

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

California Independent System Operator Corporation)	Docket Nos. ER01-313-004
)	
Pacific Gas and Electric Corporation)	Docket Nos. ER01-424-004
)	
)	

JOINT STATEMENT OF PROCEDURAL HISTORY

To: The Honorable Bobbie J. McCartney

The following is submitted on behalf of the active parties to the above-captioned proceeding by the California Independent System Operator Corporation:

On November 1, 2000, as amended on December 15, 2000, the California Independent System Operator Corporation (“ISO”) submitted to the Commission its proposed Grid Management Charge (“GMC”) for 2001, including amendments to the ISO Tariff that revised the manner in which the ISO charged the GMC to Scheduling Coordinators (“SCs”).¹ The ISO proposed to allocate the GMC to three cost categories, or “buckets.” One such bucket was “Control Area Services” (“CAS”).²

On November 9, 2000, as amended on December 21, 2000, Pacific Gas and Electric Company (“PG&E”) submitted to the Commission its proposed Pass Through

¹ See California Independent System Operator Corporation, Original GMC Filing, filed November 1, 2000, available in Docket ER01-313-000, and California Independent System Operator Corporation, Amended GMC Filing, filed December 15, 2000 available in Docket ER01-313-000.

² See *id.*, at Attachment B.

Tariff (“PTT”).³ PG&E’s PTT would allow it to pass through the GMC charged by the ISO to applicable wholesale Control Area Agreement (“CAA”) customers for which PG&E acts as a SC.

On December 29, 2000, the Commission issued an order which accepted the GMC and the PTT, as amended, suspended them for a nominal period to become effective January 1, 2001, subject to refund, consolidated the proceedings, and set them for hearing.⁴

The Presiding Judge conducted a hearing from November 13, 2001, until December 20, 2001, and issued an Initial Decision on May 10, 2002.⁵ The Initial Decision recommended approval of the ISO’s proposal to charge CAS to Control Area Gross Load (“CAGL”).

In Opinion No. 463,⁶ the Commission affirmed the Initial Decision in most respects, but reversed two of the Presiding Judge’s recommendations, of which one is relevant to the instant proceeding. With respect to the ISO Tariff, the Commission generally upheld the Presiding Judge’s determination that the CAS charge should be based on CAGL, but determined that an exception should be made for wholesale and retail customers with behind-the-meter generation who primarily rely on behind-the-meter generation to meet some of their energy needs because such customers have a more limited impact on the ISO’s grid. The Commission concluded that customers with generators that have a capacity factor of 50 percent or greater should be allocated CAS

³ See Pacific Gas & Electric Company’s GMC Pass-Through Tariff, filed November 9, 2000 available in Docket ER01-424-001 and Pacific Gas & Electric Company’s Amended GMC Pass-Through Tariff, filed December 21, 2000 available in Docket ER01-424-001.

⁴ *California Independent System Operator Corp., et al.*, 93 FERC ¶ 61,337 (2000).

⁵ *California Independent System Operator Corp., et al.*, 99 FERC ¶ 63,020 (2002).

⁶ *California Independent System Operator Corp., et al.*, 103 FERC ¶ 61,114 (2003).

costs on the basis of their highest monthly demand based on the ISO's grid, rather than on CAGL.⁷

Following the issuance of Opinion No. 463, numerous parties submitted requests for rehearing. In Opinion No. 463-A,⁸ the Commission denied the requests for rehearing, except for those concerning the CAGL issue regarding CAS charges.

Opinion No. 463-A concluded that the exception for those customers with generators with a 50 percent or greater capacity factor was not supported by record evidence and would create implementation problems. The Commission expressed its ongoing support for an exclusion from the CAS charge for "certain behind the meter generators." It then ordered that behind-the-meter load served by "generators which are not modeled by the ISO in its regular performance of transmission planning and operation should be exempted from the CAGL charge," "[t]hat is, those generators that will not cause the ISO to incur administrative or operating expenses should...have the load exempted from the CAS charge."⁹

Several parties filed requests for clarification and/or rehearing of Opinion No. 463-A on the CAGL exception issue. While the requests for clarification and/or rehearing were pending, the ISO filed a compliance refund report on November 15, 2004, in which it set forth its proposed refunds for SCs for exempted behind-the-meter load and the newly adjusted GMC charges, based on the ISO's understanding of Opinion No. 463-A and the information the ISO had collected from certain PTOs.¹⁰

⁷ *Id.* at P 28.

