

February 4, 2005

**Via Electronic Filing**

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

**Re: California Independent System Operator Corporation  
Docket Nos. ER03-1102-\_\_\_\_, et al.**

Dear Secretary Salas:

Enclosed please find the Comments of the California Independent System Operator Corporation, submitted in the captioned dockets.

Feel free to contact the undersigned with any questions. Thank you for your attention to this matter.

Respectfully submitted,

/s/ Bradley R. Miliauskas  
Bradley R. Miliauskas

Counsel for the California  
Independent System Operator  
Corporation

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

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| <b>California Independent System</b> | ) | <b>Docket Nos. ER03-1102-003</b> |
| <b>Operator Corporation</b>          | ) | <b>ER03-1102-004</b>             |
|                                      | ) | <b>EL05-14-000</b>               |

**COMMENTS OF THE CALIFORNIA INDEPENDENT  
SYSTEM OPERATOR CORPORATION**

Pursuant to the "Notice Inviting Comments" issued in the above-captioned dockets on January 13, 2005, the California Independent System Operator Corporation ("ISO")<sup>1</sup> submits these comments concerning its proposed Ancillary Service self-certification process and the alternatives to that process that were discussed at the technical conference held on January 12, 2005.

The ISO believes that the technical conference provided a useful forum for parties to these proceedings to discuss the need for, and issues raised by, the ISO's proposal for a self-certification process. The ISO also believes that meaningful progress was made in developing a better mutual understanding of issues and concerns, and is hopeful that the parties may achieve some consensus on a proposal by the time that reply comments are due.

**I. BACKGROUND**

The ISO proposed an Ancillary Service self-certification process as one of the changes to the Enforcement Protocol ("EP") included in the ISO's compliance

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings set for in the Master Definitions Supplement, Appendix A to the ISO Tariff.

filing submitted on May 20, 2004 in the proceeding concerning Amendment No. 55 to the ISO Tariff (“May 20 Compliance Filing”).

Under the self-certification proposal, the ISO would provide each Scheduling Coordinator that schedules Ancillary Services from Generating Units, Curtailable Demand, System Units, and System Resources with a monthly listing that includes the hour, location, and service type of all Ancillary Services<sup>2</sup> that were not dispatched by the ISO.<sup>3</sup> Each Scheduling Coordinator would be required to identify and advise the ISO in a certification form of any Ancillary Service Schedules in the monthly listing for which 10 percent or more of the scheduled service could not, for any reason, have been delivered in accordance with the terms of the bid.<sup>4</sup>

If all of a Scheduling Coordinator’s Ancillary Service Schedules could have been performed within the 10 percent tolerance band, no certification form would be required from the Scheduling Coordinator, and the undispached Ancillary Service Schedules would be deemed certified with no exceptions.<sup>5</sup> If, however, a Scheduling Coordinator’s self-certification indicated that all or a portion of the scheduled Ancillary Services were unavailable, then payment for the unavailable Ancillary Services would be rescinded.<sup>6</sup>

The only consequence for unavailable Ancillary Services identified through a timely self-certification form would be the rescission of payment, unless some

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<sup>2</sup> The Ancillary Services affected by the self-certification process would effectively be limited to Spinning Reserve and Non-Spinning Reserve (together, Operating Reserve). Regulation is always “dispatched” and the ISO has no plans to resume procurement of Replacement Reserve, which was procured only in a single hour in 2004 and not at all in 2003.

<sup>3</sup> Transmittal Letter for May 20 Compliance Filing, Docket No. ER03-1102-003, at 9.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 9-10.

other obligation under the ISO Tariff were violated.<sup>7</sup> A Sanction under the EP might apply if: (1) the Scheduling Coordinator were to fail to timely provide self-certification, (2) definitive information were to indicate that a self-certification form should have been submitted but was not, or (3) a submitted self-certification form were incomplete.<sup>8</sup>

Protests concerning the ISO's self-certification proposal were submitted by Powerex Corp. ("Powerex") and the Independent Energy Producers Association ("IEP"). The Commission, in its October 28, 2004 order on the May 20 Compliance Filing ("October 28 Order"), stated that Powerex's and IEP's protests raised matters that were best addressed in a technical conference.<sup>9</sup> The Commission found that "the Commission and the parties would benefit from a technical conference wherein the 'self-certification' process and any alternate proposals regarding how best to achieve the ISO's objective may be discussed and clarified."<sup>10</sup> The Commission deferred action on the provisions in the EP concerning the self-certification process until after the technical conference was held, and directed its staff to convene the conference.<sup>11</sup>

On November 29, 2004, the ISO submitted a filing to comply with the October 28 Order ("November 29 Compliance Filing"). Among other things, the ISO proposed to remove from the EP the provisions concerning the self-

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<sup>7</sup> *Id.* at 10.

