

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

<b>NEO California Power LLC,</b>	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>Docket No. EL02-18-000</b>
	)	
<b>California Independent System</b>	)	
<b>Operator Corporation,</b>	)	
<b>Respondent.</b>	)	

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR CORPORATION TO THE MOTION OF NEO CALIFORNIA  
POWER LLC FOR EXPEDITED ACTION**

**I. INTRODUCTION**

Pursuant to the Rule 213 of the Commission Rules of Practice and Procedure, 18 C.F.R. § 385.213, the California Independent System Operator Corporation (“ISO”)<sup>1</sup> submits this Answer to the Motion For Expedited Action (“Motion”) submitted by NEO California Power LLC (“NEO California”) in the above-referenced proceeding on August 12, 2002. NEO California requests that Commission expeditiously act on its “Complaint Requesting An Order to Compel and Show Cause Or, In the Alternative, An Evidentiary Hearing With Fast Track Processing (“Complaint”)” filed, under section 206 of the Federal Power Act, 16 U.S.C § 824e, by NEO California on November 13, 2001. The Complaint asked the Commission to require the ISO to pay NEO California for capacity previously sold and to provide NEO California with a creditworthy buyer or assurance of

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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.

future payments for future transactions. In the instant Motion, NEO California asks the Commission to direct the ISO to pay unpaid invoices from the 2001 summer reliability period and outstanding invoices from the current 2002 summer reliability period.

## **II. BACKGROUND**

As detailed *supra*, the instant Motion builds upon the Complaint filed on November 13, 2001. The ISO answered the Complaint on December 3, 2001, explaining that the Complaint was mooted by the ISO's compliance with Commission's order on November 7, 2001,<sup>2</sup> directing the ISO to invoice the California Department of Water Resources ("DWR") as a Scheduling Coordinator for outstanding payments due to Market Participants, including NEO California. In the December 3, 2001 answer, the ISO also discussed how the payment provisions of the SRAs are entirely consistent with the ISO Tariff, specifically that once the ISO receives payments from debtors in ISO markets, the ISO will disburse such funds to creditors, including NEO California and other participants in the SRAs.

Moreover, in response to a Commission order on March 1, 2002, in the above-referenced dockets, on March 18, 2002, the ISO filed a report demonstrating that, to the extent the ISO had received funds from DWR and other invoiced Market Participants, the ISO had disbursed such funds to NEO California for summer 2001 SRA payments. The ISO explained that the amounts invoiced by NEO California and not paid reflected amounts owed by the bankrupt California Power Exchange and Pacific Gas and Electric Company and that the

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<sup>2</sup> 97 FERC ¶ 61,151 (2001) ("November 7 Order").

ISO, upon receipt of payments from these two entities, would pay the remainder due to NEO California. Thus, consistent both with the SRAs and ISO Tariff, the ISO properly paid NEO California for the summer 2001 period based on the funds actually received by the ISO.

### **III. ANSWER**

As detailed *supra*, the ISO has already paid NEO California for the 2001 summer reliability period to the extent that the ISO received funds to make such payments. Section 9.4 of the SRA states “The ISO’s obligation to make any payments required under Article 9 is expressly conditioned on the ISO’s recovery under the ISO Tariff of costs it incurs under this Agreement.” The remaining unpaid amounts due to NEO California for this period will be paid when the ISO receives such funds as a result of the ongoing bankruptcy proceedings for the California Power Exchange and Pacific Gas and Electric Company.

The Motion also states that the ISO has not made any payments to NEO California for the 2002 summer reliability period. Specifically the Motion alleges that NEO California has invoiced the ISO for June and July 2002 for a total of \$3,784,200. In fact, as of August 26, 2002, the ISO has not received any such invoices from NEO California for either June or July 2002.

Specifically, the ISO receives SRA invoices through an electronic inbox (“srainvoices @caiso.com”). This is the same inbox that NEO California used to submit invoices for the 2001 summer reliability period. However, NEO California had not submitted June and/or July invoices to this inbox, nor, to the best of the ISO’s knowledge, to any other inbox or address within the ISO. Therefore, until

the ISO is invoiced, in accordance with the SRA, the ISO cannot make disbursements to NEO California.

Upon receipt of the Motion, and the explanation that NEO had not been paid for 2002, on August 21, 2002 the ISO contacted NEO to determine the status of the invoices. On August 27, 2002, NEO California provided the ISO with invoices for June and July. The ISO is still getting information to substantiate the invoices and will process them as soon as possible.

Moreover, the Motion further alleges that the July 2002 invoice is overdue. This is not correct, even had NEO California submitted such an invoice on August 1, 2002. Had it been submitted, the invoice would not be due for 30 days, or on August 31. Lastly, the Motion appears to claim injury from ISO failure to timely pay an August 2002 invoice. The ISO notes that the month is not over and therefore the ISO can hardly be in arrears for an invoice that can't be billed until after the month is over. .

Thus, as is required under the terms of the SRAs, NEO California must invoice the ISO for each month during the summer reliability period. Upon receipt of each invoice, in accordance with the SRAs the ISO will pay NEO California to the full extent that the ISO has received funds to make such payments.

#### **IV. CONCLUSION**

As set forth above, the ISO has complied in full with the Complaint, the underlying terms of the SRA and ISO Tariff and thus the Commission should dismiss the Motion as moot.

Respectfully submitted,

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System Operator Corporation  
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Dated: August 27, 2002



August 27, 2002

The Honorable Magalie Roman Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: NEO California Power LLC  
Docket No. EL02-18-000**

Dear Secretary Salas:

Enclosed for electronic filing please find the Answer of The California Independent System Operator Corporation to the Motion of NEO California Power LLC For Expedited Action.

Thank you for your assistance in this matter.

Respectfully submitted,

Margaret A. Rostker  
Counsel for The California Independent  
System Operator Corporation

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the Answer of The California Independent System Operator Corporation to the Motion of NEO California Power LLC For Expedited Action upon each person designated on the official service list compiled by the Secretary in the above-captioned docket.

Dated at Folsom, California, on this 27<sup>th</sup> day of August, 2002.

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Margaret A. Rostker