

April 18, 2003

Attn: Commission's Docket Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

RE: Docket # R.01-10-024, Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development

Dear Clerk:

Enclosed for filing please find an original and eight copies of the California Independent System Operator Corporation Reply Brief on the Prehearing Conference Issues of ALJ Walwyn in Docket # R. 01-10-024. Please date stamp one copy and return to California ISO in the self-addressed stamped envelope provided.

Thank you.

Sincerely,

Jeanne M. Solé
Regulatory Counsel

Cc: Attached Service List

**BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Establish
Policies and Cost Recovery Mechanisms for
Generation Procurement and Renewable
Resource Development

R.01-10-024

**CALIFORNIA INDEPENDENT SYSTEM OPERATOR
REPLY BRIEF ON THE PREHEARING CONFERENCE
ISSUES OF ALJ WALWYN**

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Dated: April 18, 2003

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Pursuant to Administrative Law Judge (“ALJ” or “Judge”) Walwyn’s March 7, 2003 prehearing conference statement, the California Independent System Operator Corporation (“CA ISO”) respectfully files this reply brief on issues listed in Judge Walwyn’s prehearing conference statement. Judge Walwyn invited parties to submit legal briefs on four questions. This reply brief responds to the briefs of a number of parties regarding the utilities’ legal obligation to provide reserve capacity for direct access customers, community aggregators, and distributed and self-generation customers. It explains the CA ISO’s current system to maintain adequate operating reserves in accordance with Western Electricity Coordinating Council (“WECC”, formerly the “Western Systems Coordinating Council”) and North American Reliability Council (“NERC”) standards, and responds to ideas set forth in the opening briefs about the additional requirements that the CPUC should put in place in order to maintain reliability.

I. Introduction and Summary.

Judge Walwyn asked parties to address in legal briefs four questions. The ISO will address in particular the second question: “What is the utilities’ legal obligation to provide

reserve capacity for direct access, community aggregators, and distributed and self generation customers. In answering this question parties should address such issues as: what reporting requirements the Commission may impose on these customers regarding their supply situation; what mechanisms exist or need to be established to collect the cost associated with this reserve capacity if it is acquired by the utilities, and what enforcement mechanisms the Commission should utilize if these customers fail to procure sufficient energy resources?"

In addressing the legal obligations of utilities to provide reserve capacity, the opening brief of Pacific Gas and Electric Company ("PG&E"), among others, correctly notes that it is important to define what is meant by reserve capacity. See PG&E Opening Brief at 4. In particular, it is important to distinguish between the provision of operating reserves in real-time, and the provision of planning reserves and/or resource adequacy.

Operating reserves are comprised of capacity that is reserved to respond in real time in the case of contingencies, such as the loss of a power plant or a transmission element. Operating reserve requirements applicable in the West are most clearly set forth in the Minimum Operating Reliability Criteria ("MORC") of the WECC available at http://www.wecc.biz/MORC_Pages_9-02.pdf. There is currently a well-developed system for assuring that adequate operating reserves are in place within the CA ISO control area, and the other control areas within California, and for the allocation of the responsibility for and cost of operating reserves among the loads within the CA ISO control area. Pursuant to this system, the Scheduling Coordinator for a load is responsible for its operating reserves. This system does not predetermine whether Energy Service Providers ("ESPs"), the Investor Owned Utilities ("IOUs") or some other entity should be responsible for the operating reserves for Direct Access load, community aggregators, or load served by distributed, or self-generation. However, the entity with the responsibility to provide

operating reserves must interact appropriately with the CA ISO and provide the requisite information and metering to allow the CA ISO to continue to assure that adequate operating reserves are obtained and to allocate responsibility for such reserves accurately.

The CA ISO largely agrees with PG&E's explanation in its opening brief, that planning reserves and/or resource adequacy requirements aim at eliciting sufficient capacity to meet future operating reserve needs when the time arrives. See PG&E opening brief at 5. Currently, there is a lack of clarity on the entity with the responsibility for assuring adequate planning reserves and/or resource adequacy and regarding the exact nature of the responsibility within California. It is thus necessary to clarify the requirements. Moreover, the CA ISO agrees with several commentators, which noted that the requirements should to the largest extent possible be consistent among Load Serving Entities within California, and the broader system.