<sup>8</sup> *Id.*

<sup>9</sup> *California Independent System Operator Corporation*, 109 FERC ¶ 61,087, at P 51 (2004).

<sup>10</sup> *Id.* at P 52.

<sup>11</sup> *Id.*

certification process, and stated that it would “in the future propose changes to the Enforcement Protocol based on the outcome of the technical process.”<sup>12</sup>

On December 3, 2004, the Commission issued its “Notice of Technical Conference” in the above-captioned dockets, in which it scheduled the technical conference for January 12, 2005 and invited parties to submit alternate proposals by January 3, 2005.<sup>13</sup> Powerex submitted an alternate proposal, and IEP and Bonneville Power Administration submitted comments, in advance of the technical conference.

The technical conference was held on January 12, 2005. Representatives from a number of companies, including the ISO and Powerex, attended. The ISO made a presentation concerning the self-certification proposal, and Powerex made a presentation concerning an alternate proposal for capacity tagging (discussed further in Section II.B, below). Commission staff and the attendees also discussed the proposals and asked the ISO and Powerex questions concerning their proposals.

On January 13, 2005, the Commission issued its “Notice Inviting Comments” in the above-captioned dockets, in which it established a deadline of February 4, 2005 for filing written comments on the issues that were the subject of the technical conference of February 4, 2005 and a deadline of February 18, 2005 for filing reply comments.

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<sup>12</sup> Transmittal Letter for November 29 Compliance Filing at 3.

<sup>13</sup> The Notice of Technical Conference stated that the technical conference would continue on January 13, 2005. However, the Commission’s “Notice of Agenda of Staff Technical Conference,” issued in the above-captioned dockets on January 6, 2005, stated that based on the response to the Commission’s invitation to submit alternate proposals, it would be unnecessary to continue into January 13.

## II. COMMENTS

### A. The ISO Tariff should require suppliers to notify the ISO if information becomes available after the operating hour that indicates that any undischarged Ancillary Service Schedules could not have been performed.

At the technical conference, the ISO provided an estimate that approximately 95 percent of all scheduled Operating Reserve is not dispatched. No explicit obligation exists in the ISO Tariff to notify the ISO should an audit or other review performed by a supplier in the normal course of business indicate that any undischarged Ancillary Service Schedule could not have been performed.<sup>14</sup>

As the ISO explained at the technical conference, and as it has stated previously in this proceeding, Sections 2.5.6 and 2.5.24 of the ISO Tariff already require that a resource (1) meet the ISO's technical requirements, (2) be capable of responding in accordance with the terms of the associated bid, and (3) notify the ISO immediately should an Ancillary Service be unavailable for any reason.<sup>15</sup> The only additional requirements imposed on a Scheduling Coordinator by the self-certification process are to a) consider whether any information indicates that a resource was in some prior period incapable of performing and b) identify any Ancillary Service Schedules that could not have been performed based on such information.<sup>16</sup> The same technical factors that would be considered in determining the availability and capability of a resource in the forward markets

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<sup>14</sup> If an Ancillary Service Schedule is dispatched, then non-performance is determined and payments are rescinded in accordance with the "No-Pay" provisions of Section 2.5.26 of the ISO Tariff.

<sup>15</sup> Motion for Leave to File Answer and Answer of the California Independent System Operator Corporation, Docket No. ER03-1102-000 (filed June 28, 2004), at 14.

<sup>16</sup> *Id.*

and real time still apply to a Scheduling Coordinator's retrospective review of Ancillary Service Schedules.<sup>17</sup> The self-certification process would simply allow information that may not have been available in real time to be considered in verifying the availability and capability of undispached Ancillary Service Schedules.<sup>18</sup>

Several of the participants in the conference voiced concerns about including the self-certification process in the EP. The participants asserted that including the self-certification process in the EP would mean that Scheduling Coordinators would be subject to a more stringent standard of care in following the self-certification process than the standard of care already established in other parts of the ISO Tariff with respect to Ancillary Services. The ISO stated at the technical conference that it was amenable to the idea of taking the self-certification process out of the EP, and instead amending the tariff elsewhere to require a supplier to notify the ISO if one or more undispached Ancillary Service Schedules from a prior hour could not have been performed.

The ISO circulated draft tariff changes to the technical conference participants, including a proposed revision to Section 2.5.24 of the ISO Tariff to state that the obligation to report the unavailability of an Ancillary Service extends beyond real time and to state that suppliers must advise the ISO "promptly" if an Ancillary Service Schedule is determined after the fact to have been unavailable.

