

UNITED STATES OF AMERICA 104 FERC ¶ 61,129

FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell.

California Independent System Operator Corporation                      Docket No. ER98-3760-008

Pacific Gas and Electric Company,                      Docket Nos. EC96-19-059 and  
San Diego Gas & Electric Company and                      ER96-1663-062  
Southern California Edison Company

ORDER ON COMPLIANCE FILING

Issued July 25, 2003

1. In this order, we accept in part and reject in part the California Independent System Operator Corporation's (ISO's) January 7, 2003 Compliance Filing (January 7 Compliance Filing), which was submitted in response to an order issued on November 22, 2002.<sup>1</sup> This acceptance in part and rejection in part will promote a more efficient operation of the wholesale electricity markets in California to the benefit of all customers.

**Background**

2. In the November 2002 Order, the Commission addressed requests for rehearing that were briefed in the proceeding to address outstanding issues relating to the ISO.<sup>2</sup> The Order directed the ISO to submit a compliance filing, which it filed on January 7, 2003.

3. Notice of the January 7 Compliance Filing was published in the Federal Register, 68 Fed. Reg. 2757, with motions to intervene and protests due on or before January 28,

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<sup>1</sup>California Independent System Operator Corporation, 101 FERC ¶ 61,219 (2002) (November 2002 Order), on clarification, 103 FERC ¶ 61,042 (2003).

<sup>2</sup>The outstanding issues proceeding was designated as Docket No. ER98-3760-000.

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2003. Timely protests were filed by Transmission Agency of Northern California (TANC), Modesto Irrigation District (Modesto), and jointly by Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SoCal). The California Department of Water Resources State Water Project (SWP) filed timely comments.

4. On February 13, 2003, the ISO filed a motion for leave to file an answer to the joint protest of PG&E and SoCal.

## **Discussion**

### **A. Procedural Matters**

5. Although the Commission's Rules prohibit answers to a protest,<sup>3</sup> we may, for good cause, waive this provision. We find good cause to do so in this instance because the ISO's answer provides information that clarifies the issues and aids us in our decision-making. Accordingly, the ISO's motion for leave to file an answer is accepted.

### **B. Allocation of Unaccounted For Energy**

6. The November 2002 Order directed the ISO to revise its Open Access Transmission Tariff (Tariff) to provide that all market participants with revenue-quality meters should be allowed to pay for their own Unaccounted for Energy (UFE), calculated separately with data from their own meters.<sup>4</sup>

7. In its January 7 Compliance Filing, the ISO proposed tariff revisions providing that entities seeking to have their UFE calculated separately must submit intra-tie data as an ISO Metered Entity.<sup>5</sup> Section 11.2.4.3 of the ISO Tariff would be revised to state that the ISO will calculate UFE separately for each "utility" in the ISO Control Area, instead

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<sup>3</sup>18 C.F.R. § 385.213(a)(2) (2003).

<sup>4</sup>November 2002 Order, 101 FERC ¶ 61,219 at P 16-18. As discussed infra, the Commission subsequently clarified its use of the phrase "market participants."

<sup>5</sup>Meter data from ISO Metered Entities is downloaded by the ISO automatically on a daily basis. According to the ISO, this allows the ISO to monitor the meter data immediately; and enhances the identification and resolution of data anomalies. In contrast, according to the ISO's Metering Protocol, other entities with revenue-quality meters provide meter data to the ISO 45 calendar days after a trade day. January 7 Compliance Filing at 2.

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of on a Utility Distribution Company (UDC) basis. The ISO indicates that this would allow both investor-owned utilities (IOUs) and Local Publicly Owned Electric Utilities to request separate UFE calculation. Further, the ISO proposes a revised definition of "Service Area" that would remove the December 20, 1995 date restriction to ensure that new utilities will receive the same treatment as utilities that existed prior to that date. The ISO requests a November 22, 2002 effective date for the tariff revisions.

8. SWP comments that the ISO clarified in a private correspondence that SWP has a Service Area within the meaning of the ISO Tariff and thus is included within the definition of Local Publicly Owned Electric Utility that would qualify to seek separate UFE calculation.<sup>6</sup> SWP asks that the Commission condition acceptance of the ISO's compliance filing based on this clarification.

9. PG&E and SoCal protest that: (1) the ISO's proposed modified definition of Service Area is too narrow since it does not apply to all market participants; (2) since the term "utility" is not defined in the ISO Tariff, the substitution of "utility Service Area" for "UDC Service Area" in the tariff creates an ambiguity concerning which entities are entitled to have UFE calculated separately; and (3) the proposed deletion of the December 20, 1995 date restriction in the definition of Service Area would create problems in the way the term is used elsewhere in the ISO Tariff, in particular with regard to transmission access charges (TAC). They propose, in the alternative, that the ISO:

(1) maintain the current definition of Service Area; (2) create a new definition of "UFE Area" that would include both utilities and other "qualifying entities"; and (3) revise Tariff Section 11.2.4.3 to specify that the "ISO will qualify an area as a UFE Area if the entity serving Load in that area requests such designation and is an ISO Metered Entity with respect to all tie points connecting the UFE Area to other UFE Areas."

10. In its answer, the ISO acknowledges PG&E's and SoCal's concerns regarding the proposed change in the definition of the term "Service Area" but contends that the protestors' proposal also creates ambiguities. The ISO, in turn, offers its own alternative proposal: (1) a new definition of a Participating Transmission Owner's TAC Area that differs from the term Service Area to decouple the current link of a Transmission Owners' area to a distribution company's end-use customer service area; and (2) a revision to Tariff Section 11.2.4.3 providing that "for each settlement period, the ISO will calculate UFE on the ISO Controlled Grid, for each utility Service Area for which

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<sup>6</sup>The correspondence referred to by SWP is attached to its comments as Exhibit 1.

