

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

<b>California Independent System Operator Corporation</b>	)	<b>Docket Nos. ER01-313-000 and ER01-313-001</b>
	)	
<b>Pacific Gas and Electric Company</b>	)	<b>Docket Nos. ER01-424-000 and ER01-424-001</b>
	)	

**MOTION OF THE CALIFORNIA INDEPENDENT  
SYSTEM OPERATOR CORPORATION TO STRIKE PORTIONS  
OF THE TESTIMONY OF S. A. YARI, AND REQUEST  
FOR SHORTENING OF TIME TO RESPOND**

To: The Honorable Bobbie J. McCartney  
Presiding Administrative Law Judge

Pursuant to Rule 212 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. § 385.212, the California Independent System Operator Corporation ("ISO") respectfully requests that the Presiding Judge issue an order striking certain portions of the testimony of Mr. S. A. Yari, submitted by San Diego Gas and Electric Company ("SDG&E") on August 17, 2001. Specifically, the ISO requests that the following portions be stricken: page 3, lines 12-16 and 20-25; page 4, lines 1-2; and page 5, line 14 through page 15, line 19. Because the ISO's Rebuttal Testimony is due September 24, 2001, and the ISO must know quickly whether it must respond to SDG&E's arguments, the ISO requests that SDG&E's time for response to this motion be shortened to seven days, so that a response would be due on September 4, 2001.

## **I. ARGUMENT**

### **Portions of Mr. Yari's Testimony Should be Struck as Beyond the Scope of the Earlier Testimony in this Proceeding**

SDG&E's August 17, 2001 testimony was filed as "cross-answering" testimony, which is designed to respond to the previous testimony of other intervenors in this proceeding. While elements of Mr. Yari's testimony do refer to and support the position of Southern California Edison Company ("SCE") in SCE's supplemental testimony filed on June 25, 2001, Mr. Yari also raises a new issue not previously addressed in this proceeding. It is the testimony related to this new issue that the ISO now seeks to have stricken from the record.

The specific new issue being raised by SDG&E is the assessment by the ISO of the Market Operations Charge element of the GMC on the coordination by SDG&E of energy schedules of Arizona Public Service Company ("APS") and Imperial Irrigation District ("IID") over the Southwest Power Link ("SWPL"). SDG&E provides no explanation for failing to introduce evidence on this issue at an earlier stage of this proceeding. By its own evidence, SDG&E has known about the ISO's intended treatment of the SWPL energy schedules since August of 2000 – more than a year prior to submitting its "cross-answering" testimony, and in plenty of time to have enabled SDG&E to raise this issue at the time that Intervenor Testimony was due on April 2, 2001. See Ex. SDO-6, submitted with Mr. Yari's testimony.

SDG&E apparently believes that the SWPL issue is sufficiently similar to the issue raised by SCE (the assessment of the Control Area Services Charge element of the GMC on energy produced at the Mohave Generating Plant) to

constitute the same issue, thus allowing it to be addressed at this late date.<sup>1</sup> This is not the case. The Mohave issue is based on a unique set of facts, and implicates the ISO's assessment of the Control Area Services Charge. The SWPL issue, on the other hand, concerns the ISO's assessment of the Market Operations Charge. These charges are assessed to recover completely different ISO expenses and using completely different billing determinants. The Control Area Services Charge is imposed to recover the costs of "ensuring safe, reliable, operation of the transmission grid and dispatch of bulk power supplies in accordance with regional and national standards" (Master Definitions Supplement, Appendix A of the ISO Tariff) and is based on Control Area Gross Load and exports. ISO Tariff Section 8.3.1. The Market Operation Charge, however, is imposed to recover the costs of "market and settlement related services" (Master Definitions Supplement), and is based on purchases and sales of Ancillary Services, Supplemental Energy, and Imbalance Energy (both instructed and uninstructed). ISO Tariff Section 8.3.3. Thus, the question of whether the Control Area Services Charge ought to be assessed on Mohave has no bearing on whether the Market Operations Charge ought to be assessed on SWPL.

The Commission previously has indicated that parties must present such affirmative arguments as they intend to offer during their direct presentation, and that they are not at liberty to hold back additional arguments in order to introduce them at a later stage. See *Southern California Edison Company, et al.*, 50 FERC

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<sup>1</sup> It is SCE's position on the Mohave issue for which Mr. Yari expresses support in the other portions of his testimony.

¶ 63,012 (1990); *Grynberg v. Rocky Mountain Natural Gas Co.*, 90 FERC ¶ 61,247 (2000) at 61,821 (“Rebuttal testimony is intended to refute testimony submitted by other parties, not to advance a new theory of the case.”) This is true with regard to cross-answering testimony, as well, which by its very name clearly is intended to “answer” the arguments of others, and not to introduce new issues.

In this case, SDG&E did not submit any testimony prior to its cross-answering filing on August 17. Intervenors’ Testimony was due in this proceeding on April 2, 2001. Since SDG&E has known about the ISO’s intended assessment of the Market Operations Charge on SWPL since August of 2000 (see Ex. SDO-6), it has no excuse for failing to raise the issue earlier in this proceeding. Perhaps in recognition of this, SDG&E offers no excuse.

## II. CONCLUSION

For these reasons, the ISO respectfully moves that the Presiding Judge strike the above-identified portions of SDG&E's August 17, 2001 Testimony, and requests that SDG&E be required to file any response to this motion no later than September 4, 2001.

Respectfully submitted,

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Counsel for the California Independent  
System Operator Corporation

Dated: August 28, 2001

## **CERTIFICATE OF SERVICE**

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

Dated at Washington, DC, this 28<sup>th</sup> day of August, 2001.

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Julia Moore  
(202) 295-8357

August 28, 2001

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

**Re: *California Independent System Operator Corporation***  
**Docket Nos. ER01-313-000 and ER01-313-001**

***Pacific Gas and Electric Company***  
**Docket Nos. ER01-424-000 and ER01-424-001**

Dear Secretary Boergers:

Enclosed is an original and fourteen copies of the California Independent System Operator Corporation's Motion To Strike Portions of the Testimony of S. A. Yari in the above-captioned proceeding. Two courtesy copies of this filing are included to be hand delivered to Judge Bobbie J. McCartney. Also enclosed are two extra copies of the filing to be time/date stamped and returned to us by the messenger. Thank you for your assistance.

Sincerely,

Julia Moore  
(202) 295-8357

Counsel for the California  
Independent System Operator Corporation

Enclosures

cc: The Honorable Bobbie J. McCartney  
Service List