UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	))	**Docket No. ER11-4100-000**

ANSWER TO MOTIONS TO INTERVENE AND COMMENTS, MOTION TO FILE ANSWER, AND ANSWER TO PROTEST, OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

The California Independent System Operator Corporation ("ISO")[1] hereby files its answer to the motions to intervene and comments submitted in this proceeding in response to the ISO's submittal on July 22, 2011, of a filing to comply with the requirements regarding demand response compensation set forth in Commission Order No. 745.[2] The ISO also hereby submits a motion to file an answer and its answer to the protest submitted in this proceeding by CDRA.[3]

---

1 The ISO is also sometimes referred to as the CAISO. Capitalized terms not otherwise defined herein have the meanings set forth in Appendix A to the ISO tariff. Except where otherwise specified, references to section numbers are references to sections of the ISO tariff.

2 *Demand Response Compensation in Organized Wholesale Energy Markets*, Order No. 745, FERC Stats. & Regs. ¶ 31,322 (2011), *reh'g pending*. The following entities filed motions to intervene and/or comments in this proceeding: the Alliance for Retail Energy Markets; California Department of Water Resources State Water Project ("SWP"); California Public Utilities Commission ("CPUC"); Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.; Electric Power Supply Association ("EPSA"); GenOn Energy Management, LLC, GenOn Delta, LLC, and GenOn West, LP; Modesto Irrigation District; Northern California Power Agency; NRG Power Marketing LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo Power LLC, Long Beach Generation LLC and NRG Solar Blythe LLC; Southern California Edison Company; and Walmart Stores, Inc., Macy's Inc., Hilton Worldwide, Supervalu, Inc., EnerNOC, Inc., EnergyConnect, Inc., Comverge, Inc., School Project for Utility Rate Reduction, University of California, Safeway, Inc., California State University, and Viridity Energy, Inc. (collectively, "CDRA").

3 The ISO submits this answer pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. The ISO requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to make an answer to the protest. Good cause

The ISO does not object to any of the motions to intervene filed in this proceeding. Most of the comments either support the ISO's July 22 compliance filing or raise issues that go beyond the scope of that filing. The one protest submitted in response to the ISO's July 22 filing and some of the comments suggest certain modifications to the ISO tariff. For the reasons explained below, the proposed modifications are not justified and the Commission should accept the compliance filing as submitted.

I. Answer

A. The Commission Should Not Require the Elimination of the ISO's Approved Default Load Adjustment

1. The Default Load Adjustment Continues to Be Just and Reasonable

Shortly after Order No. 745 was issued, the ISO sought confirmation that the order does not require the elimination of the "default load adjustment" feature of the ISO's Commission-approved demand response tariff provisions and thereby mandate double payment for demand response reductions.[4] Consistent with the express authorization of the Commission in its Order No. 719 rulemaking, the ISO developed the default load adjustment to ensure that demand response providers and load-serving entities are not both compensated

---

for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in the case. *See, e.g.*, *Xcel Energy Services, Inc.*, 124 FERC ¶ 61,011, P 20 (2008); *California Independent System Operator Corp.*, 132 FERC ¶ 61,023, P 16 (2010); *Equitrans, L.P.*, 134 FERC ¶ 61,250, P 6 (2011).

[4] See the ISO's April 14, 2011, motion for clarification, request for rehearing, and request for substantive order within 30 days in Docket No. RM10-17.

in the ISO's market for a single reduction in demand.[5] The Commission approved the default load adjustment just last year in orders approving the ISO's proxy demand resource product.[6] The default load adjustment allows the ISO to adjust a load serving entity's load deviation quantity based on the demand response within that load serving entity's demand obligations.

Although Order No. 745 does not address the default load adjustment directly, portions of the rule could be interpreted to require the elimination of the default load adjustment and mandate double payments for demand response reductions. The ISO explained in its April 14 filing why Order No. 745 should not be so interpreted based both on the best reading of the Commission's rule and the potential for adverse consequences to the development of demand response in California.