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the IOU or Local Publicly Owned Electric Utility has requested separate UFE calculation and has met the requirements applicable to an ISO Metered Entity."

### **Commission Determination**

11. The ISO's proposal that any entity seeking individual calculation of UFE charges must be an ISO Metered Entity is reasonable because it ensures more accurate settlement and billing of meter data.

12. In our April 2003 order on clarification, California Independent System Operator Corporation, 103 FERC ¶ 61,042 at P 11-12, the Commission clarified that the calculation of UFE costs for individual entities was available only to those entities that are UDC's or have the ability to be a UDC and other Scheduling Coordinators that take service at the transmission level and have revenue quality meters consistent with the ISO Tariff from their own meters. The latter category was intended to include governmental entities that do not have a Service Area.

13. The ISO's proposal is consistent with the Commission's clarification. It makes clear that both IOUs and Local Publicly Owned Electric Utilities, which according to the ISO includes entities such as CDWR and Metropolitan Water District (MWD),<sup>7</sup> may seek separate UFE calculation provided that they satisfy the meter-related requirements. By treating entities such as CDWR and MWD as having a Service Area, the ISO proposal includes the same entities as contemplated by the Commission in its clarification. Thus, PG&E's and SoCal's first objection, that the ISO proposal is limited to too few entities, is no longer correct in light of our clarification. Further, the ISO proposal is sufficiently clear and we will not require the ISO to further revise its Tariff to specify the ISO's intent that SWP has a Service Area and is included within the definition of Local Publicly Owned Electric Utility that would qualify to seek separate UFE calculation.

14. With regard to the protestors' concern that the proposed revision of the term Service Area will impact other tariff sections such as those relating to TAC, we find the ISO's proposed alternative<sup>8</sup> to be a reasonable solution to that concern. Accordingly, we will direct the ISO to add a new defined term "PTO Service Area" to Appendix A of the ISO Tariff. "PTO Service Area" would be defined as "an area in which a Participating TO provides transmission service to itself, a UDC, a MSS, or End-Use Customers." We

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<sup>7</sup>January 7 Compliance Filing, at p 3 n.2.

<sup>8</sup>See ISO answer at 4.

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find that this appropriately differentiates between a TO's transmission area and a UDC's end-use customer service area.

### **C. ISO Operating Orders**

15. The November 2002 Order found that ISO Tariff Section 2.3.1.2.1 (Market Participant Responsibilities - Comply With Operating Orders Issued) was overly-broad because it indicated that market participants must comply with the ISO's operating orders regardless of whether they conflict with the terms of existing contracts and regardless of grid conditions.<sup>9</sup> The Commission directed the ISO to revise the provision to reflect its commitment to honor existing contracts and to indicate an exception where an ISO operating order directly conflicts with the terms of an existing contracts and there is a system emergency or circumstances in which the ISO considers that a system emergency is imminent or threatened.

16. In its January 7 Compliance Filing, the ISO proposed to revise the provision to state "the ISO will honor the terms of Existing Contracts, except during a System Emergency and circumstances in which the ISO considers that a System Emergency is imminent or threatened. In a System Emergency and circumstances in which the ISO considers that a System Emergency is imminent or threatened, Existing Rights Holders must follow ISO operating orders even if those operating orders conflict with the terms of Existing Contracts."

17. Modesto and TANC protest that the ISO has failed to implement the Commission's directive because the proposed language contains a vague and unreasonably broad exception to the ISO's obligation to honor existing contracts. They argue that, consistent with the November 2002 Order, the ISO should craft a narrow exception limited to directly conflicting ISO operating orders during system emergency conditions or circumstances in which the ISO considers that a system emergency is imminent or threatened. TANC proposes two alternatives either of which would satisfy its concern.

### **Commission Determination**

18. The ISO's proposal to revise Section 2.3.1.2.1 to state that "the ISO will honor the terms of Existing Contracts, except during a System Emergency" is broader than the

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<sup>9</sup>November 2002 Order, 101 FERC ¶ 61,219 at P 38.

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Commission's directive in the November 2002 Order. This language suggests that the ISO has no obligation to honor existing contracts in an actual or imminent emergency, which is incorrect. Accordingly, the ISO should submit a compliance filing that includes the following language (proposed by TANC):

The ISO will honor the terms of Existing Contracts, provided that, in a System Emergency and circumstances in which the ISO considers that a System Emergency is imminent or threatened, Existing Rights Holders must follow ISO operating orders even if those operating orders directly conflict with the terms of Existing Contracts.

#### **D. Other Tariff Revisions**

19. Our review indicates that the remaining tariff provisions comply with our November 2002 Order and are accepted for filing.

#### **E. Effective Date**

20. The ISO states that it has designated November 22, 2002 as the effective date of the proposed tariff changes. In the April 11, 2003 order on clarification, the Commission stated that the tariff changes directed by the November 2002 order were to be effective November 23, 2002, one day later than the effective date requested by the ISO. Consistent with the April 2003 Order, the Tariff changes are effective November 23, 2002.

#### The Commission orders:

(A) The ISO's compliance filing submitted on January 7, 2003 is hereby accepted in part and rejected in part, as discussed in the body of this order.

(B) The ISO is hereby directed to submit a compliance filing, as discussed in the body of this order, within thirty days of the date of this order.

By the Commission.

( S E A L )

Linda Mitry,

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Acting Secretary.