⁸ *California Independent System Operator Corp.*, 106 FERC ¶ 61,032 (2004).

⁹ *Id.* at P 20.

¹⁰ California Independent System Operator Corporation, Compliance Refund Report, filed November 15, 2004 in Docket ER01-313-000.

On November 16, 2004, the Commission issued an order in which it “defer[ed] further action on the requests for rehearing pending the compilation of a sufficient record on this issue,” and “establish[ed] limited (with respect to both time and subject matter) hearing procedures so that such a record may be compiled.”¹¹ In its November 16 order, the Commission specified four material issues of fact on which it sought factual information at the hearing.

On November 17, 2004, the Chief Judge issued an order designating Administrative Law Judge Bobbie J. McCartney to preside at the hearing ordered by the Commission.¹² On November 18, 2004, Presiding Judge McCartney scheduled a prehearing conference for December 2, 2004.¹³ Following the prehearing conference, on December 3, 2004, the Transmission Agency of Northern California (“TANC”) filed a motion for adoption of the procedural schedule and guidelines for discovery agreed to at the prehearing conference.¹⁴ Judge McCartney approved the schedule and discovery procedures in a December 14, 2004, order.¹⁵

On November 22, 2004, the ISO filed a Notice of Withdrawal of its November 15, 2004, compliance refund report.¹⁶ Before December 13, 2004, several parties

¹¹ *Order Deferring Rehearing Requests And Establishing Limited Hearing Procedures*, 109 FERC ¶ 61,162 (2004).

¹² *Order Of Chief Judge Designating Presiding Administrative Law Judge*, issued November 17, 2004, available in Docket ER01-313-000.

¹³ *Order Scheduling Prehearing Conference, issued November 18, 2004*, available in Docket ER01-313-000.

¹⁴ Motion of the Transmission Agency of Northern California Requesting the Adoption of Procedural Schedule, filed December 3, 2004, available in Docket ER01-313-000.

¹⁵ *Order Establishing Procedural Schedule*, issued December 14, 2004, available in Docket ER01-313-000.

¹⁶ Notice of Withdrawal of California Independent System Operator Corporation of Compliance Refund Report, filed November 22, 2004, available in Docket ER01-313-000.

commented on the ISO's notice of withdrawal to which the Commission has not yet responded.¹⁷

On December 10, 2004, the Modesto Irrigation District ("MID") filed a motion to clarify the scope of the proceeding. Specifically, MID sought clarification of

whether the exemption from the CAS charge to recognize the more limited impact of behind the meter load on the CAISO-Controlled Grid should be as MID has proposed, which is on the basis of the customer with behind-the-meter load's highest monthly demand placed on the CAISO-Controlled Grid, if no more than 50 percent of the behind-the-meter load is served from the CAISO-Controlled Grid.¹⁸

Answers were filed by Commission Trial Staff, the Cogeneration Association of California ("CAC") and the Energy Producers and Users Coalition ("EPUC"), the Sacramento Municipal Utility District ("SMUD"), the California Department of Water Resources State Water Project ("SWP"), and the ISO. On December 22, 2004, Judge McCartney denied MID's motion.¹⁹ On January 6, 2005, MID filed a motion seeking leave to file an interlocutory appeal of Judge McCartney's scope ruling.²⁰ On January 19, 2005, Judge McCartney denied MID's request for leave to take interlocutory appeal.²¹

On December 20, 2004, the ISO filed its prefiled direct testimony.²² Other parties filed answering testimony on January 21, 2005,²³ and Commission trial staff filed

¹⁷ See comments of Southern California Edison, filed December 6, 2004, comments of the Transmission Agency of Northern California, filed December 7, 2004, and comments of San Diego Gas & Electric Company, filed December 13, 2004, available in Docket ER01-313-000.

¹⁸ Motion to Clarify the Scope of the Proceeding and Request for Shortened Response Time of the Modesto Irrigation District, filed December 10, 2004, available in Docket ER01-313-000.