CDRA argues that the existing Commission-approved default load adjustment mechanism set forth in Section 11.5.2.4 of the ISO tariff is inconsistent with the cost allocation principles contained in Order No. 745. Although CDRA concedes that Order No. 745 did not require the elimination of the default load adjustment by name, CDRA asserts that for Order No. 745 to

---

[5] *Wholesale Competition in Regions with Organized Electric Markets*, FERC Stats. & Regs. ¶ 31,281 at P 159 (2008) ("Order No. 719"), *order on reh'g*, Order No. 719-A, FERC Stats. & Regs. ¶ 31,292 at P 70, *order on reh'g and clarification*, Order No. 719-B, 129 FERC ¶ 61,252 (2009).

[6] The Commission approved the default load adjustment in a July 2010 order accepting tariff revisions submitted by the ISO in Docket No. ER10-765 to allow a category of demand response resources – proxy demand resources – to participate in the ISO market, effective as of August 10, 2010. *California Independent System Operator Corp.*, 132 FERC ¶ 61,045, PP 1, 25-26, 32 (2010), *order on compliance and reh'g*, 134 FERC ¶ 61,004 (2011) (describing proposed default load adjustment in detail in section of order entitled "Costs and Settlement" and directing that "[w]e accept the CAISO's cost and settlement provisions").

eliminate the default load adjustment specifically "would be out of place in a federal regulatory action applicable to all FERC jurisdictional RTOs and ISOs."[7]

CDRA is incorrect in asserting that the ISO's default load adjustment does not satisfy the Order No. 745 cost allocation principles. As the ISO explained in both its April 14 motion in Docket No. RM10-17 and its July 22 compliance filing in this proceeding, the correct reading of Order No. 745 is that it permits the ISO's continued use of the default load adjustment, which the Commission approved less than a year before Order No. 745 was issued.[8] The sole purpose of the default load adjustment is to ensure that load-serving entities and demand response providers are not both compensated in the ISO's market for a single reduction in demand, thereby ensuring the avoidance of a wholesale double payment for the demand response reduction. If the Commission intended to eliminate the default load adjustment, or otherwise intended to address the wholesale double payment issue that the default load adjustment was designed to eliminate, it would have been more consistent with the Commission's objective of providing explicit guidance on demand response issues to have said so directly.[9] Instead, the Commission merely stated that it would not permit assignment of all costs to the load-serving entity associated with the demand

---

[7] CDRA at 4-6.

[8] April 14 ISO filing at 23-24; July 22 ISO compliance filing at 11, 15.

[9] For example, Order No. 745 specifically addressed and rejected comments suggesting that the Commission should allow ISOs and RTOs to pay demand response resources "LMP minus G" (where LMP represents the locational marginal price and G represents the generation component of the retail tariff rate) with the requirement that the demand response provider be paid the full locational marginal price. Order No. 745, PP 60-64.

response provider.[10] That statement alone does not necessarily affect the default load adjustment.

Moreover, Order No. 745 found "just and reasonable the requirement that each RTO and ISO allocate the costs associated with demand response compensation proportionally to all entities that purchase from the relevant energy market in the area(s) where the demand response reduces the market price for energy at the time when the demand response resource is committed or dispatched."[11] That Commission directive is satisfied by the cost allocation methodology for payments made to proxy demand resources (which are one type of demand response that participates in the ISO market) under the existing ISO tariff.[12] Consistent with Order No. 745, payments of locational marginal prices made to proxy demand resources are allocated to the load that benefits from the demand response reduction, *i.e.*, to all load day-ahead and to deviations in real-time. The day-ahead dispatch cost for proxy demand resources is allocated to the buyers of the energy, just like for other supply resources.[13] The real-time imbalance energy cost for proxy demand resources is allocated in two tiers, just like for other imbalance energy. First, the real-time imbalance energy cost is

---

10 *Id.*, P 101.

