

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

**California Independent System            )       Docket No. ER01-871-000  
Operator Corporation                    )**

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

**I.       INTRODUCTION AND SUMMARY**

On January 3, 2001, the California Independent System Operator Corporation (“ISO”)<sup>1</sup> filed the Utility Distribution Company Operating Agreement (“UDC Operating Agreement,” “UDC Agreement,” or “Operating Agreement”) between the ISO and the City of Vernon, California (“Vernon”) in the above-referenced docket (“January 3 Filing”). As explained in the January 3 Filing, the UDC Operating Agreement is applicable to utilities that own or operate their Distribution Systems within the ISO Controlled Grid and who wish to participate in the California market by transmitting Energy or Ancillary Services to or from the ISO Controlled Grid. The ISO submitted the UDC Operating Agreement to facilitate Vernon’s joining the ISO as a Participating Transmission Owner effective January 1, 2001.<sup>2</sup>

A number of parties have moved to intervene in the present proceeding. Some of the motions to intervene include protests of the January 3 Filing, as well

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

<sup>2</sup> See Transmittal Letter for January 3 Filing at 1-3.

as requests for specific relief.<sup>3</sup> Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2000), the ISO now submits its Answer to the motions to intervene and protests submitted in the above-referenced docket. The ISO does not oppose the intervention of the parties that have sought leave to intervene in this proceeding.

Some parties request modification or rejection of the January 3 Filing. These requests are unsupported. As explained below, Section 2.4 of the UDC Operating Agreement, which certain parties protest, was submitted in accordance with the applicable requirements, is identical to language submitted in a previous ISO filing, and is incorrectly described by the protesting parties. Additionally, the Commission's determination in the instant proceeding should have no bearing on the settlement discussions being conducted in the proceeding concerning Amendment No. 27 to the ISO Tariff.

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<sup>3</sup> Motions to intervene and/or protests were filed by the California Electricity Oversight Board; Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency ("Cities/M-S-R"); Modesto Irrigation District ("MID"); Northern California Power Agency; Transmission Agency of Northern California ("TANC"); and Vernon.

## II. ANSWER<sup>4</sup>

### A. Section 2.4 of the UDC Operating Agreement With Vernon Was Submitted In Accordance With the Applicable Requirements, Is Identical to Language Submitted In a Previous ISO Filing, and Is Incorrectly Described by the Protesting Parties

Cities/M-S-R, MID, and TANC state that they do not oppose the Commission's acceptance of the January 3 Filing. However, these parties do voice a limited protest of Section 2.4 of the UDC Operating Agreement with Vernon, on the grounds that the section should not apply to them.<sup>5</sup>

As the parties note, the UDC Operating Agreement with Vernon is "quite similar" to the *pro forma* UDC Operating Agreement that was agreed upon by various interested parties (including Cities/M-S-R, MID, and TANC), and that was accepted by the Commission as a settlement.<sup>6</sup> Indeed, the settlement provided that the terms of the *pro forma* agreement would be varied "to the extent necessary to preserve Existing Rights or to reflect specific or unique circumstances of the Market Participant involved . . . ."<sup>7</sup> The settlement also provided that "the ISO will, in any future filing of a UDC Agreement incorporating terms that vary from the *pro forma* terms, identify in its transmittal letter the revisions and the Existing Rights or specific or unique circumstances that

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<sup>4</sup> Some of the parties commenting on the January 3 Filing request relief in pleadings styled as protests. There is no prohibition on the ISO's responding to the assertions in these pleadings. The ISO is entitled to respond to these pleadings and requests notwithstanding the labels applied to them. *Florida Power & Light Co.*, 67 FERC ¶ 61,315 (1994). In the event that any portion of this Answer is deemed an Answer to protests, 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 nature and complexity of this proceeding and the usefulness of this Answer in ensuring the development of a complete record. See, e.g., *Enron Corp.*, 78 FERC ¶ 61,179, at 61,733, 61,741 (1997); *El Paso Electric Co.*, 68 FERC ¶ 61,181, at 61,899 & n.57 (1994).

<sup>5</sup> Cities/M-S-R at 6-8; MID at 5; TANC at 6-7.

<sup>6</sup> The Commission accepted the *pro forma* UDC Operating Agreement in *California Independent System Operator Corporation*, 87 FERC ¶ 61,232 (1999).

