

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

California Independent System Operator Corporation)	
)	Docket No. ER04-835-000
)	
Pacific Gas and Electric Company)	
)	
v.)	
)	
California Independent System Operator Corporation)	Docket No. EL04-103-000 (consolidated)

**ANSWER TO MOTION TO STRIKE OF SOUTHERN CALIFORNIA
EDISON COMPANY BY THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION**

**To: The Honorable H. Peter Young
Presiding Administrative Law Judge**

Pursuant to Section 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §385.213, the California Independent System Operator Corporation (“ISO”) files this Answer to the Motion to Strike Testimony Proposing to Eliminate Reliability Services Cost Definition from ISO Tariff (“Motion to Strike”) filed by Southern California Edison Company (“SCE”). In support of this, the ISO states as follows.

I. Background

On June 15, 2005, SCE filed its Motion to Strike in this proceeding. SCE’s Motion seeks to have stricken testimony filed by witnesses for the Sacramento Municipal Utility District (“SMUD”) and the Transmission Agency of Northern California (“TANC”). The subject matter of the testimony is the definition of “Reliability Services Cost” proposed by the ISO in its filing of Amendment No. 60 on May 11, 2004.

SCE argues that, while the Commission included this definition in the issues set for hearing, it did so with regard to the text of the definition only. The Commission did not set for hearing, SCE argues, whether such a definition should be included in the ISO Tariff at all. Motion to Strike at 2. For this reason, SCE argues that the elements of the testimony presented by SMUD and TANC that call for the removal of this definition from the ISO Tariff should be stricken as beyond the scope of the issues set for hearing, as irrelevant, and as constituting a collateral attack on the Commission's order setting this matter for hearing. *Id.*

II. Answer

The ISO agrees that the issue in this proceeding is what the definition of Reliability Services to be included in the ISO Tariff should be, and not whether such a definition should be included at all. In the order setting this matter for hearing, the Commission stated:

Generally, we find it reasonable for the CAISO to define costs incurred in order to maintain the reliability of the grid as reliability costs. However, because we have set for hearing the reasonableness of the CAISO's proposed cost allocation methodology, *this definition* will be subject to the outcome of that hearing.

California Indep. Sys. Operator Corp., 108 FERC ¶ 61,022 at P 69 (2004) (emphasis added). Only the content of the definition is at issue. For this reason, the testimony of TANC and SMUD that forms the basis of SCE's Motion to Strike is irrelevant to the issues in this proceeding.

The ISO recognizes that an Administrative Law Judge may either strike or simply disregard testimony regarding matters that are beyond the scope of the proceeding. Although the ISO notes that the Presiding Judge has chosen to strike such testimony in

other circumstances, *see, e.g., Union Electric Company and Central Illinois Public Service Company*, 85 FERC ¶ 63,015 at 65,133 (1998), the ISO takes no position regarding the most efficient remedy in this proceeding. The ISO simply requests that the Presiding Judge either strike the testimony in question, as requested by SCE, or disregard this testimony as concerning an issue that is beyond the scope of this proceeding.

III. Conclusion

Wherefore, the ISO respectfully requests that the Presiding Judge either strike the irrelevant testimony or disregard this testimony, as discussed above.

Respectfully submitted,

/s/ Julia Moore _____

Charles F. Robinson
General Counsel
Anthony J. Ivancovich
Senior Regulatory Counsel
Stephen A. S. Morrison
Corporate Counsel
The California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 608-7049
Fax: (916) 608-7296

J. Phillip Jordan
Michael E. Ward
Julia Moore
Swidler Berlin LLP
3000 K Street, Suite 300
Washington, DC 20007
Tel: (202) 424-7500
Fax: (202) 424-7643

Dated: June 21, 2005

CERTIFICATE OF SERVICE

I hereby certify I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Folsom, California, on this 21st day of June, 2005.

/s/ Stephen A.S. Morrison
Stephen A. S. Morrison