

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

California Independent System	)	Docket No.	ER02-1656-000
Operator Corporation	)		ER02-1656-011
			ER02-1656-012

California Independent System	)	Docket No.	ER02-2576-002
Operator Corporation			

	)		
Investigation of Wholesale Rates of Public	)		
Utility Sellers of Energy and Ancillary	)	Docket No.	EL01-68-025
Services in the Western Systems	)		
Coordinating Council	)		

**REQUEST FOR REHEARING AND CLARIFICATION OF THE CALIFORNIA  
INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Section 313(a) of the Federal Power Act, 16 U.S.C. § 825l (a), and Rules 212 and 713 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission") 18 C.F.R. §§ 385.212 and 385.713, the California Independent System Operator Corporation ("CAISO")<sup>1</sup> hereby requests that the Commission grant rehearing and clarification of its "Order on Rehearing" issued on January 17, 2003 in the captioned proceeding ("January 17 Order").

In support herein, the CAISO respectfully states as follows:

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<sup>1</sup> Capitalized terms not otherwise defined herein are defined in the Master Definitions Supplement, ISO Tariff Appendix A, as filed on August 15, 1997, and subsequently revised.

## **I. BACKGROUND**

On May 1, 2002, the CAISO filed its Comprehensive Market Design proposal (“MD02 Filing”) with the Commission. The MD02 Filing contained proposed Tariff language for a set of “Phase I” elements set to take effect when the price mitigation established in 2001 expired, including: (1) a west-wide bid cap of \$108/MWh; (2) a decremental bid cap of negative \$30/MWh; (3) local market power mitigation measures modeled after those in place in PJM; and (4) Automated Mitigation Procedures (“AMP”) to monitor for market power and mitigate bids.

On July 17, 2002, the Commission issued an “Order on the California Comprehensive Market Redesign Proposal” in which the Commission accepted, rejected, and modified in part the CAISO’s MD02 Filing.<sup>2</sup> The Commission: (1) approved a west-wide bid cap of \$250/MWh and extended the west-wide Must-Offer obligation; (2) modified the CAISO’s AMP proposal by adopting a price screen and approving looser conduct and market impact thresholds;<sup>3</sup> (3) approved the CAISO’s proposed negative decremental bid cap of negative \$30/MWh while making that cap a “soft” cap; and (4) rejected the CAISO’s proposed local market power mitigation measures and, instead, directed the CAISO to apply modified AMP procedures to test for and mitigate the exercise of local market power.

On August 16, 2002 and August 21, 2002, the ISO submitted Tariff changes to comply with the July 17 Order.<sup>4</sup> Also on August 16, 2002, the ISO submitted a request

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<sup>2</sup> *California Independent System Operator Corporation*, 100 FERC ¶ 61,060 (2002) (“July 17 Order”).

<sup>3</sup> The Commission also found that AMP should apply to imports.

<sup>4</sup> The ISO filed black-lined Tariff sheet on August 16, 2002, and revised black-lined sheets and revised clean Tariff sheets on August 21, 2002.

for rehearing of various aspects of the July 17 Order. Specifically, the ISO sought rehearing regarding: (1) the level of the AMP conduct and impact thresholds approved by the Commission; (2) the \$91.87/MWh AMP price screen; and (3) local market mitigation through the AMP. In addition, the ISO requested that the Commission clarify that marketers and System Resources are not required to bid \$0/MWh and be “price takers”.

On October 11, 2002, the Commission issued an “Order on Rehearing and Compliance Filing” in which the Commission addressed the ISO’s August 16, 2002 compliance filing and request for rehearing.<sup>5</sup> In its October 11 Order, the Commission recognized the ISO’s arguments regarding the zero-bid requirement for imports and marketers. However, the Commission found that imports bidding into the ISO Control Area must bid \$0/MWh and be “price takers”. October 11 Order at P 20. The Commission also ruled that AMP would not apply to imports. *Id.* On October 25, 2002, the Commission issued an order addressing the proposed Tariff revisions submitted by the ISO on September 20, 2002, as well as the ISO’s August 16, 2002 and August 21, 2002 compliance filings.<sup>6</sup>

On October 29, 2002, the ISO made a Tariff filing in compliance with the October 11 Order.<sup>7</sup> In its compliance filing, the ISO submitted Tariff language providing that AMP would not apply to System Resources as defined in the ISO Tariff, namely, to generating resources located outside of the ISO Control Area not under a Participating

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<sup>5</sup> *California Independent System Operator Corporation, et. al.*, 101 FERC ¶ 61, 061 (2002) (October 11 Order)

<sup>6</sup> *California Independent System Operator Corporation*, 101 FERC ¶ 61, 084 (2002) (October 25 Order)

<sup>7</sup> The Commission has not yet acted on the ISO’s compliance filing.

Generator Agreement. On November 8, 2002, the ISO filed for rehearing of certain elements of the October 11 Order. In particular, the ISO requested that the Commission vacate the zero-bid requirement.

On January 17, 2003, the Commission issued its order on rehearing of the October 11 and October 25 orders. As discussed in greater detail below, ISO seeks rehearing and clarification regarding two findings in the January 17 Order.

