

126 FERC ¶ 61,058  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Jon Wellinohoff.

California Independent System Operator Corporation	Docket Nos. ER01-313-009 ER01-313-010
Pacific Gas & Electric Company	ER01-424-009 ER01-424-010

ORDER ON REQUESTS FOR CLARIFICATION

(Issued January 21, 2009)

1. In an October 6, 2008 order,<sup>1</sup> the Commission accepted a compliance filing submitted by the California Independent System Operator Corporation (CAISO) in the captioned proceedings. In this order, the Commission addresses requests for clarification filed by the Modesto Irrigation District (Modesto) and the City of Santa Clara, California, doing business as Silicon Valley Power (SVP).

**Background**

2. In Opinion No. 463-B,<sup>2</sup> the Commission directed the CAISO to submit a compliance filing that listed the generators that were incorporated into the CAISO's base case scenarios used for transmission planning and operations between 2001 and 2003. The CAISO submitted the compliance filing on October 23, 2006, as revised on February 8, 2007. The Commission accepted the compliance filing in the October 6 Order, finding that the CAISO had complied with Opinion No. 463-B's compliance requirement.

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<sup>1</sup> *California Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,015 (2008) (October 6 Order).

<sup>2</sup> *California Indep. Sys. Operator Corp.*, 113 FERC ¶ 61,135 (2005) (Opinion No. 463-B), *order denying reh'g*, 116 FERC ¶ 61,224 (2006) (Opinion No. 463-C).

3. On November 5, 2008, Modesto and SVP filed separate requests for clarification of the October 6 Order. Both Modesto and SVP request that the Commission clarify that it requires a date certain by which the CAISO and Pacific Gas & Electric Company (PG&E) submit refund reports to the Commission. Modesto and SVP explain that the proceeding has continued for a number of years and, therefore, they do not want refund reports to be deferred to an indeterminate date. Modesto and SVP suggest that the CAISO and PG&E be directed to file refund reports with the Commission three months from the date of their pleadings, i.e., February 4, 2009.

4. The CAISO and PG&E separately answered the requests for clarification. The CAISO states that, with the imminent implementation of its Market Redesign and Technology Upgrade (MRTU), it cannot process refunds in the timeframe suggested by Modesto and SVP. The CAISO proposes to add this matter to its settlements rerun queue, and states that it will post the schedule of the rerun to its website. PG&E asks that, to the extent that the Commission directs the CAISO to submit a refund report by a date certain, it not require PG&E to file its refund report on the same date. PG&E explains that it will need an additional 90 days to calculate refunds due to any entities for which it acted as scheduling coordinator from the date that the CAISO completes its refund calculation.

5. On December 5, 2008, Modesto filed a response in opposition to the CAISO's answer.

### **Commission Determination**

#### **Procedural Matters**

6. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to certain types of pleadings unless otherwise ordered by the decisional authority. Answers to answers are prohibited under Rule 213(a)(2). We are not persuaded to grant Modesto's motion for leave to file an answer to the CAISO's answer and therefore reject Modesto's answer.

#### **Substantive Matters**

7. We deny the specific relief requested by SVP and Modesto that the Commission direct the CAISO to submit its refund report within three months of the date of their pleadings. The October 6 Order addressed the CAISO's compliance obligations as required by Opinion No. 463-B. The compliance filing ordered by Opinion No. 463-B simply required the CAISO to submit a list of modeled generators. The compliance filing did not address the filing of refund

reports by the CAISO and PG&E, nor was it required to do so. Accordingly, we conclude that Modesto's and SVP's specific requests for relief are beyond the scope of the discrete compliance requirement that the October 6 Order addressed.

8. Although we are denying the specific relief sought by Modesto and SVP, we are mindful that the captioned proceedings have been active for several years and we understand Modesto's and SVP's desire to close them. Moreover, in its answer, the CAISO has committed to including the refund calculation in its settlements rerun queue. We urge the CAISO to place this matter at or near the front of the queue, to the extent practicable, in order to expeditiously process refunds in this longstanding proceeding. The Commission appreciates that immediate relief may be impractical due to the status of MRTU implementation; however, if the CAISO has not filed its refund report by June 30, 2009, which is three months after the anticipated March 31, 2009 MRTU implementation date, we direct the CAISO to submit an informational report on that date that details the status of the refund calculations in these proceedings. At that time, we will determine what action, if any, we will take with respect to establishing firm deadlines for the CAISO and PG&E to file their respective refund reports.

The Commission orders:

(A) Modesto's and SVP's requests for clarification that the CAISO and PG&E be directed to file their refund reports in these proceedings by February 4, 2009 are denied.

(B) The CAISO is directed to submit an informational status report on June 30, 2009 if it has not filed its refund report by that date.

By the Commission. Commissioner Moeller not participating.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.