11 *Id.*, P 102.

12 As the ISO explained in its July 22 compliance filing in this proceeding, the ISO also has pending before the Commission, in Docket No. ER11-3616, proposed tariff provisions to implement a new type of demand response in the ISO market – reliability demand response resources. Upon Commission acceptance of those tariff provisions, reliability demand response resources will be subject to the same cost allocation methodology as proxy demand resources, including the default load adjustment. July 22 ISO compliance filing at 5-6.

13 See ISO tariff, Sections 11.2, 11.8.

allocated in tier 1 to those that required the service, *i.e.*, those that deviated from their schedules and therefore required backing by the ISO for additional supply. Second, any remaining real-time imbalance energy cost is allocated in tier 2 to the market based on metered demand.[14] This settlement affords comparable treatment between supply-side and demand-side resources in the ISO market. The ISO also proposes to apply these same existing cost allocation methodologies in the ISO tariff to reliability demand response resources.[15]

The default load adjustment does not change these cost allocation rules, it simply prevents a potential wholesale double payment. Therefore, the default load adjustment and the other ISO tariff provisions discussed above comply with the express cost allocation requirements of Order No. 745 and the comparable treatment principle expressed in Order 719.[16]

There is also no merit in CDRA's argument that it would be out of place for the Commission to require the elimination of a specific existing ISO or RTO tariff requirement in an order applicable to all jurisdictional ISOs and RTOs. Nothing in any federal law, regulation, or procedure precludes the Commission from doing so. To the contrary, in past orders of general applicability, the Commission has found it appropriate to call out existing ISO and RTO tariff requirements that

---

[14] See ISO tariff, Sections 11.5, 11.8.

[15] Transmittal letter for ISO tariff amendment to implement reliability demand response resource product, Docket No. ER11-3616-000, at 3-4.

[16] *See, e.g.*, Order No. 719, P 19 ("While the Commission and the various RTOs and ISOs have done much to eliminate barriers to demand response in organized power markets, more needs to be done to ensure comparable treatment of all resources. Therefore, as discussed below, the Commission is taking action in this Final Rule to further eliminate barriers to demand response in organized power markets.").

require modification. For example, in its recent rulemaking on credit reforms in organized wholesale electricity markets (Order No. 741), the Commission recited specific ISO and RTO tariff provisions granting market participants more than two days to post additional collateral and directed each ISO and RTO to revise its tariff to establish a strict two-day limit for additional collateral to be posted, thus making it clear that the existing ISO and RTO tariff provisions specifying time limits of more than two days would no longer be acceptable.[17]

Since Order No. 745 applies only to the six ISOs and RTOs regulated by the Commission, it would have been entirely reasonable for the Commission to directly address this issue if it had intended Order No. 745 to affect this market feature. Prior to the issuance of Order No. 745, the ISO submitted comments in that rulemaking proceeding that explained in detail the wholesale double payment issue, the default load adjustment included in the ISO tariff, and the need to retain the default load adjustment.[18] In response, the Commission did not state anywhere in Order No. 745 that the default load adjustment must be eliminated. If the Commission had been inclined to require the elimination of the default load adjustment, it would have been particularly appropriate for the Commission to expressly say so given that it found the default load adjustment to be just and reasonable less than a year before the issuance of Order No. 745.[19]

---

[17] *Credit Reforms in Organized Wholesale Electric Markets*, Order No. 741, FERC Stats. & Regs ¶ 31,317, at PP 152, 160 (2010), *order on reh'g*, Order No. 741-A, FERC Stats. & Regs. ¶ 31,320, at P 35 (2011), *order denying reh'g*, Order No. 741-B, 135 FERC ¶ 61,242 (2011).

[18] See ISO comments filed in Docket No. RM10-17-000 at 6-9 (Oct. 13, 2010).

[19] See footnote 6, above.