¹⁹ *Order on Motion to Clarify Scope*, issued December 22, 2004, available in Docket ER01-313-000.

²⁰ Motion for Leave to File Interlocutory Appeal and Request for Shortened Response Time of the Modesto Irrigation District, filed January 6, 2005, available in Docket ER01-313-000.

²¹ *Order on Motion for Leave to File Interlocutory Appeal*, Issued January 19, 2005, available in Docket ER01-313-000.

²² Prepared Direct Testimony of A. Deane Lyon on Behalf of the California Independent System Operator Corporation, filed December 20, 2004, available in Docket ER01-313-000.

testimony on January 31, 2005.²⁴ All parties sponsoring witnesses filed cross-answering testimony on February 7, 2005.²⁵

On January 4, 2005, CAC/EPUC filed a motion to clarify the scope of the proceeding and a motion to strike ISO testimony.²⁶ Specifically, CAC/EPUC requested three clarifications of the scope of the proceeding. First, that an exemption from the ISO's CAS charge based on CAGL for load served behind-the-meter at a single retail location, and which takes standby service from a utility, is not an issue in this proceeding. Second, an examination of whether the exemption set forth in Opinion No. 463-A should apply to load that is not modeled by the ISO as opposed to un-modeled generators is within the scope of this proceeding is. Third, that the ISO will not be allowed to relitigate the issue of whether certain behind-the-meter loads should be exempt from the CAS charge at all. Answers were filed by SMUD, SWP, MID, and the ISO. On January 19, 2005, Judge McCartney denied the motion to clarify the scope of the proceeding and denied the motion to strike the ISO testimony, while reserving until later in the proceeding a determination of whether the ISO testimony directly responded to the

²³ See Prepared Cross-Answering Testimony of James A. Ross on Behalf of the Cogeneration Association of California and Energy Producers and Users Coalition, Answering Testimony of David Olivares on Behalf of the Modesto Irrigation District, Direct and Answering Testimony and Exhibits of Neil E. Shockey on Behalf of Southern California Edison, Prepared Answering Testimony and Exhibits of Craig Cameron on Behalf of the Sacramento Municipal Utility District, Prepared Answering Testimony of David T. Helsby on Behalf of the Sacramento Municipal Utility District, filed January 21, 2005, available in Docket ER01-313-000.

²⁴ Prepared Direct and Answering Testimony of Edward A. Gross Witness for the Staff of the Federal Energy Regulatory Commission, filed January 31, 2005, available in Docket ER01-313-000.

²⁵ See Cross Answering Testimony of A. Deane Lyon on Behalf of the California Independent System Operator Corporation, Prepared Cross-Answering Testimony of James A. Ross on Behalf of the Cogeneration Association of California and Energy Producers and Users Coalition, Cross-Answering Testimony of David Olivares on Behalf of the Modesto Irrigation District, Prepared Cross-Answering Testimony of David T. Helsby, Cross-Answering Testimony and Exhibits of Neil E. Shockey, filed February 7, 2005, available in Docket ER01-313-000.

²⁶ Motion to Clarify Scope of Proceeding, Motion to Strike and Request For Shortened Response Time of the Cogeneration Association of California and the Energy Producers and Users Coalition, filed January 6, 2005, available in Docket ER01-313-000.

Commission's inquiry and whether it should be stricken.²⁷ The same order also denied SMUD's motion to strike styled as an answer.²⁸

On February 15 and 16, 2005, Presiding Judge McCartney conducted the hearing ordered by the Commission. A Joint Stipulation of Issues was adopted by the Judge, as modified, at the beginning of the hearing. At the conclusion of the hearing, Judge McCartney noted that the initial briefing schedule remained in place, with initial briefs due March 14, 2005, reply briefs due on March 25, 2005, and the initial decision due on April 15, 2005.

Respectfully Submitted,

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Date: March 14, 2005

²⁷ *Order on Motions to Clarify Scope of the Proceeding and to Strike*, issued January 19, 2005, available in Docket ER01-313-000.

²⁸ *Id.* at P.8.

Certificate of Service

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. 5 385.2010). Dated this 14th day of March in the year 2005 at Folsom in the State of California.

/s/ Sidney Mannheim Davies
Sidney Mannheim Davies