

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

<b>San Diego Gas &amp; Electric Company</b>	)	
	)	
<b>v.</b>	)	<b>Docket No. EL00-95, <i>et al.</i></b>
	)	
<b>Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange</b>	)	
	)	
	)	
<b>Investigation of Practices of the California Independent System Operator and the California Power Exchange</b>	)	<b>Docket No. EL00-98, <i>et al.</i></b>
	)	

**COMMENTS OF THE CALIFORNIA INDEPENDENT  
SYSTEM OPERATOR CORPORATION IN SUPPORT OF THE  
JOINT OFFER OF SETTLEMENT**

Pursuant to Rule 602(f) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. ¶ 385.602(f) (2003), the California Independent System Operator Corporation (“ISO”)<sup>1</sup> hereby submits its comments on the Settlement and Release of Claims Agreement (“Settlement Agreement”) filed by the Dynegy Parties and the California Parties<sup>2</sup> (collectively, the “Settling Parties”) in the above captioned proceedings on June

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<sup>1</sup> Capitalized terms not otherwise defined herein are used as defined in Appendix A to the ISO Tariff, or in the Settlement Agreement and Release of Claims referred to in the text.

<sup>2</sup> The California Parties consist of Pacific Gas and Electric Company (“PG&E”), Southern California Edison Company (“SCE”), and San Diego Gas & Electric Company (“SDG&E”), the California Attorney General, CERS, the California Public Utility Commission, and the California Electricity Oversight Board.

28, 2004. The ISO comments as follows on the Settlement Agreement as filed with the Commission.

## **I. COMMENTS**

The ISO is a non-profit public benefit corporation organized under the laws of the state of California and is responsible for the reliable operation of the transmission grid comprising the transmission systems of SCE, SDG&E, PG&E, and various municipalities. The ISO is not a signatory to the Settlement Agreement. However, it is the ISO that will be responsible for the financial implementation of this settlement on its books of account and in the financial clearing phase of the market reruns that have been ordered by the Commission as a part of the Refund Proceeding.<sup>3</sup>

The ISO has always supported the general principle that the end to complex litigation through settlement is the preferred process as opposed to the continuation of that litigation for all litigants, or for even a selected subset of the litigants. In addition, this Commission has consistently encouraged parties to resolve disputes whenever possible through settlement.<sup>4</sup> The refund proceeding has now been ongoing for approximately three years. Against this backdrop, the ISO feels compelled to state that it continues to support the general principle embodied in the Settlement Agreement offered by the Settling Parties and supports the settlement as filed. The approval of the proposed Settlement

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<sup>3</sup> See, in particular, 105 FERC ¶ 61,066 (2003), the Commission's Order on Rehearing, Docket EL00-95-081 et al.

<sup>4</sup> Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California v. California Independent System Operator Corporation, 96 FERC ¶ 61,024, at 61,065 (2001).

Agreement will allow certain amounts of cash to flow sooner<sup>5</sup> than would otherwise be the case and will clearly benefit Market Participants.

The ISO also notes and supports the inclusion in the Settlement Agreement of a duty to cooperate on the part of the Settling Parties. This duty to cooperate includes providing assistance to the ISO as necessary in order to implement the Settlement Agreement. It will be absolutely essential that the cooperation of the Settling Parties be maintained from the ISO's perspective, so that the proper financial adjustments can be made at the end of the market reruns taking place in this proceeding to properly reflect this settlement.

Finally, the ISO wants to thank the Settling Parties for their efforts to work together and reach agreement. It is the ISO's hope that the Commission will not have to become involved in any implementation disputes involving this Settlement Agreement. However, recognizing that it is not possible to foresee every contingency that might arise, the procedural framework is in place to handle such disputes, if indeed, they do arise.

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<sup>5</sup> See Section 4 of the Settlement Agreement.

## II. CONCLUSION

Wherefore, for the reasons stated above the ISO respectfully states that it supports the Settlement Agreement as filed and will work with the Settling Parties to implement it.

Respectfully submitted,

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Dated: July 19, 2004

**CERTIFICATE OF SERVICE**

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

Dated at Folsom, CA, this 19<sup>th</sup> day of July, 2004.

/s/ Gene L. Waas  
Gene L. Waas