The Commission's silence in these circumstances supports the ISO's understanding that Order No. 745 permits the continued use of the default load adjustment, not CDRA's argument that Order No. 745 eliminated its use.

CDRA concedes that eliminating the default load adjustment would result in the ISO double-paying an uninstructed deviation amount to the load-serving entity and also an amount for demand response to the demand response provider for a single reduction in demand. But CDRA states that the ISO would recoup the costs associated with the payment to the demand response provider from the entities that have benefitted from demand response through a reduction in the relevant locational marginal price, which would put the ISO in the same position from a net cost and revenue perspective under the Commission's cost allocation methodology as would be the case under the ISO's own current cost allocation methodology.[20]

CDRA misses the point of the default load adjustment. As a revenue-neutral, not-for-profit entity, the ISO is always required to balance charges and payments in the markets the ISO administers so that they equal one another, regardless of the cost allocation methodology that applies.[21] Therefore, the ISO does not dispute that it would be in the same position from a net cost and revenue perspective either with or without the default load adjustment. The

---

[20] CDRA at 6-7.

[21] *See, e.g.*, *California Independent System Operator Corp.*, 126 FERC ¶ 61,262, PP 110-19 (2009) (accepting proposed clarifications to ISO tariff "to ensure revenue neutrality in the settlement of congestion charges and payments"); *Revision of Annual Charges Assessed to Public Utilities*, 94 FERC ¶ 61,290, 62,040 (2001) (describing the ISO as a "revenue-neutral, not-for-profit entity that passes through all of its costs to the market participants that use the transmission system it operates").

purpose of the default load adjustment, however, is solely to avoid a wholesale double payment for a single wholesale market transaction.

An example illustrates why the ISO concluded that such a wholesale double payment is inappropriate in the ISO's wholesale markets. If the ISO eliminated the default load adjustment, a market participant that is both the load-serving entity (*i.e.*, an investor-owned utility or electric service provider) and the demand response provider would be paid the locational marginal price twice for the same load reduction.[22] Specifically, the load-serving entity/demand response provider would be paid both for instructed energy for the demand response sold and for uninstructed imbalance energy for any load scheduled but not consumed.[23]

2. Eliminating the Default Load Adjustment Would Adversely Affect the Implementation of Proxy Demand Resources Pursuant to the CPUC's Demand Response Rulemaking

CDRA argues that elimination of the default load adjustment would not be a significant blow to the implementation of demand response in California pursuant to the demand response rulemaking established by the CPUC.[24] The

---

[22] In the case of an investor-owned utility, the net payment it would receive ultimately may be somewhat less than double, because the customers it represents in its role as a load-serving entity would be allocated some of the double payment it received in its role as the demand response provider. Even taking this into account, the demand response provider would receive higher payment than a comparable generator providing the same service.

[23] Even if the load-serving entity/demand response provider (LSE/DRP) anticipates the expected demand response quantity and procures less load through the ISO market, that means the LSE/DRP sells a quantity of energy ("negawatts") to the ISO that it never procured. In other words, the LSE/DRP receives a double benefit for (1) the energy it did not have to procure from the wholesale market and (2) the energy it sold to the ISO as wholesale demand response but never procured.

[24] CDRA at 7-9.

facts, however, demonstrate that CDRA is wrong. As an attachment to the ISO's April 14 request for clarification and rehearing, CPUC representative Peter Skala provided a declaration in which he stated that the "default load adjustment is a critical element of the ISO's PDR [proxy demand resource] product that was developed through the collaboration of the ISO, stakeholders, and the CPUC."[25] Mr. Skala also explained that the CPUC's demand response rulemaking "cited the default load adjustment as a significant feature of the ISO's PDR product."[26] Similarly, the comments the CPUC submitted in this proceeding state that "[f]inancial settlement questions, such as the default load adjustment were critical elements of the CPUC's decision to . . . allow CPUC jurisdictional ratepayers to participate in bidding of the CAISO's Proxy Demand Resource product."[27]

