not otherwise defined herein are defined in the Master Definitions Supplement, Appendix A to the ISO Tariff.

<sup>2</sup> Complaint at 12.

<sup>3</sup> *Id.* at 2, 12.

<sup>4</sup> *Id.* at 2. The referenced complaint was filed on August 2, 2000 by San Diego Gas & Electric Company (“SDG&E”) against the sellers of Energy and Ancillary Services into California’s markets. *Id.* at 2 n.4. The Commission issued an order concerning SDG&E’s complaint on August 23, 2000. *San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services*

requested that its complaint be consolidated with Docket Nos. EL00-95-000 and EL00-98-000, which concern the proceedings stemming from the earlier complaint.<sup>5</sup>

The ISO does not oppose the consolidation of the EOB's complaint with the dockets described above. The EOB correctly observed that the issues in all of these dockets are the same. Therefore, the Commission should render a decision on them all in a single proceeding under section 206 of the Federal Power Act encompassing all of the consolidated dockets.<sup>6</sup>

However, for the reasons described in the SDG&E Order, it would be premature for the Commission to consider the EOB's other requests. SDG&E had requested that the Commission immediately cap the prices of Energy and Ancillary Services at \$250. In response, the Commission found as follows:

While we find it appropriate to institute a section 206 hearing on these issues, we cannot implement an immediate price cap of \$250/MWh as requested by SDG&E because there is no record before us to support such an action. Under the Federal Power Act, upon complaint or on our own motion, the Commission may establish new rates only if it first has a record to determine that the existing rates are unjust, unreasonable, unduly discriminatory or preferential. Further, once such a finding is made as to existing rates, the Commission must have a record to support the new rate it establishes as just and reasonable. While the issues raised by this complaint are important, the Commission has no basis to conclude that SDG&E's proposal to place an immediate, arbitrary \$250/MWh cap on the price that every public utility seller of energy and ancillary services may bid into the PX [i.e., California Power Exchange] and ISO markets would satisfy this standard. SDG&E has provided no evidence to demonstrate that all potential sellers are able to exercise market power, has not documented a single instance of a seller exercising market power during times of

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*Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange*, 92 FERC ¶ 61,172 ("SDG&E Order").

<sup>5</sup> Complaint at 2.

<sup>6</sup> 16 U.S.C. § 824e. See SDG&E Order at 61,609 (establishing section 206 proceedings).

scarcity, and did not attempt to show that the conditions underlying the Commission's approval of market-based rates for public utility sellers of energy and ancillary services have changed. Nor did it address specific market or institutional factors that may be causing rates to be unjust or unreasonable. In addition, the ISO's analysis raised concerns that a cap at this level would call into question the ISO's ability to attract sufficient supply to meet the totality of California loads, and SDG&E has not provided any basis for the Commission to evaluate the reliability impacts of adopting a \$250/MWh seller's bid cap. In sum, SDG&E has not met the burden of showing that an immediate, universal bid cap on all potential sellers supplying energy and ancillary services into the PX and ISO markets is justified and in the public interest.<sup>7</sup>

It would be appropriate for the Commission to consider the relief requested in the EOB's complaint on the basis of the record developed in the consolidated proceeding.

Deferral of consideration of the relief sought by the EOB would not prejudice the interest or position advanced by the EOB or by any other party. On September 14, 2000, the ISO filed Amendment No. 31 to the ISO Tariff, to extend the ISO's authority to establish ceilings on the prices it pays in its markets. The ISO has no present plans to adjust the current \$250 purchase price cap, and should any increase be the subject of consideration by the ISO, the EOB and other interested parties would have prior knowledge and would be free to make their views known to the ISO and to apply to the Commission for any relief they then believed appropriate.

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<sup>7</sup> SDG&E Order at 61,606.

## II. COMMUNICATIONS

Communications regarding this docket should be sent to the following individuals, whose names should be entered on the official service list established by the Secretary for this proceeding:

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## III. CONCLUSION

For the foregoing reasons, the ISO expresses no opposition to the consolidation of the present proceeding with ongoing proceedings concerning the same issues, but believes that it would be premature for the Commission to take any further action.

Respectfully submitted,

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