## **II. GROUNDS FOR REHEARING AND CLARIFICATION AND SPECIFICATION OF ERROR**

The CAISO submits that the Commission erred in the January 17 Order by directing the ISO to examine all bids under AMP if the ISO takes a bid out of merit order to address intra-zonal congestion. The Commission should vacate that determination on rehearing and find that if the ISO takes bids out-of-merit-order, the ISO is only required to examine those out-of-merit-order bids, not all in-merit-order bids, for the potential exercise of market power. The CAISO also requests that the Commission clarify that the independent entity calculating AMP reference prices is not required to calculate reference prices for power marketers. The CAISO will discuss these issues seriatim.

### **A. Subjecting All Bids to AMP When Bids Are Taken Out Of Merit Order Is Not What the Commission Previously Ordered**

In its January 17 Order, the Commission stated that, under the October 11 Order, “when a bid is taken out of merit order, the price screen is removed for all bids in the relevant zone and all bids are then examined under AMP”. January 17 Order at P 25. The Independent Energy Producers (“IEP”), in their request for clarification of the October 11 Order, argued that, in cases where a bid is taken out of merit order, those

bids accepted in merit order and below the level of the price screen should not be examined for the exercise of market power under AMP. In the January 17 Order, the Commission denied IEP's request for clarification, stating that

[w]hen bids must be taken out-of-merit-order, **all bids** must be examined through AMP to determine that market power is not being exercised.

January 17 Order at P 25 (emphasis added).

The aforementioned statement appears to conflict with the Commission's statements in prior orders specifying how local market power should be tested under AMP. For example, the Commission stated in the July 17 Order that

[I]f a bid taken out of merit order is greater than \$91.87/MWh, it is assumed to have failed the conduct test (the first AMP screen). To test for market impact (the second AMP screen), if an out of merit order bid is \$50/MWh greater than the market clearing price or over 200 percent greater than the market clearing price, that bid will be mitigated and the generator will be paid the higher of its reference price or the market clearing price. An out-of-merit bid (whether mitigated or not) is ineligible to set the market clearing price.

July 17 Order at ¶ 93. Nothing in the July 17 Order directs the ISO to, or even suggests that the ISO must, examine or mitigate any bid other than the bid taken out of merit order.

Moreover, the October 11 Order stated that only bids taken out of merit order for purposes of relieving intra-zonal congestion will be examined under AMP. In other words, it appears that the Commission limited the application of AMP for local market power to those bids taken out of merit order. In that regard, the Commission stated:

AMP is an appropriate tool that will detect an attempt to exercise local market power and notes that the removal of the [\$91.87/MWh] price screen for purposes of local AMP should reassure the E[lectricity] O[versight] B[oard] that all bids **taken out-of-merit-order** for the purposes

of relieving intra-zonal congestion will be examined for the exercise of local market power

October 11 Order at P 44 (emphasis added). Although the Commission stated otherwise in the January 17 Order, nowhere in the October 11 Order did the Commission expressly state that, when a bid is taken out of merit order, all bids are examined under AMP.

In the January 17 Order, the Commission clearly defined how the \$91.87/MWh price screen is to be applied in general (*i.e.*, system-wide) under AMP. Once the market clearing price in any zone exceeds the price screen, AMP is applied to all bids in all zones. The Commission, in conflict with prior orders, now appears to be expanding that same treatment for all bids when the ISO takes an out-of-merit-order bid to relieve intra-zonal congestion. The Commission appropriately removed the \$91.87/MWh price screen for purposes of examining bids taken out-of-merit-order for Intra-Zonal Congestion.<sup>8</sup> However, directing that all in-merit-order bids must be examined for local market power when the ISO accepts any out-of-merit-order bid goes far beyond the ISO's concerns about the \$91.87/MWh price screen. In that regard, the specific concerns the ISO raised with respect to the existence of a price screen in connection with local market power mitigation do not apply when bids are taken in merit order. Further, requiring the ISO to examine all bids under AMP when the ISO takes a bid out-of-merit-order could create unintended consequences.

Based on the Commission's direction in the July 17 and October 11 Orders, the ISO has implemented local market power AMP as a "post-process" mitigation directed

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<sup>8</sup> Otherwise, a unit with a reference price of \$30/MWh that the ISO needs to dispatch to mitigate Intra-Zonal Congestion could exercise local market power simply by bidding \$90/MWh.

only at out-of-merit-order bids. Otherwise, “general” (*i.e.*, system-wide) AMP is applied to all market bids as a “pre-process” mitigation as follows: prior to real-time, the ISO estimates how much imbalance energy it will need in real-time; the ISO projects a market clearing price based on that estimate; and then the ISO applies general AMP to the bid stack based on such projected market clearing price before any of the bids are dispatched. If general AMP is triggered, mitigation is applied *before* the ISO issues dispatch notices, and the ISO’s dispatch notices reflect new bid prices based on whatever mitigation was applied. If the ISO were required to apply general AMP as a post-process mitigation, the ISO would dispatch Energy in real-time using unmitigated bids and, if AMP were triggered, the ISO would mitigate bids *after* they were dispatched, thereby creating a potential condition in which suppliers could be dispatched at their bid price, but then settled at a mitigated price that is lower than their bid price. Applying post-process mitigation to anything other than out-of-merit-order dispatch increases market uncertainty.