This obligation would apply to the same entities that bear the existing obligations of Section 2.5.24. The ISO believes that including the language in

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<sup>17</sup> *Id.*  
<sup>18</sup> *Id.*

Section 2.5.24 would mean that the standard of care to be applied would be the same as already applies to the other obligations specified in that section.

Further, a requirement that the ISO be notified promptly is sufficiently specific. Good Utility Practice, as defined in the ISO Tariff, applies to the "relevant time period," and should guide the responsible party in determining the nature and timing of any audits or other reviews that might lead to a determination that an Ancillary Service Schedule was unavailable. Therefore, no more detailed limitation on the duration of this obligation seems necessary.<sup>19</sup>

In addition, the ISO continues to believe that payments for unavailable Ancillary Services capacity should be rescinded. Therefore, the ISO proposes to include language providing for the rescission of payments in the ISO Tariff (e.g., in Section 2.5.26.2.3, which describes the rescission of capacity payments pursuant to the ISO's "No-Pay" program).<sup>20</sup> An addition to Section 2.5.26.2.3 was also included in the draft tariff language circulated by the ISO, to make clear that the capacity payment would be rescinded as to any Ancillary Service Schedule that is reported as unavailable. As mentioned above, the EP would not include any provisions expressly relating to the self-certification process.<sup>21</sup>

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<sup>19</sup> Of course, if a Scheduling Coordinator were to fail to promptly notify the ISO whenever it became aware that one or more undispached Service Schedules from a prior hour could not have been performed, that Scheduling Coordinator would be subject to Sanction, pursuant to Section 6.1 of the EP, for a failure to submit information required under the ISO Tariff "in a complete, accurate, and timely manner."

<sup>20</sup> The ISO does not propose to include in the Tariff other features of the proposed self-certification process described above, such as the monthly listing provided by the ISO, the monthly certification form filled out by the Scheduling Coordinator, etc.

<sup>21</sup> Although, as noted in footnote 19, above, the requirement in Section 6.1 of the EP that information required under the ISO Tariff be submitted in a complete, accurate, and timely manner would apply to the process.

The ISO intends to work with participants at the technical conference to further revise and clarify this draft language, and hopes to be able to provide a consensus proposal in its reply comments.

**B. The ISO supports Powerex's capacity tagging proposal, but only as a complement to an ISO Tariff requirement that suppliers notify the ISO when prior undischarged Ancillary Service Schedules could not have been performed.**

Powerex, in its filings in this proceeding and at the technical conference, has described its proposed alternative to the ISO's self-certification process: NERC tagging for Ancillary Service capacity. The ISO supports this capacity tagging requirement, but only as a complement to the inclusion in the ISO Tariff (elsewhere than in the EP) of a requirement that Scheduling Coordinators notify the ISO that one or more undischarged Ancillary Service Schedules from a prior hour could not have been performed.

There are two important reasons that the ISO considers capacity tagging to be only a complement to the ISO's proposed changes to the tariff:

- (1) Although a capacity tagging requirement is useful in that it provides assurance of set-aside transmission and capacity checkout prior to the operating hour, capacity tagging assures only that firm transmission is available, and does not impose an affirmative obligation on the supplier to notify the ISO after the fact of any Ancillary Service Schedule that was unavailable.
- (2) Capacity tagging only occurs when Ancillary Services are scheduled from one Control Area into another Control Area. The ISO presented an estimate at the technical conference that

approximately 97 percent of all Operating Reserve procured in 2004 was from Generating Units, with only 3 percent procured from System Resources.<sup>22</sup> This means that only a small fraction of the total undispached Ancillary Services were procured from resources outside the ISO Control Area, and therefore only a small fraction of that total would have been subject to capacity tagging if it had existed in 2004.

Before a capacity tagging requirement could be implemented, it would need to receive approval from the WECC Operating Committee. Without full cooperation of WECC members, capacity tagging would be of little value. Based on the WECC Operating Committee's current meeting schedule and the amount of progress made in discussions on the capacity tagging requirement at past WECC meetings, the ISO estimates that the earliest a capacity tagging requirement could receive approval by the WECC Operating Committee is April 2005. In any event, the ISO believes there is a good chance that WECC approval of capacity tagging will occur before the end of 2005.

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<sup>22</sup> Although some change in these percentages may occur over time, the bulk of Operating Reserve will continue to be supplied by Generating Units inside the ISO Control Area.

### III. CONCLUSION

The ISO respectfully requests that the Commission consider the comments presented herein.

Respectfully submitted,

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Dated: February 4, 2005

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list for the captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California, on this 4<sup>th</sup> day of February, 2005.

/s/ Anthony Ivancovich  
Anthony Ivancovich