

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

California Independent System Operator Corporation))	Docket No. ER00-2383-001
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**ANSWER OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO COMMENTS OF THE CALIFORNIA DEPARTMENT OF
WATER RESOURCES**

On July 31, 2000, the California Independent System Operator Corporation ("ISO")¹ submitted a compliance filing in the above-referenced docket which included a modification to the revisions to the ISO Tariff proposed and accepted in Amendment No. 29 to the ISO Tariff. This modification was submitted to comply with the Commission's June 29, 2000 order in this proceeding.²

In accordance with the Notice of Filing issued on August 3, 2000, the California Department of Water Resources ("DWR") submitted comments concerning this compliance filing on August 21, 2000. Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213, the ISO now files its Answer to the comments submitted in the above-referenced docket.

¹ Capitalized terms not otherwise defined herein are defined in the Master Definitions Supplement, Appendix A to the ISO Tariff.

² *California Independent System Operator Corporation*, 91 FERC ¶ 61,324 (2000) ("Amendment No. 29 Order").

As explained below, the ISO is willing to submit a revision to proposed Section 2.5.26.6 of the ISO Tariff, as requested by DWR, but the Commission should not reverse its determination, contained in the Amendment No. 29 Order, concerning the termination date of the exemption from the “no-pay” rule.

I. BACKGROUND

On May 2, 2000, the ISO filed Amendment No. 29 to the ISO Tariff in the above-referenced docket. Among other things, Amendment No. 29 proposed an exemption from the no-pay rule³ for Participating Loads taking part in the ISO’s Summer 2000 trial program for Load Participation in the Ancillary Service markets, which is described in Amendment No. 28 to the ISO Tariff.⁴

A number of parties submitted motions to intervene, comments, and protests concerning Amendment No. 29. On June 7, 2000, the ISO submitted its Answer to Motions to Intervene, Comments, and Protests (“Amendment No. 29 Answer”). In the Amendment No. 29 Answer, the ISO stated that it would be willing to permit any Participating Load that enters into an appropriate Participating Load Agreement to benefit from the same no-pay exemption that applies to Load that has been selected to participate in the Summer 2000 trial

³ The no-pay rule was accepted by the Commission as part of Amendment No. 13 to the ISO Tariff. *California Independent System Operator Corporation*, 86 FERC ¶ 61,122, at 61,417-19 (1999). Under that rule, a Scheduling Coordinator that engages in the uninstructed generation of Energy from capacity committed to the ISO for Operating Reserves or Replacement Reserves may forfeit a portion of the payment to which it is otherwise entitled for that capacity. Unless the application of the no-pay rule was relaxed, Participating Load’s provision of Energy on an uninstructed basis during the intervals following the ISO’s Dispatch of such Energy from capacity accepted for an Ancillary Service could implicate the rule, requiring the Participating Load to forfeit the compensation for Uninstructed Imbalance Energy (and Ancillary Service capacity) to which it would otherwise be entitled, regardless of whether the Energy is priced on a ten-minute basis or an hourly basis.

⁴ Amendment No. 28 was accepted by the Commission in *California Independent System Operator Corporation*, 91 FERC ¶ 61,256 (2000) (“Amendment No. 28 Order”).

program.⁵ On June 29, 2000, the Commission issued the Amendment No. 29 Order, in which it conditionally accepted Amendment No. 29 and directed the ISO to submit a compliance filing within 30 days of the issuance of the order. The Commission directed the ISO to modify its tariff to incorporate the broader applicability of the no-pay exemption described in the Amendment No. 29 Answer.⁶

On July 31, 2000, the ISO submitted a compliance filing in this proceeding which included the modification ordered by the Commission. DWR was the only party that submitted comments concerning the compliance filing. The ISO is willing to submit a revision to proposed Section 2.5.26.6 of the ISO Tariff, as requested by DWR, but the Commission should not reverse its determination concerning the termination date of the exemption from the no-pay rule, as DWR has also requested.

II. ANSWER TO COMMENTS⁷

A. The ISO Is Willing to Submit a Revision to Proposed Section 2.5.26.6 of the ISO Tariff to Eliminate Any Confusion As to the Meaning of That Section

DWR asserts that the syntax of Section 2.5.26.6 of the ISO Tariff, which the ISO proposed to add to its tariff in its compliance filing, is ambiguous.⁸ While

⁵ Amendment No. 29 Answer at 26.

⁶ Amendment No. 29 Order at 62,119.