Finally, if the ISO is required to apply AMP to all in-merit-order bids if it takes any bid out-of-merit-order, the ISO will not be able to implement such requirement immediately since, based on prior orders, the ISO did not implement that requirement in AMP. Rather, the ISO will need to make a significant change to its software that could take several months. Further, the ISO estimates that it will cost approximately half-a-million dollars to implement such software change.

In summary, while the Commission appropriately removed the \$91.87/MWh price screen for bids taken out-of-merit-order, it should not require that all bids be examined

for market power when out-of-merit order bids are taken to mitigate Intra-Zonal Congestion.

**B. The Commission's Should Clarify Its Observation That The Independent Entity Calculating AMP Reference Prices Should Be Able to Do So For Power Marketers**

In response to Southern California Edison's request for clarification of the application of AMP to power marketers, the Commission noted in the January 17 Order that:

[s]ince sufficient data are now available to identify resources associated with bids, the independent entity should be able to calculate AMP reference prices for power marketers.

January 17 Order at 19 (footnote omitted). The Commission should clarify that the aforementioned statement does not constitute a requirement that the ISO apply AMP to marketers.

The CAISO believes that this observation – and the directive it implies - is problematic for several reasons. First, this is really a non-issue. In that regard, as a result of the October 11 Order, the ISO has never contemplated – and the ISO's Tariff language does not contemplate – that marketers that are not bidding unit-specific resources are subject to AMP. In its October 11 Order, which expressly clarified that imports are not subject to AMP, the Commission did not state that marketers bidding non-unit-specific resources are subject to AMP. In any event, all real-time in-control-area transactions between the ISO and marketers of Energy coming from internal generation are unit-specific. The only non-unit-specific real-time transactions between the ISO and power marketers are imports. As indicated above, the Commission exempted imports from AMP in the October 11 Order. Under these circumstances,



there are no marketers bidding non-unit-specific resources for which the ISO is required to apply AMP and calculate reference prices.

Second, while suppliers are required to file transaction information with the Commission, the Commission has not directed suppliers to provide this information to Potomac Economics, Ltd., (“Potomac”) the independent entity calculating AMP reference prices. Further, nowhere (except for language in the January 17 Order suggesting that information is available to calculate reference prices for marketers) has the Commission directed the ISO or Potomac to calculate such prices.

Third, while the January 17 Order indicates that the transaction data power marketers are required to file would allow resources to be linked to bids, Attachment C of the Revised Public Utility Filing Requirements, issued on April 25, 2002, requires only that the “point of delivery specific location” as spelled out in the contract be identified. Attachment C elaborates that a “point of delivery specific location” could be a substation or a generating plant, but does not require that the “point of delivery specific location” be a unique generating unit. An entity could therefore fully comply with Attachment C without ever associating a transaction with a unique generating unit resource. However, as indicated above, the ISO has implemented AMP as a resource-specific mitigation measure. Implementing AMP as a non-resource-specific measure would have raised many questions about how to determine reference prices for supply bids not tied to any particular resource. The Commission recognized the difficulties inherent in assessing the reasonableness of non-resource-specific bids when it imposed the west-wide price mitigation in 2001. In that mitigation, resources outside the ISO Control Area (which the ISO “sees” only as offers to supply Energy at an interchange point, not as resource-

specific bids) were required to bid \$0/MWh, while resources that wanted to be eligible to set the ISO market clearing price had to furnish the ISO unit-specific heat rate data.

Accordingly, the ISO requests that the Commission clarify its statement in the January 17 Order regarding calculating reference prices for power marketers. If the Commission does intend for Potomac to calculate reference prices for power marketers, the ISO requests that the Commission provide clear guidance on how the Commission expects those prices to be calculated.

#### **IV. CONCLUSION**

WHEREFORE, for the foregoing reasons, the CAISO respectfully requests that the Commission grant the instant request for rehearing and find that the CAISO does not have to examine all bids for market power through AMP when bids are taken out-of-merit-order to address intra-zonal congestion. Further, the Commission should clarify that the ISO is not required to calculate reference prices for power marketers that are not bidding unit-specific resources.

Respectfully Submitted,

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System Operator Corporation

File: February 18, 2003



February 18, 2003

The Honorable Magalie Roman Salas  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

**Re: California Independent System Operator Corporation  
Docket No. ER02-1656-000**

**Investigation of Wholesale Rates of Public Utility Sellers and Ancillary  
Services in the Western Systems Coordinating Council  
Docket No. EL01-68-025**

Dear Secretary Salas:

Enclosed for electronic filing please find a Request for Rehearing and Clarification of the California Independent System Operator Corporation in the above-referenced dockets.

Thank you for your assistance in this matter.

Respectfully submitted,

Anthony J. Ivancovich  
Counsel for The California Independent  
System Operator Corporation

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-captioned docket.

Dated at Folsom, California, on this 18th day of February, 2003.

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Anthony J. Ivancovich