II. There is currently a workable system for defining responsibilities for operating reserves and allocating their costs; the CA ISO should remain able to accurately calculate the operating reserves that are required and allocate responsibilities and costs for such operating reserves among the entities within the CA ISO control area.

A number of parties note in their opening briefs that the CA ISO has certain responsibilities to maintain reliability. This is correct. Under state and federal law, the CA ISO has the responsibility to “ensure efficient use and reliable operation of the transmission grid consistent with achievement of planning and operating reserve criteria no less stringent than those established by the Western Systems Coordinating Council and the North American Electricity Reliability Council.” Cal. Pub. Util. Code section 345; CA ISO Tariff section 2.3.1.3 as approved in 81 FERC ¶ 61,122 (October 30, 1997). Both the WECC and NERC have identified control areas as the primary entities responsible for ensuring the secure and reliable operation of the interconnected power grid. The CA ISO is the control area operator for all of

California, except the areas that comprise the control areas of Los Angeles Department of Water and Power (“LADWP”), the Sacramento Municipal Utility District (“SMUD”), and the Imperial Irrigation District (“IID”), as well as the extreme northern portion of the state, which is within the Pacificorp control area. Accordingly, the CA ISO has the responsibility to assure adequate operating reserves in most of the state, except in the control areas mentioned above.

As a number of the opening briefs represent, the CA ISO undertakes its responsibility to assure that there are adequate operating reserves within its control area by operating markets for Ancillary Services. On a daily basis the CA ISO estimates the level of Ancillary Services that will be needed within the CA ISO control area on the following day; and this amount is allocated to Scheduling Coordinators in accordance with the Ancillary Service Requirements Protocol (“ASRP”) that is part of the CA ISO Tariff approved by the Federal Energy Regulatory Commission (“FERC”). Scheduling Coordinators may either self-provide the requisite Ancillary Services or these will be procured by the CA ISO in the Day Ahead and Hour Ahead Ancillary Services markets, and the costs of such procurement passed on to the Scheduling Coordinators that did not fully self provide their Ancillary Services requirements. All loads within the control area are represented to the CA ISO by a Scheduling Coordinator that is responsible for scheduling that load with the CA ISO and submitting (or causing to be submitted) to the CA ISO accurate metering data for the load. In this manner, the CA ISO can operate the system reliably and allocate its costs, including Ancillary Services costs, accurately.

To date, these requirements of the CA ISO have been largely consistent with CPUC requirements. For example, the direct access rule adopted by the CPUC, Rule 22, requires ESPs to have one or more Scheduling Coordinators for purposes of reporting all of the ESPs end-use meter readings to the CA ISO. Rule 22, B, 3, c. This requirement helps ensure that all loads

within the service territories of the IOUs are represented at the CA ISO. Further, Rule 22 states that there can be only one Scheduling Coordinator per service account; a requirement that is mirrored by a requirement in the CA ISO Tariff, at SCAP 2.3. These requirements minimize the possibility of incomplete or inaccurate accounting for load before the CA ISO.¹ On going coordination is important.

¹ The one case in which there has not been complete coordination between CA ISO and CPUC requirements is in the case of the provision of operating reserves for self-generation and distributed generation. CA ISO rules prohibit the netting of generation against load, except in the case of certain distributed generators under 1MW or that have loads that automatically trip off-line in the event that the distributed generator ceases to operate. Nonetheless, many existing distributed generators have metering that nets generation against load. The result has been that the load served by the distributed generator is not represented before the CA ISO, and the Ancillary Services responsibility for this load cannot be accurately calculated or allocated. Moreover, CPUC rules do not set forth clearly who, as between an IOU providing standby service, and a distributed generator, has responsibility for the operating reserves for the load served by the distributed generator, or for the load served pursuant to standby service.

SCE argues in its opening brief that the IOUs have the responsibility to provide for operating reserves for the load served through standby service; however, SCE does not address which entity has the responsibility to provide for operating reserves for the load served by a distributed generator. In fact, SCE and the Qualifying Facility community have argued that it is not necessary that operating reserves be provided for loads served by distributed generation and self generation. The CA ISO strongly disagrees with this view. The question has been litigated before the FERC in docket ER98-997-000 and a decision by FERC has been pending since summer 2001.

