

October 31, 2000

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

Re: San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated By the California Independent System Operator and the California Power Exchange, and Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange, Docket Nos. EL00-95-000 and EL00-98-000 (Consolidated); California Electricity Oversight Board v. All Sellers of Energy and Ancillary Services Into the Energy and Ancillary Services Markets Operated By the California Independent System Operator Corporation and the California Power Exchange, Docket No. EL00-104-000 (Not Consolidated); FERC Investigation, Docket No. EL00-107-000 (Not Consolidated)

Dear Secretary Boergers:

Enclosed for filing please find an original and fourteen copies of the Answer of the California Independent System Operator Corporation to the Joint Motion for Emergency Relief and Further Proceedings of Pacific Gas and Electric Company, Southern California Edison Company, and The Utility Reform Network submitted in the above-referenced dockets.

Two additional copies of the enclosed Answer are 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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**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

San Diego Gas & Electric Company)	
)	
v.)	
)	
Sellers of Energy and Ancillary Services Into Markets Operated By the California Independent System Operator and the California Power Exchange)	
)	Docket Nos. EL00-95-000 and EL00-98-000 [Consolidated]
Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange)	
)	
California Electricity Oversight Board)	Docket No. EL00-104-000 [Not Consolidated]
)	
v.)	
)	
All Sellers of Energy and Ancillary Services Into the Energy and Ancillary Services Markets Operated By the California Independent System Operator Corporation and the California Power Exchange)	
)	
FERC Investigation)	Docket No. EL00-107-000 [Not Consolidated]
)	

**ANSWER OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO JOINT MOTION FOR EMERGENCY RELIEF
AND FURTHER PROCEEDINGS OF PACIFIC GAS AND ELECTRIC
COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY, AND
THE UTILITY REFORM NETWORK**

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2000), the California Independent System

Operator Corporation (“ISO”)¹ submits its Answer to the Joint Motion for Emergency Relief and Further Proceedings of Pacific Gas and Electric Company, Southern California Edison Company, and The Utility Reform Network (“Joint Motion,” filed by “Movants”) submitted in the above-referenced proceedings.

I. SUMMARY

On October 16, 2000, Movants filed the Joint Motion. They requested that the Commission do the following: “(1) make an immediate finding . . . that California’s energy and ancillary services markets are not workably competitive and that the resulting prices are unjust and unreasonable, (2) order emergency, interim relief in the form of a \$100/MWh cap as described herein, (3) order all FERC-jurisdictional sellers that are subject to a [Participating Generator Agreement (“PGA”)] to provide cost-of-service information for all non-must-take generation subject to a PGA for use in the development and implementation of comprehensive market-power mitigation measures that would replace the \$100/MWh cap, and (4) institute expedited procedures to adopt comprehensive fixes and establish refund responsibility.”²

As discussed below, the ISO urges the Commission to consolidate the Joint Motion with ongoing proceedings concerning the same issues, but believes that it would be premature for the Commission to take any further action at this time.

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

² Joint Motion at 32-33.

II. ANSWER

A. The Present Proceedings Should Be Consolidated With Ongoing Proceedings Concerning the Same Issues

Each of the four actions requested by Movants is a component of Movants' "comprehensive plan through which the Commission would take the immediate action needed to protect consumers and the public utilities that serve them from the abuse of market power and the dysfunctional market"³ The problems with the California markets for which Movants assert protection is needed are the same as the ones identified in a recent complaint filed by the California Municipal Utilities Association ("CMUA").⁴ In the CMUA Complaint, the Commission was asked to find that electricity markets in California "are not workably competitive, and order all jurisdictional sellers into the California ISO and [California Power Exchange] markets to tender cost-based filings"⁵ Because both the Joint Motion and the CMUA Complaint allege the same problems with the California markets, the ISO submits that the Commission should consolidate the dockets in which those filings were made, to the extent they are not consolidated already, and should render a decision in a single proceeding encompassing all of the consolidated dockets.⁶

³ *Id.* at 10-12.

