

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

San Diego Gas & Electric Company,)	
Complainant,)	
)	Docket No. EL00-95-164
)	
v.)	
)	
Sellers of Energy and Ancillary Services)	
Into Markets Operated by the California)	
Independent System Operator and the)	
California Power Exchange,)	
Respondents)	
)	
Investigation of Practices of the California)	Docket No. EL00-98-184
Independent System Operator and the)	
California Power Exchange)	

**RESPONSE OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR TO
COMMENTS ON PREPARATORY RERUN FILING AND REQUEST FOR
COMMISSION RULING ON INCLUSION OF ADR ADJUSTMENTS IN
PREPRATORY RERUN CALCULATIONS**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure,¹ the California Independent System Operator Corporation (“ISO”) submits this answer to comments filed in this docket on June 18, 2010 concerning the ISO’s April 16, 2010 preparatory rerun report. Specifically, the ISO responds to two issues raised by the California Parties:² (1) a discrepancy between the calculations of the ISO and the California Power Exchange (“PX”) regarding the amount owed by the PX to the ISO market due to the resolution of disputes through the alternative dispute resolution (“ADR”) provisions of the ISO Tariff; and

¹ 18 C.F.R. § 385.213 (2001).

² The California Parties consist of the People of the State of California *ex rel.* Edmund G. Brown Jr., Attorney General, the California Public Utilities Commission, Pacific Gas and Electric Company (“PG&E”), and Southern California Edison Company.

(2) the treatment of certain power sales made by the City of Santa Clara, d/b/a Silicon Valley Power (“SVP”). The ISO also responds to joint comments filed by Avista Energy, MPS Merchant Services, and Shell Energy North America (“Indicated Entities”) which urge that the ISO’s and PX’s final compliance filings be expedited. Finally, given that no party challenged the ISO’s inclusion in the preparatory rerun calculations of adjustments relating to the resolution of various ADR matters or the ISO’s request that one particular adjustment should be deemed validated as if it had appeared on a preliminary settlement statement, the ISO respectfully requests that the Commission expressly rule that the ISO has properly included these adjustments in the preparatory rerun calculations.

I. ANSWER

A. The ISO and PX are Working Together to Resolve a Discrepancy Between their Calculations Relating to One Aspect of the Preparatory Rerun

In their comments, the California Parties point out an approximately \$10 million discrepancy between the ISO and PX calculations of what the PX owes the ISO market relating to ADR adjustments incorporated into the preparatory rerun.³ The California Parties state that no explanation for this difference is readily apparent, but that the Commission should require the ISO and PX to reconcile their calculations.

The ISO agrees that this calculation needs to be reconciled, and has been working with the PX in an attempt to discover the source of the discrepancy and resolve it. As of the filing of this answer, however, the ISO and PX have not yet determined the reason for the discrepancy. The ISO and PX will continue to

³ California Parties Comments at 23-24.

collaborate in investigating this issue. Within two weeks (by July 20) after the filing of this answer, the ISO will update the Commission and parties as to the status of these efforts.

B. The Commission Should Resolve the Issue Regarding the Treatment of SVP Transactions by Denying PG&E's Motion

In their comments, the California Parties point out that there is an unresolved issue relating to a motion filed in these dockets on May 8, 2008 by PG&E. In that motion, PG&E challenged the ISO's treatment of certain power sales made by SVP, which is a governmental utility. PG&E claimed the ISO incorrectly characterized these transactions as sales by PG&E. Because the accounting of these transactions directly affects the preparatory rerun, the California Parties argue that until this issue is resolved, the preparatory rerun is "incorrect," and that the Commission should not allow governmental entities to receive funds based on the preparatory rerun until it is resolved.

As the ISO has explicitly acknowledged in previous status reports, this is an "open issue" that should be resolved.⁴ While the ISO agrees the Commission should rule on PG&E's motion, the Commission should deny PG&E's requested relief. In its answer to PG&E's motion filed in these dockets on May 23, 2008, the ISO explained that PG&E's motion was both procedurally and substantively deficient. The Commission should therefore deny PG&E's motion and find that the ISO properly accounted for the SVP transactions in the preparatory rerun.

⁴ See Forty-First Status Report of the California Independent System Operator Corporation on Re-Run Activity, Docket Nos. ER03-746, *et al.* (May 16, 2008) at 16.