<sup>7</sup> Transmittal letter for *pro forma* UDC Operating Agreement, Docket Nos. ER98-899-000

necessitated a departure from the *pro forma* Agreement.”<sup>8</sup> Consistent with the settlement requirements, in submitting the January 3 Filing, the ISO noted as follows:

A new Section 2.4 has been added to the UDC Operating Agreement to provide Vernon with certain termination rights as a UDC that is not a party to the Transmission Control Agreement (“TCA”). The ISO recognizes that Vernon is a party to the TCA, but new Section 2.4 provides Vernon with these termination rights in the event that Vernon stops being a party to the TCA.<sup>9</sup>

Thus, the ISO has fully complied with the requirements described above concerning modifications to the *pro forma* UDC Operating Agreement.

Additionally, the ISO notes that Section 2.4 in the instant proceeding is identical to Section 2.4 of the UDC Operating Agreement for the City of Pasadena, California (“Pasadena”), which the Commission accepted for filing in 1999.<sup>10</sup>

It is difficult to see why Cities/M-S-R, MID, and TANC, which are themselves governmental entities, should object to a section that was added to the UDC Operating Agreement to give a fellow governmental entity *more* rights. The answer appears to be that the parties misconstrue the terms of Section 2.4: they protest that “the rights and obligations of the ISO and the UDC [i.e., Vernon] clearly are not balanced since the ISO can terminate the UDC Agreement on six months’ notice, rather than the two years’ notice required of Vernon.”<sup>11</sup> Section

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and ER98-1923-000 (Oct. 14, 1998), at 5.

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

<sup>9</sup> Transmittal Letter for January 3 Filing at 3 (footnote omitted).

<sup>10</sup> See Letter Order for *California Independent System Operator Corporation*, Docket No. ER99-3619-000 (Aug. 19, 1999); Filing of the *California Independent System Operator Corporation*, Docket No. ER99-3619-000 (July 16, 1999). The ISO recently filed to amend Section 2.4 of the UDC Operating Agreement with Pasadena, in Docket No. ER01-967-000.

<sup>11</sup> Cities/M-S-R at 7; TANC at 7. See also MID at 5.

2.4, however, describes only the termination rights of the UDC, not the ISO; moreover, the UDC initially needs to provide only six months' notice to terminate the UDC Operating Agreement. The protesting parties seem to have misread the following language from Section 2.4:

[T]he UDC may terminate this Operating Agreement for any reason on a date within the first two (2) years after the effective date of this Operating Agreement by giving the ISO written notice at least six (6) months in advance of the intended effective date of termination. The UDC may terminate this Operating Agreement two (2) years or more after the effective date of this Operating Agreement by giving the ISO written notice at least two (2) years in advance of the intended effective date of termination.

The ISO believes that Section 2.4, as it currently exists, does not need to be modified.

**B. The Commission's Determination In the Instant Proceeding Should Have No Bearing on the Settlement Discussions Being Conducted In the Amendment No. 27 Proceeding**

Cities/M-S-R, MID, and TANC urge the Commission to take action in the present proceeding in a way that will not "prejudge" matters that are currently pending in the settlement negotiations being conducted in the proceeding concerning Amendment No. 27 to the ISO Tariff.<sup>12</sup>

The ISO does not see how the Commission could reasonably issue an order in the instant proceeding that would have a bearing on the Amendment No. 27 settlement discussions. Nevertheless, to the extent that such a Commission determination is possible, the ISO believes that the order in the instant

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<sup>12</sup> Cities/M-S-R at 6, 8-10; MID at 5; TANC at 6, 7-9. Amendment No. 27 was filed in Docket No. ER00-2019-000. The Commission has issued an order accepting Amendment No. 27 for filing, suspended for a nominal period, subject to refund, and setting it for hearing. The hearing is held in abeyance pending efforts at settlement. *California Independent System Operator Corporation*, 91 FERC ¶ 61,205 (2000), *reh'g pending*.

proceeding should be made non-precedential as to the resolution through settlement of issues in the Amendment No. 27 proceeding.

### **III. CONCLUSION**

For the foregoing reasons, the ISO respectfully requests that the Commission accept the UDC Operating Agreement with Vernon without further procedures.

Respectfully submitted,

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