Mr. Skala went on to explain in his declaration that the uncertainty created by Order No. 745 as to whether the Commission would permit the default load adjustment to be retained had already created significant issues for the CPUC's demand response rulemaking. Those issues included: (1) the filing of a motion on April 8, 2011, by the three investor-owned utilities in California, in order to delay issuance of a proposed decision on the financial settlement issues germane to the rulemaking until the uncertainty created by Order No. 745 was resolved; (2) the creation of significant potential to delay the CPUC's ability to authorize entities subject to its jurisdiction to bid demand response into the ISO;

---

[25] Declaration of Peter Skala on Behalf of the California Public Utilities Commission at 4. Mr. Skala is employed by the CPUC as Manager, Demand-Side Analysis Branch, Energy Division. *Id.* at 1.

[26] Skala Declaration at 7.

[27] CPUC at 8.

(3) the pulling of significant CPUC and market participant resources away from resolving issues related to the CPUC's demand response rulemaking; and (4) the possibility that the investor-owned utilities will need to redesign their demand response bidding software and other internal processes, thus jeopardizing their ability to take part in the proxy demand resource product in 2011 or even in 2012.[28]

Subsequent events confirm the adverse consequences to CPUC demand response initiatives arising from the potential elimination of the default load adjustment. On May 9, 2011, the CPUC issued a ruling that extended by 18 months (*i.e.*, until November 2012) its schedule for completing its demand response rulemaking. The CPUC found that the extension was necessary in relevant part because "[s]ome market participants have interpreted [Order No. 745] as eliminating the possibility of the DLA [default load adjustment] and therefore the CPUC must "await clarification from the FERC regarding whether the PDR [proxy demand resource] may be implemented as already approved by the FERC."[29]

CDRA's attempts to dispute the seriousness of the risk to the CPUC's demand response rulemaking are unconvincing. CDRA asserts that eliminating the default load adjustment would not impact many, if any, market participants, because the CPUC's June 2010 decision in the rulemaking initially permitted only

---

[28] Skala Declaration at 8-10. The CPUC noted in its comments in this proceeding that it has not yet ruled on the April 8 motion filed by the California investor-owned utilities. CPUC at 7.

[29] Assigned Commissioner's Ruling Amending Scoping Memo, issued in Proceeding R.07-01-041, at 3 & n.3 (May 9, 2010). This CPUC ruling is available on the CPUC website at http://docs.cpuc.ca.gov/efile/RULINGS/134968.pdf.

customers receiving their electricity supply from investor-owned utilities to participate in proxy demand resources through those utilities' pilot programs.[30] The utilities' pilot programs, however, are subject to expansion if circumstances allow. As Mr. Skala explained in his declaration, "the June 2010 Decision [issued in the demand response rulemaking] anticipated that the ability of CPUC jurisdictional retail customers to participate in the ISO's Proxy Demand Resource product could expand after some experience with the initial pilot programs."[31] The CPUC says the same in its comments in this proceeding.[32] This expansion of participation in the proxy demand resource product cannot occur, though, if the CPUC must return to the drawing board on the elements of its demand response initiatives related to the proxy demand product initiative due to the elimination of the default load adjustment.[33]

CDRA states that the CPUC's June 2010 decision recognized that the Commission had not yet acted on the ISO's proxy demand resource proposal, and therefore that the ISO's proposal was subject to change pursuant to a subsequent Commission order.[34] CDRA fails to mention that although the

---

30 CDRA at 8.

31 Skala Declaration at 6 (citing CPUC Decision 10-06-002, issued in Proceeding R.07-01-041, at 11-13 (June 4, 2010) (footnote omitted)). That June 2010 CPUC decision is available on the CPUC's website at http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/118962.htm.

32 CPUC at 5-6.

33 In addition, if the Commission were to require the ISO to eliminate the default load adjustment, the ISO would require a significant amount of time to take the necessary actions. The ISO estimates that it would need at least 60 days to eliminate the default load adjustment and conduct a stakeholder process to determine how proxy demand resource costs should be reallocated as a result of the Commission's directive.

