

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

San Diego Gas & Electric Company,)		
Complainant,)		
)		
v.)	Docket Nos.	EL00-95-000
)		EL00-95-045
Sellers of Energy and Ancillary Services)		
Into Markets Operated by the California)		
Independent System Operator and the)		
California Power Exchange,)		
Respondents.)		
)		
Investigation of Practices of the California)	Docket Nos.	EL00-98-000
Independent System Operator and the)		EL00-98-069
California Power Exchange)		

**POSITION OF THE CALIFORNIA INDEPENDENT SYSTEM
OPERATOR CORPORATION CONCERNING
PUGET SOUND ENERGY, INC. DATA DISPUTE**

Pursuant to Paragraph 30 of the “Order Addressing Refund Process Disputes and Providing Guidance,” 116 FERC ¶ 61,167 (2006), issued by the Federal Energy Regulatory Commission (“Commission”) on August 23, 2006 in the above-captioned dockets (“August 23 Order”), the California Independent System Operator Corporation (“ISO”) hereby provides its final position concerning the one outstanding dispute issue raised by Puget Sound Energy, Inc. (“Puget”) with respect to data distributed by the ISO to parties in this proceeding. For the reasons set forth herein, the Commission should reject Puget’s dispute on this issue.

I. BACKGROUND

In an order issued on August 8, 2005, 112 FERC ¶ 61,176 (2005), the Commission concluded that in order to expedite the resolution of the refund proceeding, market participants would be required to submit to the Commission, by December 1, 2005, any disputes with refund reruns, cost offsets, FCA claims, and emissions costs offset claims. On December 1, 2005, Puget filed with the Commission a “Notice of Rerun Discrepancies and Reservation of Rights.” Therein, Puget stated that recent refund rerun data disks from the ISO had failed to reflect the resolution of disputes between Puget and the ISO from the preparatory rerun phase. Puget stated that it had not been able to correct or challenge these errors, and thus filed its dispute in order to put the Commission on notice and to reserve the right to challenge a compliance filing by the ISO. In response to Puget’s filing, the ISO requested that the Commission defer action on Puget’s issues pending further discussions between Puget and the ISO on the data discrepancies.

In the August 23 Order, the Commission agreed to defer action on Puget’s dispute to permit further discussions, and directed the ISO and Puget to submit periodic status reports detailing their progress and informing the Commission of any further data issues. The Commission also stated that if this dispute was not resolved by the time of the third scheduled progress report, both parties would be required to file their final positions on any remaining data issues raised by

Puget in its initial dispute filing no later than five days after the date of submission of the last progress report.

Since the August 23 Order, the ISO and Puget worked together to resolve five of the six concerns raised by Puget with respect to the ISO's data. However, the ISO and Puget were unable to reach an agreement as to the proper resolution of the sixth and final issue. The ISO is therefore submitting its final position in this pleading.

II. ARGUMENT

The one outstanding dispute between the ISO and Puget concerns the mitigation of an Out-of-Market ("OOM") import sale of 300 MW made by Puget to the ISO in Hour Ending ("HE") 2 on December 9, 2000, for a price of \$400/MWh. The disagreement is whether the sale should be mitigated to the historical market clearing price ("MCP") or the MMCP calculated using the Commission's methodology.

In the first two intervals of HE 2 on December 9, 2000, the historical MCP was \$0/MWh. In intervals three through six of that hour, the historical MCP was \$250/MWh.¹ The MMCP for all six intervals is \$101.13/MWh. The essence of the dispute between Puget and the ISO is what price the ISO should have used to calculate refunds for intervals one and two of HE 2 on December 9, 2000 -- the

¹ During this period, the ISO market was operating under a \$250/MWh "soft cap" breakpoint, established by the Commission in *San Diego Gas & Electric Gas Company, et al.*, 93 FERC ¶ 61,239 (2000). Therefore, the MCP was limited to \$250/MWh, and suppliers who bid over this amount and whose bids were accepted were paid their bid price, but those bid prices were not eligible to set the MCP.

MCP or the MMCP? The ISO calculated refunds for those two intervals using the historical MCP of \$0/MWh. Puget contends that the ISO should have used the MMCP of \$101.13/MWh.

The Commission addressed this issue in its order of May 15, 2002.² Therein, the Commission adopted the “cap” approach, clarifying that refunds should be calculated using “the ceiling price approach, in which refunds for each hour would be computed using the lower of mitigated market clearing price (MMCP) or the actual clearing price as the just and reasonable rate.” Applying this methodology, the ISO mitigated transactions during the first two intervals of HE 2 on December 9, 2000, including Puget’s, at a price of \$0/MWh (the lesser of the MMCP and the actual clearing price).

The ISO understands Puget’s position to be that because Puget sold to the ISO at a price above the \$250/MWh breakpoint then in effect in the ISO’s markets, that the ISO should have mitigated Puget to the lower of the MMCP (\$101.13/MWh) and the breakpoint (\$250/MWh), *i.e.* \$101.13/MWh. However, a closer reading of the Commission’s decision in the May 15 Order belies this position. With respect to the interaction of the breakpoint and the MMCP, the Commission explained:

During some months of the refund period, \$150 and \$250 breakpoints were triggered. Those breakpoints were triggered when the bids made at or below the breakpoints were insufficient to clear the market. Bids above the breakpoints that were accepted were paid their bids but did not set the market clearing price. Bids made at or below the breakpoints that were accepted were paid a single-price auction price equal to the highest accepted bid that was at or below the breakpoint. Thus, when the breakpoints were triggered, there was no single market clearing price. For accepted

² 99 FERC ¶ 61,160 (2002) (“May 15 Order”).

bids above the breakpoint, the refund methodology should use the lower of the bid or the MMCP. For accepted bids at or below the breakpoint, the refund methodology should use the lower of the auction price or the MMCP. *When the breakpoints were not triggered and there was a single market clearing price, the refund methodology should use the lower of the single market clearing price or the MMCP.*

(emphasis added). What Puget's position fails to take into account is that during intervals one and two of HE 2, December 9, 2000, the \$250/MWh breakpoint was *not triggered*. The ISO market cleared at a price of \$0/MWh. Because Puget's sale to the ISO was an OOM transaction, that transaction was not eligible to set the historical MCP, and it did not trigger the application of the breakpoint in the ISO's imbalance energy market. Based on the specific direction provided by the Commission in the May 15 Order, the ISO mitigated transactions during those two intervals using the "lower of the single market clearing price of the MMCP," which, in this instance, was \$0/MWh. Therefore, the ISO correctly mitigated Puget's transaction, for the first two intervals of HE 2 on December 9, 2000, at a price of \$0/MWh, rather than \$101.13/MWh. Puget's dispute, as it is based on an incorrect reading of the May 15 Order, should be rejected.

III. CONCLUSION

For the reasons set forth above, the ISO respectfully request that the Commission dismiss Puget's dispute concerning the mitigation of its OOM sale to the ISO during HE 2 on December 9, 2000.

Respectfully submitted,

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Dated: October 16, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list for the captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, CA, on this 16th day of October, 2006.

/s/ Charity Wilson

Charity Wilson