Pending a FERC decision, the CA ISO has exempted existing distributed generators from its prohibition against metering that nets generation against load. New distributed generators 1 MW and above are not exempt. Such distributed generators are required under the current CA ISO Tariff to schedule and meter separately generation and load, and, as in the case of other service accounts, there should only be one Scheduling Coordinator per account. However, difficulties have been encountered because the utilities provide standby service and wish to schedule the load served by such standby service and the corresponding generation. However, they are unwilling to schedule the load served by the distributed generator and the output of the distributed generator. The result has been that two different Scheduling Coordinators would be required to accurately represent the full load of a particular service account consistent with CA ISO requirements. It would be very helpful for the CPUC to clarify who, as between the distributed generator and the IOU providing standby service, has the obligation to provide operating reserves for the load served by the distributed generator, and for the load served through standby service. This need not, and should not, preempt the question pending before FERC, whether any operating reserves need to be provided for load served by distributed generators. It would merely clarify whether the distributed generator or the IOU will be responsible for these operating reserves, if FERC determines that they must be provided. Moreover, the requirements as to Scheduling Coordinators and metering should be made consistent with the determination of who has the responsibility for the operating reserves. If the utilities have the responsibility (to the extent it exists) to provide operating reserves for load served by distributed generation, then they should be required to be the Scheduling Coordinator for such load and to provide for accurate metering for such load. If the distributed generator is given the responsibility, then it should be required to be the Scheduling Coordinator for the load it serves and a narrow exemption should be made to accommodate this in the one Scheduling Coordinator per service account rule.

The CA ISO's system for assuring that adequate operating reserves are maintained within the control area does not necessarily predetermine who, as between the ESP and the IOU or any other entity, should be responsible pursuant to retail rates and rules, for operating reserves for Direct Access load, aggregated customer load, or load served by self-generation or distributed generation.² Rather, pursuant to the CA ISO Tariff, the entity that is the Scheduling Coordinator for such loads would be the entity responsible for the operating reserves for such loads. It is very important, however, that the CPUC be clear about which entity has the responsibility for providing operating reserves and to put into place the appropriate requirements to ensure that the CA ISO can continue to provide for accurate accounting of loads, and operating reserves within the control area in real-time. In particular, the CPUC should require that the entity that will be responsible for operating reserves for a load be the Scheduling Coordinator for the load, and submit to the CA ISO accurate metering information for the load (and undertake all other responsibilities of a Scheduling Coordinator for that load in accordance with the CA ISO Tariff). Moreover, the CPUC should maintain the requirement that there be only one Scheduling Coordinator per service account.

² The CA ISO Tariff requires the CA ISO to provide open and non-discriminatory access to the CA ISO Controlled Grid to Eligible Customers, CA ISO Tariff section 2.1.1; an Eligible Customer is defined as any utility, Federal power marketing agency, or any person generating Energy for sale or resale, and any retail customer taking unbundled transmission service pursuant to a state retail access program or pursuant to a voluntary offer of unbundled retail transmission service by the Participating TO. CA ISO Tariff, Appendix A, Master Definitions Supplement. The CA ISO Tariff also provides that the eligibility of an End-Use Customer for Direct Access will be determined in accordance with the Direct Access eligibility and phase-in procedures (if any) adopted by the Local Regulatory Authority, and that disputes as to eligibility must be resolved by the Local Regulatory Authority. CA ISO Tariff section 2.1.2. As explained in the body of the brief, if the CPUC places upon the utilities the responsibility for operating reserves for Direct Access loads, community aggregations and loads served by distributed or self generation, it will be necessary for the utilities to be the Scheduling Coordinators for these loads. As a result, the CPUC will essentially have made these loads ineligible for Direct Access to the transmission system in the classic sense. Instead, the CPUC will have created some form of "virtual" direct access. In any event, the CPUC rules in this regards should be made clear so that the CA ISO can, in accordance with its tariff, carry out its responsibility to provide open and non-discriminatory access to the transmission system to customers eligible for such access.

CA ISO will be able to continue to assure that adequate operating reserves are maintained within the control area and to allocate responsibilities and costs for operating reserves accurately, provided that the CPUC requires that 1) the entity to be responsible for the operating reserves for a particular load be the Scheduling Coordinator for the load before the CA ISO and undertake all responsibilities of a Scheduling Coordinator for that load in accordance with the CA ISO Tariff, including the submission to the CA ISO of accurate metering data, and 2) there continue to be one Schedule Coordinator per service account.