34 CDRA at 8.

Commission had not issued an order on the ISO's proxy demand resource proposal by June 2010, the Commission did subsequently accept that proposal – including the default load adjustment – only a month later, in July 2010.[35] No party in the Commission's proxy demand resource proceeding sought rehearing of the Commission's approval of the default load adjustment. Therefore, after the issuance of the Commission's July 2010 order, the CPUC correctly viewed the default load adjustment as a Commission-approved component of the ISO tariff. As the CPUC explained in its May 9 ruling discussed above, only the uncertainty created by Order No. 745 has cast doubt on the use of the default load adjustment "already approved by the FERC."

CDRA argues that eliminating the default load adjustment would not adversely affect the CPUC's demand response rulemaking because the CPUC has not yet adopted policies on appropriate compensation for demand response providers or cost allocation methodologies for any costs resulting from demand response participation in wholesale markets.[36] These CDRA arguments ignore the critical importance of the default load adjustment in the CPUC's decision to allow CPUC-jurisdictional ratepayers to take part in proxy demand resources. It is untenable for CDRA to assert that eliminating the default load adjustment would not adversely affect the CPUC's rulemaking, when the CPUC itself has explained how the uncertainty created by Order No. 745 is harmful and has required an 18-month postponement of its rulemaking, and also how the

---

[35] See footnote 6, above.

[36] CDRA at 9.

elimination of the default load adjustment could result in the CPUC ending the proxy demand resource initiative.

3. Eliminating the Default Load Adjustment Would Adversely Affect the Implementation of Reliability Demand Response Resources Pursuant to a Settlement Approved by the CPUC

CDRA contends that elimination of the default load adjustment would not adversely affect the ISO's implementation of the reliability demand response resource product, which, like the proxy demand resource product, was designed to include the default load adjustment. CDRA also argues that eliminating the default load adjustment would not potentially unwind the "Reliability-Based Demand Response Settlement" approved by the CPUC.[37] Again, the facts demonstrate that CDRA is wrong.

CDRA asserts that the ISO submitted the tariff amendment to implement the reliability demand response resource product with the awareness that the tariff amendment was not in conformance with Order No. 745.[38] This argument ignores the fact that the ISO's reliability demand response resource tariff filing was the result of a settlement that was finalized prior to issuance of Order No. 745. That settlement was the culmination of several years of discussions among the ISO, CPUC, state utilities, and other interested stakeholders as to how emergency-triggered demand response resources could be integrated into the ISO's wholesale market design.

---

[37] *Id.* at 9-11.

[38] *Id.* at 10.

Moreover, as explained above, the ISO believes the correct reading of Order No. 745 is that it permits the continued use of the default load adjustment. The ISO expressly acknowledged in its tariff amendment that it had already filed for clarification from the Commission on that matter:

> The ISO timely filed a motion for clarification and request for rehearing in the alternative of Order No. 745, which is currently pending before the Commission. Among other things, the April 14 ISO Filing requested that the Commission clarify whether reliability demand response resources are subject to the requirements of Order No. 745. The April 14 ISO Filing also stated that, if the Commission does not issue an order granting the ISO's request for clarification that Order No. 745 does not require any change to the "default load adjustment" mechanism set forth in the ISO tariff by July 22, 2011 (*i.e.*, the due date of the ISO's filing to comply with Order No. 745), the ISO intends to proceed assuming that Order No. 745 does not require any change to the default load adjustment mechanism.[39]

CDRA argues that elimination of the default load adjustment would not jeopardize the Reliability-Based Demand Response Settlement.[40] CDRA is incorrect. Although the Reliability-Based Demand Response Settlement does not mention the default load adjustment by name, it does state that parties to the settlement may seek reconsideration of the terms of the settlement in an appropriate CPUC proceeding prior to 2014 in the event of "major changes in load, resource, regulatory or economic conditions from those anticipated at the time of" the settlement.[41] If the Commission were to require the elimination of the default load adjustment in its order on clarification and rehearing of Order No.

