

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System )  
Operator Corporation ) Docket No. ER98-1057-001  
)  
)

**ANSWER OF THE  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION  
TO MOTIONS TO INTERVENE AND PROTEST**

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (1997), the California Independent System Operator Corporation ("ISO") submits this answer to the motions to intervene submitted in this docket. As stated herein, the ISO does not oppose any of the interventions. In addition, the ISO has proposed to modify both Responsible Participating Transmission Owner Agreements ("RPTO Agreements") to address the concern raised in the protests by the Western Area Power Administration ("WAPA") and the Northern California Power Agency ("NCPA").

## I. BACKGROUND

On June 1, 1998, the ISO submitted a compliance filing amending the ISO Tariff (including the ISO Protocols), the ISO Code of Conduct, the Transmission Control Agreement, certain of the ISO's pro forma operating agreements, and certain of the ISO's bilateral operating agreements.<sup>1</sup> Included in the June 1, 1998, compliance filing were amendments to the bilateral RPTO Agreements between the ISO and Pacific Gas and Electric Company ("PG&E") and Southern California Edison Company ("Edison").<sup>2</sup>

The Commission noticed the ISO's filing on June 9, 1998, with interventions and protests due by August 5, 1998. The Commission specified that comments related to the bilateral RPTO Agreements were to be submitted in Docket No. ER98-1057-001.

Interventions were filed by six parties: the California Electricity Oversight Board, WAPA, the California Department of Water Resources, Enron Power Marketing, Inc., CalEnergy Company, Inc., and NCPA. Only WAPA and NCPA raised a substantive issue concerning the RPTO Agreement. The ISO will discuss this concern below.<sup>3</sup> By order dated August 14, 1998, the Commission

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<sup>1</sup> Capitalized terms used herein and not defined are used with the meanings given in the Master Definitions Supplement, Appendix A to the ISO Tariff.

<sup>2</sup> By order dated February 25, 1998, the Commission conditionally accepted the RPTO Agreements for filing and directed the ISO to revise the RPTO Agreements to conform to the order issued December 17, 1997, Pacific Gas and Electric Co., et al., 81 FERC ¶ 61,320 (1997). California Independent System Operator Corporation, 82 FERC ¶ 61,174 at 61,623 (1998). The amendments were to be filed within 60 days of the start of ISO operations. Id.

<sup>3</sup> Notwithstanding Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), the Commission has accepted answers to protests that assist the Commission's understanding and resolution of the issues raised in a protest, Long Island Lighting Co., 82 FERC ¶ 61,129 at 61,462 (1998), clarify matters under consideration, Arizona Public Service Co., 82 FERC ¶ 61,132 at 61,477 n.11 (1998); Tennessee Gas Pipeline Co., 82 FERC ¶ 61,045 at 61,186 n.5 (1998), or

granted the ISO's motion for an extension of time to respond to all of the interventions in the various compliance dockets, including this matter.

## II. DISCUSSION

The ISO does not oppose the intervention of any of the parties that have moved to intervene in this proceeding. WAPA and NCPA both challenge the limitation in Section 4.4 of the RPTO Agreement that restricts the Responsible Participating Transmission Owner from selling into the ISO Ancillary Services auction or bidding into the ISO Ancillary Services auction on behalf of an Existing Rightholder. WAPA Protest at 13; NCPA Protest at 3-4. WAPA is concerned that the limitation in Section 4.4 may prohibit potential sources of generation from accessing the ISO's Ancillary Services market and could prevent the development of a robust Ancillary Services market. NCPA characterizes the provision as an "anticompetitive and pointless restriction." However, this issue is not a compliance issue ordered by the Commission and should instead be addressed in the ongoing RPTO Agreement proceeding, not in the compliance filing.

In its Direct Testimony recently filed in Docket Nos. ER98-1057-000, ER98-1058-000, and ER98-2199, the ISO indicated its willingness to remove the limitation in Section 4.4.<sup>4</sup> The ISO proposed that the provision be modified in the following manner:

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materially aid the Commission's disposition of a matter, El Paso Natural Gas Co., 82 FERC ¶ 61,052 at 61,200 (1998). The ISO's Answer will clarify matters under consideration, aid the Commission's understanding and resolution of the issues and help the Commission to achieve a more accurate and complete record, on which all parties are afforded the opportunity to respond to one another's concerns. Northern Border Pipeline Co., 81 FERC ¶ 61,402 at 62,844 n.16 (1997); Hopkinton LNG Corp., 81 FERC ¶ 61,291 at 62,382 n.4 (1997). The Commission should accordingly accept this Answer.

<sup>4</sup> See Prepared Direct Testimony and Exhibits of Deborah A. Levine at 12.

The Responsible PTO will be able as a S[cheduling] C[ordinator] to procure Ancillary Services. The Responsible PTO ~~cannot sell~~ is not obligated by this Agreement to bid into the ISO Ancillary Services auction and ~~will not or bid into~~ from the ISO Ancillary Services auction on behalf of an Existing Rightholder unless required by the Existing Contract or as the parties to the Existing Contract may otherwise agree.

The ISO notes, however, that it is not permitted under the RPTO to file unilateral amendments. Consequently, the ISO's ability to implement this change is contingent upon acceptance by PG&E and Edison or by order of the Commission.

### III. CONCLUSION

Wherefore, for the reasons stated herein, the ISO respectfully requests that the motions to intervene be granted and that the Commission accept, without modification, the ISO's compliance filings of the pro forma and bilateral RPTO Agreements. The ISO has also expressed its willingness to remove the limitation in Section 4.4 of the RPTO Agreement protested by WAPA and NCPA in the RPTO Agreement proceeding. The ISO believes that this issue is appropriately addressed in that proceeding. The ISO notes that both NCPA and WAPA are parties to the RPTO Agreement proceeding.

Respectfully submitted,

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Dated: September 3, 1998

**CERTIFICATE OF SERVICE**

I hereby certify I have this day served this document upon each person designated on the official service list compiled by the Secretary in this docket in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. ¶ 385.2010).

Dated at Washington, D.C. on this 3<sup>rd</sup> day of September, 1998.

David B. Rubin

September 3, 1998

The Honorable David P. Boergers  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: California Independent System Operator Corporation  
Docket No. ER98-1057-001**

Dear Secretary Boergers:

Enclosed is an original and fourteen copies of the Answer of the California Independent System Operator Corporation To Motions To Intervene and Protest in the above-captioned docket.

Also enclosed is an extra copy of the filing to be time/date stamped and returned to us by the messenger. Thank you for your assistance.

Respectfully submitted,

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Enclosures  
cc: Service List

