

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

California Independent System Operator Corporation	)	Docket Nos. ER01-313-000
	)	ER01-313-001
Pacific Gas and Electric Company	)	Docket Nos. ER01-424-000
	)	ER01-424-001

**ANSWER OF THE CALIFORNIA INDEPENDENT  
SYSTEM OPERATOR CORPORATION TO SOUTHERN CALIFORNIA  
EDISON COMPANY'S MOTION FOR SURREBUTTAL TESTIMONY**

To: The Honorable Bobbie J. McCartney  
Presiding Administrative Law Judge

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213, the California Independent System Operator Corporation ("ISO") files this Answer to the Motion for Surrebuttal Testimony of Southern California Edison Company ("SCE"). As will be explained more fully below, the ISO does not object to SCE filing testimony on the Mohave issue in light of recent discovery developments, as long as the testimony is directly related to the data response in question. The ISO does object, however, to the new SCE testimony taking the form of "surrebuttal", *i.e.*, the last round of testimony on this issue.

**I. BACKGROUND**

On August 28, 2001, SCE filed a Motion for Surrebuttal Testimony in this proceeding. The basis for the Motion was that the ISO had failed to answer a data

request, SCE-ISO-20, correctly, preventing SCE from raising a claim of undue discrimination in its Supplemental Direct Testimony of June 25, 2001.

## **II. ARGUMENT**

The ISO has acknowledged that its June 7, 2001 discovery response was incorrect, and provided a corrected response on August 24, 2001. In light of this, the ISO does not object to SCE filing testimony strictly limited to the issues arising from the incorrect discovery response.

The ISO does object, however, to SCE's request to file its testimony as "surrebuttal", that is, to SCE having the last word on this issue. As it was the ISO's filing of its Grid Management Charge ("GMC") that gave rise to this proceeding, it is the ISO's right to file the last round of testimony, however many rounds are permitted. That the ISO initially failed to respond to a data request correctly has no bearing on this procedure.

SCE argues that the ISO will have the opportunity to address the undue discrimination issue in its existing Rebuttal Testimony on September 24, and that "SCE should be provided the opportunity to rebut the ISO's defense at the same time that it presents its own discrimination case," SCE Motion for Surrebuttal Testimony at 5. This argument misconstrues the role of Rebuttal Testimony. The ISO cannot, on Rebuttal, defend itself from arguments that have yet to be made. On the current record, there is no testimony to "rebut" on this issue. Therefore, the ISO must wait until SCE makes its arguments before rebutting them in a final round of testimony.

That being the case, the ISO would require a sufficient amount of time to conduct any necessary discovery on SCE's additional testimony, in order to prepare its rebuttal on this limited issue. The ISO therefore requests that it be granted sufficient time after the

date upon which SCE submits its additional testimony to conduct its discovery and file its rebuttal on this limited issue. Clearly, this cannot be accomplished by September 24, the date on which the ISO's other rebuttal testimony is due. The ISO requests three weeks to conduct its discovery and file rebuttal to SCE's testimony after this SCE testimony is filed. For example, should SCE file its testimony on September 24, the ISO would file its responsive testimony, limited to responding to the SCE arguments, on October 15.<sup>1</sup>

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<sup>1</sup> The ISO provides these dates for illustrative purposes only, and acknowledges that SCE will need time for its own discovery, as well. That being the case, a September 24 date may not be suitable for SCE's testimony may not be suitable.

### III. CONCLUSION

For the above reasons, the ISO does not object to SCE filing testimony strictly limited to the issues arising out of the incorrectly answered data request, requests that the ISO be permitted to respond to such SCE testimony, and requests that the ISO be allowed three weeks from the time that the SCE testimony is filed to conduct discovery and file its responsive testimony.

Respectfully submitted,

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Date: September 12, 2001

## **CERTIFICATE OF SERVICE**

I hereby certify that I have served the foregoing document upon all parties on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, DC this 12<sup>th</sup> day of September, 2001.

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Julia Moore  
(202) 295-8357

September 12, 2001

The Honorable David P. Boergers  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: *California Independent System Operator Corporation,*  
Docket Nos. ER01-313-000 and ER01-313-001**

***Pacific Gas and Electric Company*  
Docket Nos. ER01-424-00 and ER01-424-001**

Dear Secretary Boergers:

Enclosed for filing are one original and 14 copies of the Answer of the California Independent System Operator to the Motion for Surrebuttal Testimony of Southern California Edison Company in the above-referenced proceeding. Two courtesy copies of this pleading have been provided to Presiding Administrative Law Judge Bobbie J. McCartney. Two additional copies of the filing are also enclosed. Please stamp the two additional copies with the date and time filed and return them to the messenger.

Thank you for your assistance in this matter.

Respectfully submitted,

Julia Moore  
(202) 295-8357

Attorney for the California Independent  
System Operator Corporation

CC: The Honorable Bobbie J. McCartney  
Service List