⁷ There is no prohibition on the ISO's responding to DWR's comments. The ISO is entitled to respond to DWR notwithstanding the label applied to DWR's filing. *Florida Power & Light Company*, 67 FERC ¶ 61,315 (1994). In the event that any portion of this answer is deemed an answer to a protest, the ISO requests waiver of Rule 213 (18 C.F.R. § 385.213) to permit it to make this answer. Good cause for this waiver exists here given the usefulness of this answer in ensuring the development of a complete record. *See, e.g., Enron Corporation*, 78 FERC ¶ 61,179, at 61,733, 61,741 (1997); *El Paso Electric Company*, 68 FERC ¶ 61,181, at 61,899 & n.57 (1994).

the ISO does not agree, in order to eliminate any possible confusion as to the meaning of this section, the ISO submits with this filing a revision to proposed Section 2.5.26.6. The revision simply clarifies the wording of the section to provide that any Participating Load that enters into an appropriate agreement will benefit from the same no-pay exemption that applies to load that has been selected to participate in the Summer 2000 trial program, as required by the Commission.⁹

Attached to this filing is a revised tariff sheet which incorporates the revision described above (Attachment A), as well as the text in black-line format of the affected tariff provision identifying the changes proposed in this filing (Attachment B). Also enclosed is a notice of filing suitable for publication in the Federal Register (Attachment C) and a computer disk containing the notice in WordPerfect format.

B. The Commission Correctly Determined In the Amendment No. 29 Order That the No-Pay Exemption Should Not Be Extended Beyond October 15, 2000

DWR urges the Commission to “reconsider the determination to terminate on October 15, 2000” the no-pay exemption described above.¹⁰ In the Amendment No. 29 Order, the Commission tacitly declined to require the no-pay exemption to be extended past October 15 or be made permanent.¹¹ Rather, the Commission found the ISO’s proposal to grant the no-pay exemption until

⁸ DWR at 1-2.
⁹ Amendment No. 29 Order at 62,119.
¹⁰ DWR at 4-5.
¹¹ See Amendment No. 29 Order at 62,119.

October 15 to any Participating Load that enters into an appropriate agreement to be “a reasonable accommodation.”¹²

DWR would have the Commission extend the no-pay exemption to elicit demand-side response, purportedly to help achieve the policy objectives of the Commission and the ISO concerning the California power grid.¹³ However, as described above, the Commission plainly did not find the extension of the no-pay exemption beyond October 15 necessary to further its objectives. Moreover, DWR ignores the fact that the ISO has already committed to evaluate, after October 15, the need for continued special treatment under the no-pay rule of Participating Loads.¹⁴ If the ISO concludes from its evaluation that it should extend the no-pay exemption, it will of course submit an appropriate tariff revision for Commission approval. But until such an evaluation is completed, any request for such an extension is premature and unsupported.

Finally, DWR’s request that the Commission reconsider its decision to permit the no-pay exemption to terminate on October 15 is not properly an objection to the ISO’s compliance filing, but rather an objection to the

¹² *Id.* In the Amendment No. 28 Order, the Commission repeatedly cited the short-term, trial nature of the ISO’s proposals in Amendment No. 28 as a rationale for approving them. Amendment No. 28 Order at 61,898, 61,899. The same rationale supports limiting the no-pay exemption contained in the Amendment No. 29 compliance filing, which simply widened the applicability of the trial no-pay exemption contained in Amendment No. 28, to the same period.

¹³ DWR at 2-4. DWR cites “difficulties experienced this summer in the California electricity market” as a rationale for extending the no-pay exemption. *Id.* at 2-3. However, the Commission did not find such difficulties to be a justification for extending the exemption, even given the fact that the Amendment No. 29 Order was issued *during* that same summer.

¹⁴ Amendment No. 29 Answer at 26. Additionally, on September 20, 2000, the ISO will host a stakeholder meeting to discuss Load Participation programs for 2001. See <<http://www.caiso.com/meetings/>>.

Amendment No. 29 Order. As such, it is an untimely request for rehearing, and therefore it should be rejected.¹⁵

III. CONCLUSION

For the foregoing reasons, the Commission should accept the ISO's revision to proposed Section 2.5.26.6 of the ISO Tariff, and should not extend past October 15, 2000 the no-pay exemption described above.

Respectfully submitted,

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Dated: September 5, 2000

¹⁵ A request for rehearing must be filed within 30 days after issuance of the order which the request concerns. 18 C.F.R. § 385.713(b).

September 5, 2000

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. ER00-2383-001**

Dear Secretary Boergers:

Enclosed for filing please find an original and fourteen copies of the Answer of the California Independent System Operator Corporation to Comments of the California Department of Water Resources in the above-referenced docket.

Two additional copies of the enclosed Answer are also provided to be time-stamped and returned to our messenger. Thank you for your assistance in this matter.

Respectfully submitted,

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Counsel for the California

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CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-referenced proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Washington, D.C. this 5th day of September, 2000.

Bradley R. Miliauskas

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