---

[39] Transmittal letter for reliability demand response resource product tariff amendment, Docket ER11-3616 at 8 (citations omitted). *See also* pp. 24-25.

[40] CDRA at 10-11.

[41] Reliability-Based Demand Response Settlement at Section 7. The Reliability-Based Demand Response Settlement is available at http://docs.cpuc.ca.gov/efile/MOTION/114111.pdf.

745, that Commission directive arguably would constitute a major change in regulatory conditions from those anticipated at the time the settlement was reached.

When the settlement was executed in February 2010, the parties rightly anticipated that the default load adjustment would be included in the ISO's process for settling demand response. The default load adjustment had long been a component of the proxy demand resource product as developed through the ISO's stakeholder process,[42] and it was supported by most of the stakeholders that commented on it.[43] The ISO submitted proxy demand resource tariff revisions that included the default load adjustment to the Commission in February 2010 with the full expectation that it would be accepted as just and reasonable – as indeed it was in July 2010.

Further, as explained in the ISO's July 22 compliance filing in this proceeding and in Mr. Skala's declaration,[44] the settlement is premised on the ISO providing information regarding the reliability demand response product to the investor-owned utilities so they can include that information in their demand

---

[42] *See* Draft Final Proposal for the Design of Proxy Demand Resource (PDR) at 39-40 (Aug. 28, 2009) (describing the purpose and operation of the default load adjustment and providing a hypothetical example illustrating how it would work in the ISO's settlement of proxy demand resources). This ISO document is available on the ISO website at http://www.caiso.com/Documents/DraftFinalProposal_theDesign-PDR-Clean.pdf.

[43] *See* Summary of Submitted Comments in Proxy Demand Resource Stakeholder Process at 4-5 (Aug. 25, 2009). This summary of stakeholder comments is available on the ISO website at http://www.caiso.com/Documents/090910DecisiononProxyDemandResource-StakeholderMatrix.pdf. No party filed comments on the default load adjustment after it was submitted to the Commission in the proxy demand resource tariff amendment.

[44] July 22 ISO compliance filing at 12-13; Skala Declaration at 12-13.

response program applications for 2012-2014.[45] That information has already been included in the applications, which were filed earlier this year. If the ISO needs to radically modify the information in order to eliminate the default load adjustment and allow for double payments, the investor-owned utilities may be unable to implement their own demand response programs within the time contemplated in the settlement due to regulatory uncertainty and the time it would take for the ISO to modify its existing systems. As a result, the settlement may again arguably be violated and the settlement terms amended as necessary.

B. The Commission Should Not Require Any Change to the ISO's Existing Measurement and Verification Methodology

CDRA states that to the extent the CPUC finds that the current, CPUC-approved baseline methodology used to estimate customer demand reductions for retail program events should be modified, CDRA will seek modification to the current wholesale baseline methodology employed by the ISO.[46] Apropos of CDRA's comment, the ISO recently submitted a filing to the CPUC urging that it retain the current 20 percent adjustment factor for the baseline methodology, at least until further studies regarding any possible modifications to that adjustment factor percentage are completed.[47] The CPUC has not yet issued an order on this issue. If and when the CPUC issues an order requiring a change to the

---

[45] Reliability-Based Demand Response Settlement at Section A(2).

[46] CDRA at 11-12.

[47] Comments of the California Independent System Operator Corporation on Applicants' Responses to Energy Division Data Requests, filed regarding Applications 11-03-001, 11-03-002, and 11-03-003 (Aug. 12, 1011). This ISO filing is available on the ISO website at http://www.caiso.com/Documents/2011-08-12_A1103001_Comments.pdf.

adjustment factor percentage, the ISO will consider that change with input from stakeholders. Until such time as the ISO (with the approval of its governing board) determines that a change to the ISO tariff baseline methodology is needed, the ISO will continue to employ the currently effective and reasonable 20 percent adjustment factor.