III. There is a need to define responsibilities for planning reserves/resource adequacy, including what the responsibility is, who has it, and how the responsibility will be monitored and enforced.

Unlike in the case of operating reserves, as to planning reserves/resource adequacy, there is no well defined system within the West, or California, that defines responsibilities, what they are, who has them, or how the responsibilities will be monitored and enforced. The CA ISO largely agrees with the discussion in the opening brief of the Office of Ratepayer Advocates to the effect that the increased physical and economic integration of electric operations in the western grid have made it more challenging for a single utility, by itself, to protect its ratepayers through planning adequate reserve capacity; and that a shortage of resources for some customers in the region can cause a shortage in other parts of the region including those areas where planning reserve targets are enforced. ORA opening brief at 4. The CA ISO agrees, moreover, that as a result, a region-wide, or second best, statewide solution to ensuring resource adequacy is necessary and that planning reserve/resource adequacy requirements should apply to all Load Serving Entities. Id.

Since responsibilities for planning reserves/resource adequacy have not yet been defined, it is necessary to define the responsibilities clearly, including what they include, who has them

and how they will be monitored and enforced. Moreover, since planning reserves/resource adequacy aim towards assuring adequate operating reserves in the future, it would make sense to have responsibilities for planning reserves/resource adequacy track those for operating reserves.

The CA ISO developed a detailed program in this regard that it proposed to include in its Tariff. In this manner, the requirements would have applied equally to entities within the CA ISO's control area. In deference to the ongoing state proceedings regarding such matters, the CA ISO has requested that FERC defer action on the CA ISO's proposal until such time as the state requirements are more clearly defined. At that time, the CA ISO will reconsider the continuing need for CA ISO-administered requirements. If such requirements are not to be included in the CA ISO Tariff, then it will be necessary for the CPUC to clearly and explicitly define the requirements and set forth monitoring and enforcement mechanisms as to the entities it regulates, and the state will have to explore mechanisms to have similar requirements apply to LSEs that are not subject to CPUC jurisdiction, such as municipal utilities.

In any event, unless resource adequacy requirements are put into the CA ISO Tariff, with regard to Direct Access loads, loads served through community aggregation programs, and loads served by distributed or self-generation, the CA ISO is not aware of any other entity besides the CPUC and/or local regulatory authorities (e.g. municipal boards) that can currently impose planning reserve/resource adequacy requirements. Accordingly, the CA ISO considers that the CPUC should clearly define planning reserve/resource requirements for these loads in a manner that is equitable and assures consistent treatment and requirements.

Moreover, the CA ISO agrees with the parties that have stressed that the responsibility for planning reserves/resource adequacy must have fair associated cost recovery rules. The

entities with the responsibility to provide for resource adequacy should have a reasonable opportunity to recover their investments to carry out their responsibilities without undue risks of creating stranded investments.

In sum, the responsibilities for planning reserve/resource adequacy need to be defined, including what they are, who has them, and how they will be monitored and enforced. To the extent possible, LSEs should have consistent requirements and the allocation of responsibilities should be accompanied with fair rules on cost recovery.

IV. Conclusion.

The CA ISO agrees with the comments of several parties that the CA ISO already has a system to provide for adequate operating reserves for loads within its control area. To ensure that this system can continue to work, the CPUC must clarify which entity will have the responsibility for operating reserves for Direct Access loads, community aggregations and loads served by distributed and self generation, and the CPUC should make the entity with the responsibility for operating reserves the Scheduling Coordinator for such loads. In this way, the CA ISO will be able to continue to ensure that operating reserves are adequately procured and responsibilities and costs for the reserves are accurately and fairly allocated.

The CA ISO also agrees that responsibilities for planning reserves/resource adequacy need to be defined, and should to the largest extent possible be consistent among Load Serving Entities in California.

Respectfully submitted,

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PROOF OF SERVICE

I hereby certify that on April 18, 2003, I served by electronic and U.S. mail, the California Independent System Operator Corporation Reply Brief on the Prehearing Conference Issues of ALJ Walwyn in Docket # R. 01-10-024.

DATED at Folsom, California on April 18, 2003.

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