

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

**California Independent System) Docket No. ER01-889-000
Operator Corporation)**

**ANSWER OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION
TO MOTION OF RELIANT ENERGY POWER GENERATION, INC.
AND RELIANT ENERGY SERVICES, INC.
TO INTERVENE, PROTEST, AND REJECT AMENDMENT NO. 36,
AND EMERGENCY MOTION FOR ORDER TO CEASE AND DESIST**

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.213 (2000), the California Independent System Operator Corporation (“ISO”)¹ hereby submits its Answer to the Motion to Intervene, Protest, and Reject Amendment No. 36, and Emergency Motion for Order to Cease and Desist, of Reliant Energy Power Generation, Inc. and Reliant Energy Services, Inc. (collectively, “Reliant”) which was filed on January 8, 2001. For the reasons described below, the Motion should be denied.

I. BACKGROUND

This proceeding concerns Amendment No. 36 to the ISO Tariff, in which the ISO proposed a grace period (extending no later than March 3, 2001) during which Scheduling Coordinators for investor-owned Utility Distribution Companies

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

("UDCs") and the UDCs themselves (as defined in Amendment No. 36) would not be subject to trading limitations for a failure to comply with the credit-worthiness requirements of the ISO Tariff. The ISO asked for an effective date of January 4, 2001, and stated that circumstances required it to implement the amendment on that date. On January 5, 2001, following the credit downgrades of Southern California Edison Company ("Edison") and Pacific Gas and Electric Company ("PG&E"), the ISO posted notice on the ISO Home Page that the trading limitation would not apply to Scheduling Coordinators for the investor-owned UDCs for the following Trading Day. The ISO has posted such a notice for each subsequent Trading Day to date.

On January 8, 2001, Reliant filed a Motion to Intervene, Protest, and Reject Amendment No. 36, and Emergency Motion to Cease and Desist. In addition to intervening, Reliant asks the Commission to reject Amendment No. 36, to direct revision of the ISO's credit-worthiness standards in certain manners, and to order the ISO to cease and desist from its implementation of Amendment No. 36. In light of the Commission's prohibition of Answers to Protests, the ISO will not herein respond to the proposed revisions of the ISO's credit-worthiness provisions.² As explained below, however, the Emergency Motion to Cease and Desist is misguided and should be denied.

² The ISO notes that two of Reliant's proposed changes were also proposed by Dynegy Power Marketing, et al., in its Motion for Clarification on Creditworthiness Issues in Docket No. EL00-95, et al. The ISO responded to those proposals in its Answer filed on January 8, 2001, in those dockets.

II. ANSWER

A. Reliant's Creditworthiness Concerns Are Outweighed By the Catastrophic Consequences of Granting the Motion

Reliant recognizes that the ISO has acknowledged the validity of the concerns about the credit-worthiness requirements for certain Scheduling Coordinators that Reliant expresses in its Motion.³ In filing Amendment No. 36 to the ISO Tariff, the ISO explicitly sought guidance from the Commission regarding the appropriate course of action to resolve what Reliant recognizes as “the difficult dilemma” facing the ISO.⁴

The fundamental problem with the Motion, however, is that Reliant never addresses, or even acknowledges, the question of how tens of millions of customers are to receive electric service in the interim until the Commission provides guidance. If, as Reliant requests, Amendment No. 36 were to be rejected, and the ISO were to cease and desist in its implementation of that amendment,⁵ the ISO Tariff would prohibit the ISO from scheduling the transactions necessary to serve the customers of Edison and PG&E. These customers would lose their access to electric service.

The ISO now reiterates what it has said before: the ISO is prepared to take any appropriate action necessary to ensure continued service to California consumers during the current financial crisis, through further amendment of the

³ See Letter of Edward Berlin, et al., to David Boergers, transmitting Amendment No. 36, filed on January 4, 2001, filed in this docket; Answer of the California Independent System Operator Corporation to the Emergency Motion for Clarification on Creditworthiness Issues of Dynegy Power Marketing, Inc., *et al.*, Docket Nos. EL00-95-006, *et al.* (Jan. 8, 2001), at 4-7 (“Answer to Dynegy Motion”).

⁴ See Motion at 14.

⁵ Motion at 15.

Tariff or other appropriate avenues as suggested by the Commission.⁶ Allowing customers to be deprived of electric service while such actions are taken, due to the inability of Scheduling Coordinators to schedule transactions and participate in the ISO's markets, is not an acceptable option. A lack of electricity for even a short amount of time would have catastrophic results. Reliant's creditworthiness concerns cannot outweigh the need to avoid those results.

B. Reliant Has Failed to Justify Emergency Action

Reliant does not even attempt to demonstrate – much less succeed in demonstrating – that the Commission's acceptance of the temporary grace period in Amendment No. 36 and denial of the Motion will result in severe economic harm to Reliant. As an initial matter, the temporary grace period may be the only way to avoid a more disastrous impact on Reliant's debtors that would significantly damage Reliant's ability to recover its debts.

Moreover, Reliant has not shown that it faces an economic peril from Amendment No. 36. Instead, Reliant speaks in generalities and hypotheticals about Reliant's and other generators' various obligations.⁷ Reliant provides no evidence concerning its financial health, which in fact appears to be quite good. For example, on January 7, 2001, the *Sacramento Bee* reported that Reliant's net income for the third quarter of 2000 was up 37.5 percent compared with the third quarter of 1999.⁸

⁶ Answer to Dynegy Motion at 7.

⁷ See Motion at 13.

⁸ See <<http://www.sacbee.com/news/special/power/010701money.html>>.

In any case of a utility employing market-based rates, the overall return will vary over time. Reliant has not shown that the temporary grace period will in any manner seriously endanger its ability to earn a just and reasonable rate of return.

III. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission deny Reliant's Motion.

Respectfully submitted,

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