C. The ISO Will Provide a Schedule for Completion of its Remaining Calculations in this Proceeding in its Next Status Report and Will Make its Compliance Filing When Such Calculations are Completed

In their comments, Indicated Entities argue that the filing of final compliance filings by the ISO and PX should proceed expeditiously, and that the Commission should establish milestones for the next steps regarding the final compliance filings.⁵ The ISO appreciates the need to resolve this proceeding as soon as possible, and will work as quickly as possible to finalize any calculations that it is charged with. In furtherance of this goal, the ISO will, in its next status report, provide parties with a progress report on its efforts along with information regarding the dates by which it anticipates completing any outstanding steps. However, as explained in its answer to Avista Energy's earlier motion for specific timelines, filed on March 31, 2010, not all of the steps necessary to finalize its compliance filing can be completed without the input of other parties and the Commission. This continues to be the case. For instance, in its March 31 answer, the ISO explained that implementation of the multi-party settlements reached in this proceeding is not a task that the ISO can undertake on its own. As the ISO has noted in its status reports, this process will require direction from the parties to those settlements to ensure that their terms are properly reflected. Although the ISO will work expeditiously with the relevant parties to complete this task, it cannot provide an absolute date certain for doing so.

The ISO also explained in its March 31 answer that a significant outstanding issue involves the resolution of the proceeding relating to the Ninth

⁵ Indicated Entities Comments at 4-8.

Circuit's remand directing the Commission to provide refunds relating to energy exchange and non-spot transactions, and to consider evidence regarding the possibility of overcharges during the summer 2000 period. Contrary to the suggestion of the Indicated Entities, the ISO has not determined how it would proceed in the event that the ISO has completed all of the relevant refund adjustments before the Commission issues an order on the remand issues – i.e., whether the ISO must delay its compliance filings to await such an order. That will depend on the circumstances, including any findings that may have issued from an administrative law judge. With respect to energy exchanges and non-spot transactions, Indicated Entities maintain that “those transactions are very limited in scope, number, and value” and that any adjustments relating to these transactions would be “small in number and very party specific.”⁶ These statements are, however, entirely speculative. Although the ISO is hopeful that any adjustments that the Commission might direct as a result of the remand of these issues would be discrete and self-contained, it cannot yet be determined whether this will be the case, given that neither the Commission nor an ALJ has yet to address the substance of the remand because the proceeding is still being held in abeyance to allow for settlement discussions.

II. Request for Ruling on Inclusion of ADR Matters in Preparatory Rerun Filing

In its preparatory rerun filing, the ISO explained that the resolution of a number of matters through the ADR process set forth in the ISO Tariff impacted market participant balances during the period covered by the preparatory rerun.

⁶ *Id.*

Therefore, the ISO determined that the most appropriate course would be to include these adjustments in its preparatory rerun calculations. However, because these matters were negotiated and resolved after the filing of Amendment No. 51, which established the foundation of the preparatory rerun process, the ISO did not describe these matters in that filing. Rather, the ISO described these items in its status reports filed in this proceeding, and validated the results through information released to market participants. In addition, the ISO explained that it was unable to include one particular adjustment on preliminary settlement statements. However, given that this adjustment had been circulated to the parties, and because there were no pending disputes, the ISO asked the Commission to treat that adjustment as binding on market participants, to the same degree as if it had appeared on a preliminary settlement statement.⁷

No party objected to the ISO's requests. Therefore, the ISO respectfully requests that the Commission, in its order on the ISO and PX preparatory rerun filings, expressly rule that: 1) the ISO appropriately included the ADR adjustments in the preparatory rerun calculations, and 2) the adjustments described in Section VI.H of the compliance report are effectively validated as if they appeared on a preliminary settlement statement, consistent with Section 11.7.2 of the ISO Tariff in effect as of the date of the transactions, or Section 11.29.8.3 of the currently effective ISO Tariff.

⁷ Updated Compliance Filing Report of the California Independent System Operator Corporation Concerning Preparatory Rerun Activity, Docket Nos. ER03-746, *et al.* (April 16, 2010) at 22-23, 24.

III. CONCLUSION

For the reasons set forth herein, the ISO respectfully requests that the Commission rule on the issues raised by the California Parties and Indicated Entities as specified above. Moreover, the ISO also respectfully requests that the Commission find that the ISO appropriately included the ADR adjustments in the preparatory rerun calculations, that the adjustments described in Section VI.H of its compliance report is deemed validated as if they had appeared on preliminary settlement statement.

Respectfully submitted,

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Dated: July 6, 2010

Certificate of Service

I hereby certify that I have this day served a copy of this document on the electronic listserv established by the Commission for this proceeding.

Dated this 6th day of July, 2010 at Washington, D.C.

/s/ Michael Kunselman
Michael Kunselman