

SC ID has already been provided to SVP and other parties in this proceeding by PG&E. The requested information regarding the COTP/COTB and PCGI/PCGB SC IDs is not relevant to the issue in this proceeding or reasonably calculated to lead to the discovery of admissible evidence.

3. SVP bears the burden of establishing the relevance of the data it seeks.

Mojave Pipeline Co., 38 FERC ¶ 61,247 (1987). Although SVP recites certain Phase II issues, SVP has *never* explained how settlement information regarding these SC IDs is likely to lead to the discovery of admissible evidence regarding any of the Phase II issues. Simply asserting such does not make it so and cannot meet SVP's burden.

4. It is the ISO's understanding that PG&E does not seek in this proceeding to recover any costs that the ISO assesses to it under the COTP/COTB. *See* PG&E Answer to [Initial] Motion to Compel at 6. Indeed, PG&E does not recognize the validity of costs that the ISO assesses it under the COTP/COTB SC ID. *See California Indep. Sys. Oper. Corp.*, 107 FERC ¶ 61,152 (2004). SVP has provided no explanation how costs that are not involved in this proceeding relate to any of the Phase II issues it identifies.

5. SVP does assert that "evidence has come to light" that "appears to confirm SVP's belief" that PG&E engaged in inter-Scheduling Coordinator trades that may have affected the charges at issue under this proceeding. SVP does not identify any such evidence or explain its theory. SVP's *unsupported* assertions of *unidentified* evidence that "appears" to confirm an *unexplained* theory cannot meet its burden. To find otherwise would simply provide a blessing to SVP's fishing expedition.

6. Finally, if the Presiding Judge believes that production of this information should be compelled, SVP should again be required to show that PG&E is unable to

provide the information before moving to compel production from the ISO. As the ISO noted in its Motion for Reconsideration or in the Alternative Motion to Limit Discovery and in its Answer to SVP's initial Motion to Compel, the ISO is under significant discovery burdens in many ongoing proceedings. It is highly inappropriate for SVP to add to those burdens by *simultaneously* seeking the *identical* information from both the filing party and an inactive intervenor.

WHEREFORE, the ISO respectfully requests that the Presiding Judge reject SVP's Motion to Compel.

Respectfully submitted,

Charles Robinson
General Counsel
Anthony J. Ivancovich
Senior Regulatory Counsel
Gene L. Waas
Regulatory Counsel
The California Independent
System Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630

/s/ Michael E. Ward
David B. Rubin
Michael E. Ward
Julia Moore
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Suite 300
Washington, DC 20007

Date: October 27, 2004

CERTIFICATE OF SERVICE

I hereby certify I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Folsom, CA, on this 27th day of October 2004.

/s/ Gene L Waas
Gene L. Waas