

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

Cargill-Alliant, LLC

)

Docket No. EL03-144-000

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO MOTION TO DISMISS SHOW CAUSE PROCEEDING**

On August 22, 2003, Commission Staff filed a Motion To Dismiss Show Cause Proceeding (“Motion”), in resolution of all issues related to Cargill-Alliant, LLC, now known as Cargill-Alliant Power Markets, LLC (“Cargill-Alliant”) set for hearing in *American Electric Power Service Corp., et al.*, 103 FERC ¶ 61,345 (2003) (“the Gaming Show Cause Order” or “Order”). Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213, and to the Commission’s “Notice of Extension of Time” in this docket, dated September 8, 2003, the California Independent System Operator Corporation (“CAISO”) timely submits this answer to the Motion.

I. Background

The Gaming Show Cause Order required Cargill-Alliant to show cause why it should not be found to have engaged in Cutting Non-Firm (a subset of Cut Counterflows) and Circular Scheduling, as those practices were described in the Order. In the Motion, Staff requested that Cargill-Alliant be dismissed from the show cause proceeding established by the Order, that this docket be terminated,

and that Cargill-Alliant be relieved from further obligation with respect to this docket. Motion at ¶ 5.1.

II. Discussion

The CAISO does not oppose relieving Cargill-Alliant of the obligation to respond to the Order on the issues of Cutting Non-Firm (Cut Counterflows) and Circular Scheduling.¹ As noted in the Motion, the dismissal relates only to matters raised in this docket, see Motion at ¶ 5.3; it does not affect any other proceeding, any pending rehearing or clarification requests with respect to the Order, or the possibility of subsequent proceedings against Cargill-Alliant based on the outcome of those requests, or on different time periods, different practices or different transactions. As the Motion also notes, the CAISO's data referenced in the Motion indicates the possibility that Cargill-Alliant engaged in Cut Counterflows after the time period addressed in the Order. See *id.* at ¶ 4.1.

The CAISO respectfully suggests that, on balance, and contrary to the request in the Motion, see Motion at ¶ 5.1, it is preferable not to close the docket or to relieve Cargill-Alliant of all further obligations. Rather, the docket should

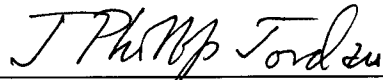
¹ The Motion, at ¶ 2.2, refers to the ISO as having identified Cargill-Alliant "as having engaged" in Cut Counterflow and Circular Scheduling/Death Star strategies, and that the report contained "allegations" against Cargill-Alliant. Referring to the ISO's series of reports on the Enron trading strategies, or its data provided to Identified Entities and filed with the Commission in mid-July 2003, as "asserting" or "alleging" that any specific party in fact engaged in any specific strategy, is to mischaracterize the reports and the data. As the CAISO noted in the reports and has noted in other forums, the CAISO's analyses and reports were screening efforts, intended to identify transactions meriting explanation by the participants or further investigation by parties with the benefit of compulsory process. The screens were in some respects over-inclusive, but the ISO's investigation in other respects may have been under-inclusive. See, e.g., "Supplemental Analysis of Trading and Scheduling Strategies Described in Enron Memos," Submitted to Federal Energy Regulatory Commission Staff in Response to Final Report on Price Manipulation in The Western Market by the Department of Market Analysis, California ISO, June 2003, at 3-4.

remain open until all of the Show Cause proceedings have been concluded, and Cargill-Alliant should remain subject to discovery as a party if it has information relevant to potential gaming by others. There would be no prejudice to Cargill-Alliant, and it would serve the interests of efficiency, especially in light of the short discovery periods in these proceedings, to avoid the cumbersome process of obtaining discovery from a non-party.

III. Conclusion

The CAISO does not object to relieving Cargill-Alliant of further obligation to respond to the Gaming Show Cause Order. However, the docket should remain open and Cargill-Alliant should be subject to discovery as a party.

Respectfully submitted,



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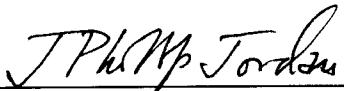
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Dated: September 26, 2003

CERTIFICATE OF SERVICE

In accordance with the order issued by the Presiding Administrative Law Judge I hereby certify that I have this day served the foregoing document by posting an electronic copy on the Listserv for this proceeding, as maintained by the Commission.

Dated at Washington, DC, on this 26th day of September, 2003.



J. Phillip Jordan