⁴ Complaint, Request to Institute Cost-Based Rates, and Motion to Consolidate of the California Municipal Utilities Association, Docket Nos. EL01-1-000, *et al.* (Oct. 6, 2000) ("CMUA Complaint").

⁵ *Id.* at 27.

⁶ As the ISO explained in its answer to the CMUA Complaint, the ISO agreed with CMUA that, because the various dockets share common issues and facts, the CMUA Complaint proceeding could properly be consolidated with ongoing proceedings concerning the same issues. Answer of the California Independent System Operator Corporation to Complaint of the California Municipal Utilities Association, Docket Nos. EL01-1-000, *et al.* (Oct. 26, 2000), at 2

B. It Would Be Premature to Grant the Requested Relief At This Time

For the reasons described in the ISO's answer to the CMUA Complaint, the ISO submits that it would be premature to grant at this time the relief requested by Movants. As the ISO explained in its answer, it shares many of the concerns expressed by CMUA as to the competitiveness of California's electricity markets.⁷ So, too, does the ISO share concerns regarding issues raised by Movants. However, it would be premature for the Commission now to impose a particular resolution. The ISO believes that the interests of Movants and of California consumers would best be served by a consensual resolution of the various filings that have been made requesting that the Commission address market-power problems in California. If achievable, this might offer more comprehensive relief – that is, relief that constrains prices at times when the markets are not workably competitive while encouraging infrastructure investment – and accomplish it on the most expedited basis practicable.

To this end, the ISO, on October 20, 2000, filed a proposed Offer of Settlement and requested the appointment of a Settlement Judge and the convening of a technical conference.⁸ The objective was to facilitate development of a consensual resolution. While a specific proposal was offered, it was made clear that it was presented not as a *fait accompli*, but rather as a basis for a considered interchange among all affected constituencies. Modifications were invited explicitly and, in this spirit, the ISO would encourage

⁷ (“Answer to CMUA Complaint”).

⁷ *Id.* at 3.

⁸ Offer of Settlement, Docket Nos. EL00-95-003, *et al.*

consideration of the proposals of all participants, Movants included. But the ISO does not believe that the goal it shares with Movants – that corrective measures be in place at the earliest possible date – would be furthered by action on Movants' specific requests, on the merits, at this time.

Moreover, the ISO's Offer of Settlement proposes reforms that are similar in many respects to the relief Movants have requested and, if successful, is likely to be a surer, quicker, and less contentious route to the realization of effective market power mitigation.

Deferral of consideration of the relief sought by Movants need not prejudice the interest or position advanced by the Movants or by any other party. The schedule requested by the ISO in its Offer of Settlement is virtually identical to that ordered by the Commission on October 19, 2000,⁹ and calls for final relief to be in place by Spring of 2001, just as the Movants have proposed.¹⁰ In the interim, the ISO intends to maintain its price cap and, toward this end, on September 14, 2000, filed Amendment No. 31 to the ISO Tariff, which proposes to extend the ISO's authority to establish ceilings on prices it pays in its markets.¹¹ Indeed, at its meeting on October 26, the ISO Governing Board directed ISO management to implement load-differentiated price caps which, at times, would set the ceiling price even below \$100 per MWh.

⁹ See Order Announcing Expedited Procedures for Addressing California Market Issues, 93 FERC ¶ 61,051.

¹⁰ See Joint Motion at 30.

¹¹ Amendment No. 31 was filed in Docket No. ER00-3673-000.

III. CONCLUSION

For the foregoing reasons, the ISO urges the Commission to consolidate the Joint Motion with ongoing proceedings concerning the same issues, but believes that it would be premature for the Commission to take any further action at this time.

Respectfully submitted,

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Date: October 31, 2000

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties on the official service list compiled by the Secretary in the above-captioned proceeding, 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. this 31st day of October, 2000.

Bradley R. Miliauskas