

UNITED STATES OF AMERICA 97 FERC - 61,373
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, Linda Breathitt,
and Nora Mead Brownell.

California Independent System Operator

Corporation

Docket No.
EL01-111-
000

ORDER CLARIFYING CHANGE IN DOCKETING

(Issued December 26, 2001)

On August 30, 2001, the Commission issued a Notice of Change
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in Docketing (Notice) in the Federal Register that established a
new docket number (New Docket), Docket No. EL01-111-000, for the
California Independent System Operator Corporation (CAISO) to
file weekly market monitoring reports, pursuant to an order
issued on 2
April 26, 2001 (April 26 Order). Prior to the Notice, CAISO
filed these market monitoring reports under Docket No. EL00-95-
000, et al. (San Diego Docket). In this order, we clarify that
the market monitoring reports submitted under the New Docket are
still deemed a part of the San Diego Docket and that any anti-
competitive transactions detailed in the market monitoring
reports remain encompassed by the refund period established in
the San Diego Docket.

This order serves the public interest because it preserves
the rights of all parties in both dockets while allowing the
Commission to improve administrative efficiency.

Background

The San Diego Docket was initiated by a complaint filed on
August 2, 2000 by San Diego Gas & Electric Company against all
sellers of energy and ancillary services into the ISO and PX
markets, subject to the Commission's jurisdiction, in response to
significant increases in prices for energy and ancillary services

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66 Fed. Reg. 46,614 (2001).

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San Diego Gas & Electric Company, et al., 95 FERC - 61,115,
order on reh'g, 95 FERC - 61,418 (2001) (April 26 Order).

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in California. In an order issued on August 23, 2000, the Commission, inter alia, instituted formal hearing procedures

under section 206 of the Federal Power Act to investigate the justness and reasonableness of the rates of public utility sellers into the ISO and PX markets, and also to investigate whether the tariffs, contracts, institutional structures and bylaws of the ISO and PX were adversely affecting the wholesale power markets in California. The Commission established a refund effective date of 60 days after publication of notice in the Federal Register of the Commission's intent to institute a

proceeding, i.e. October 2, 2000.

In the subsequent April 26 Order in the San Diego Docket, the Commission established, in part, a prospective mitigation and monitoring plan for the California wholesale electric markets. To better track developments in the California market, the April 26 Order directed CAISO to submit weekly market monitoring reports to the Commission on the schedule, outage, and bid data from public utility market participants, including any possibly

inappropriate bidding behavior. On August 30, 2001, the Commission separated the confidential market monitoring reports from the San Diego Docket and established the New Docket.

CEOB's Protest

On October 2, 2001, the California Electricity Oversight Board (CEOB) filed a motion to intervene and protest the Commission's decision to separate the market monitoring reports from the San Diego Docket that raised two concerns. First, CEOB states that separating the two dockets potentially prejudices the rights of California consumers to seek refunds for anti-competitive transactions identified in the reports because section 206 of the Federal Power Act restricts an award of refunds to rates charged 60 days following the filing of a complaint or the initiation of an investigation by the Commission. CEOB states that, unlike the San Diego Docket, which set the refund effective date as October 2, 2000, the New Docket is not a section 206 proceeding. CEOB requests clarification that any anti-competitive transactions detailed in the market monitoring reports remain encompassed by the refund period in the San Diego Docket. Second, CEOB states that the rights of the parties to the San Diego Docket are prejudiced if the New Docket

San Diego Gas & Electric Company, et al., 92 FERC - 61,172 (2000), reh'g pending (August 23 Order).

16 U.S.C. 824e.

August 23 Order at 61,608.

April 26 Order at 61,360.

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excludes the market monitoring reports from the record in the San Diego Docket. CEOB states that, since the information contained in the market monitoring reports is probative of whether the Commission's mitigation scheme in California is effective, the Commission should clarify that materials submitted in the New Docket are part of the San Diego Docket.

Commission Response

The Commission established the New Docket for the confidential market monitoring reports in the interest of administrative efficiency and did not intend to initiate an independent proceeding from the San Diego Docket. Accordingly, the Commission grants CEOB's requests for clarification that the market monitoring reports remain part of the record in the San Diego Docket and that any anti-competitive transactions detailed therein remain subject to the San Diego Docket's section 206 refund authority.

By the Commission.

(S E A L)

Linwood A.
Watson, Jr.,

Acting
Secretary.