

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

Cities of Anaheim, Azusa, Banning Colton, and Riverside, California,)	
)	
Complainants)	
)	
v.)	Docket No. EL00-111-002
)	
California Independent System Operator Corporation,)	
)	
Respondent)	
)	
Salt River Project Agricultural Improvement and Power District,)	
)	
Complainants)	
)	
v.)	Docket No. EL01-84-000
)	
California Independent System Operator Corporation,)	
)	
Respondent)	[Not Consolidated]

**COMMENTS OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION IN SUPPORT OF
OFFER OF SETTLEMENT AND SETTLEMENT AGREEMENT**

Pursuant to Rule 602(f) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.602(f) (2002), the California Independent System Operator Corporation (“ISO”)¹ hereby submits its comments in support of the Offer of Settlement and Settlement

¹ Capitalized terms not otherwise defined herein are used as defined in Appendix A to the ISO Tariff.

Agreement (“Settlement Agreement”) filed by the ISO, Cities of Anaheim, Azusa, Banning, Colton, and Riverside California, Salt River Project Agricultural Improvement and Power District, City of Vernon, California (“Vernon”), and California Department of Water Resources (collectively, the “Settling Parties”) in the above-captioned proceedings on July 31, 2002.² For the reasons described below, the Settlement Agreement should be approved by the Commission without modification.

COMMENTS

The ISO is a non-profit public corporation organized under the laws of the State of California and is responsible for the reliable operation of the grid comprising the transmission systems of Southern California Edison Company (“Edison”), San Diego Gas & Electric Company (“SDG&E”), Pacific Gas and Electric Company (“PG&E”), and the City of Vernon (“Vernon”), as well as for the coordination of the competitive electricity market in California. The ISO is also a signatory to the Settlement Agreement.

The ISO supports the Settlement Agreement, first and foremost, because Commission approval of terms of the Settlement Agreement would help to ensure the ISO’s status as a non-profit, revenue neutral entity. One of the main components of the Settlement Agreement provides that the Settling Parties will request that the Commission exercise its remedial discretion to decline to order the ISO to pay refunds for amounts collected in excess of the hourly limit on Neutrality Adjustment charges, if any, during the time period from June 1, 2000

² The filing containing the Settlement Agreement also contained an “Explanatory Statement In Support of Offer of Settlement” (“Explanatory Statement”).

through February 26, 2001. Moreover, if the Commission grants this request, which is an express condition on the Settlement Agreement taking effect, the ISO will not be required to absorb or reallocate on a prospective basis any Settlement Costs incurred during the time period from June 1, 2000 through February 26, 2001.³ This component of the Settlement Agreement serves to allow the ISO to maintain its revenue neutral status. The ISO notes that the Commission has itself recognized that it would be improper to require the ISO to absorb costs associated with the Neutrality Adjustment charge.⁴

Moreover, Commission approval of the Settlement Agreement would provide final resolution of all issues raised in the present proceedings.⁵ Thus, Commission approval of the Settlement Agreement would represent the satisfaction, after a period of several years, of the directive provided by the Commission in its July 6, 2001 “Order Initiating Settlement Proceedings” in the

³ Settlement Agreement, Section 3.3. “Settlement Costs” are defined in Section 2.1 of the Settlement Agreement to mean all costs of Dispatch instructions made by the ISO to avoid an intervention in market operations or to prevent or relieve a System Emergency, the costs of which prior to Amendment No. 33 to the ISO tariff were required to be allocated, pursuant to the ISO Tariff, to all Scheduling Coordinators in proportion to their metered Demand and Exports and were collected through the Neutrality Adjustment charge in Charge Type 1010. Moreover, as explained in the Settlement Agreement, as of February 27, 2001, Section 11.2.9.1 of the ISO Tariff was amended to clarify that the Neutrality Adjustment charge limit would be applied on an annual basis, rather than an hourly basis, accordance with the Commission’s order approving the amendment. Settlement Agreement, Section 3.3. (The referenced Commission order is the order concerning Amendment No. 35 to the ISO Tariff, *California Independent System Operator Corporation*, 94 FERC ¶ 61,266 (2001).)

⁴ In its order concerning Amendment No. 35 to the ISO Tariff, the Commission explained that “[t]he ISO is a non-profit entity and there is no basis for requiring the ISO to absorb these neutrality costs on a month-to-month basis when the ISO’s charges are designed to collect its revenue requirement on an annual basis.” *California Independent System Operator Corporation*, 94 FERC at 61,928. Moreover, in the March 14, 2001 order issued in the present proceedings, the Commission stated that “[r]egarding the ISO’s contention that there is no basis for requiring it to absorb the costs of maintaining system reliability, we agree.” *Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California v. California Independent System Operator Corporation*, 94 FERC ¶ 61,268, at 61,934 (2001).

⁵ See Settlement Agreement, Section 1.1.

present proceedings: “The Commission has consistently encouraged parties to resolve disputes of this nature through settlement.”⁶ The complaint that initiated the proceeding in Docket No. EL00-111 was filed on September 15, 2000. Thus, the issues in these proceedings have been in dispute for a period of almost two years. To resolve the disputes, the parties in the proceedings were engaged in settlement discussions for over a year⁷ and finally, through a carefully balanced compromise, the Settling Parties were able to reach a mutually acceptable settlement. A large number of other participants in the proceedings either expressly support or do not oppose the Settlement Agreement.⁸ In fact, to the ISO’s knowledge, the only entity that plans to oppose the Settlement Agreement is PG&E. Therefore, the Settlement Agreement has the almost unanimous approval of the participants.

Inasmuch as the Settlement Agreement provides for complete resolution of all issues within these dockets, through its approval the Commission would obviate any need to devote any more resources and time to further consideration of those issues. Moreover, Commission approval would eliminate the possibility that the ISO would have to undertake various costly and time-consuming actions, including settlement re-runs, in order to ensure that the ISO is able to meet the directives in the Commission’s March 14 and May 14, 2001 orders in the present proceedings while at the same time maintaining its revenue neutrality.⁹

⁶ *Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California v. California Independent System Operator Corporation*, 96 FERC ¶ 61,024, at 61,065 (2001).

⁷ See Background Section of Settlement Agreement, at pages 6-7.

⁸ See Explanatory Statement, at pages 1-2.

⁹ See Request for Rehearing, Motion for Clarification, and Petition for Reconsideration of the California Independent System Operator Corporation, Docket No. EL00-111-001 (June 13, 2001), at 18-19, 29-33.

CONCLUSION

Wherefore, for the reasons stated herein, the ISO respectfully requests that the Settlement Agreement be approved by the Commission without modification.

Respectfully submitted,

Margaret A. Rostker
Counsel for the California Independent
System Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
(916) 608-7147

Date: August 20, 2002



August 20, 2002

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

**Re: Cities of Anaheim, Azusa, Banning, Colton, and Riverside,
California v. California Independent System Operator
Corporation, Docket No. EL00-111-002; Salt River Project
Agricultural Improvement and Power District v. California
Independent System Operator Corporation,
Docket No. EL01-84-000 (Not Consolidated)**

Dear Secretary Salas:

Enclosed for electronic filing are the Comments of the California Independent System Operator Corporation In Support of the Offer of Settlement and Settlement Agreement submitted in the above-captioned proceedings.

Thank you for your attention 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 foregoing documents upon each person designated on the official service lists compiled by the Secretary in the above-captioned proceedings, in accordance with Rule 385.2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California, on this 20th day of August, 2002.

Margaret A. Rostker