SWP argues that the use of the ISO's baseline methodology previously approved by the Commission, combined with the difference between retail demand's payments for energy consumption at the average default load aggregation point level and compensation for those loads' curtailment at a more granular nodal locational marginal price level, creates moral hazard and invites gaming.[48] The Commission should find that SWP's arguments are without merit and attempt to raise issues that the Commission has previously resolved.

SWP's comments in the proxy demand resource proceeding raised similar issues regarding pricing and payment for proxy demand resources.[49] SWP also states that it has a longstanding concern that a mismatch between retail load payments at the default load aggregation point and retail demand response compensation at the nodal locational marginal price increases the chance of improperly shifting cost burdens to others not benefiting from this retail demand response.[50] The Commission rejected those arguments of SWP in the proxy demand resource proceeding and should not allow SWP to attempt to re-litigate

---

[48] SWP at 3-4.

[49] *See* SWP comments, Docket No. ER10-765-000 (Mar. 9, 2010); SWP comments, Docket No. ER10-765-000 (June 7, 2010); 132 FERC ¶ 61,045, at PP 30, 63 (summarizing SWP comments).

[50] SWP at 5-6.

these issues in the instant proceeding. In its order in the proxy demand resource proceeding, the Commission denied SWP's request that the ISO be required to pay proxy demand resources the same nodal or sub-load aggregation point locational marginal price as the underlying retail customer is charged:

> We recognize SWP's concern regarding the level of granularity inherent in Default LAPs [load aggregation points]. As mentioned above, we have already directed the CAISO to introduce more granular load aggregation points. We have also noted that the timeline contained in that directive, requiring more granular load aggregation points to be introduced in time for MRTU [market redesign and technology upgrade] Release 2, which is to be implemented within three years of the MRTU go-live date of April 1, 2009 remains sufficient to address SWP's concerns. We are not persuaded that the timeline should be revised here. At such time, SWP's concerns regarding this pricing proposal will be resolved.[51]

Further, the Commission accepted the cost and settlement provisions proposed by the ISO in their entirety, subject only to the condition that the ISO undertake a study to determine if the effects of demand response apply more broadly than to the individual load-serving entity in which a proxy demand resource is located.[52]

In that same order, the Commission also found that the ISO had proposed reasonable market mitigation tools to address market manipulation or gaming concerns, including SWP's concern that gaming could occur due to market participants taking advantage of price differences between the default load aggregation point and the more granular nodal point.[53] The ISO will continue to

---

[51] 132 FERC ¶ 61,045, P 77 (citations omitted).

[52] *Id.*, PP 32, 34. The Commission directed the ISO to file this study for informational purposes 14 months after new proxy demand resources begin participating in the ISO's markets. *Id.*, P 34. The ISO will timely submit the informational study required by the Commission.

[53] *Id.*, PP 66-67.

apply those same market mitigation tools to address any market manipulation or gaming concerns.

These Commission directives regarding pricing and payment for proxy demand resources remain in effect. SWP does not identify any changed circumstances that would justify the Commission's revisiting the conclusions it reached last year in its order on the proxy demand resource tariff amendment. Therefore, for the reasons explained in that proxy demand resource order, the Commission should find that SWP's similar arguments in this proceeding are without merit.

C. The ISO Reiterates Its Request for a Commission Order on the ISO's Request for Clarification and Rehearing of Order No. 745

EPSA requests that the Commission act on the various requests for clarification and rehearing of Order No. 745, including the ISO's request for clarification and rehearing, before it requires market participants to implement the directives in Order No. 745. EPSA cites the ISO's statement in its request for clarification and rehearing that the Commission's findings regarding that filing will drive how and when demand response progresses in the California market.[54]

The ISO again requests that the Commission rule expeditiously on its request for clarification and rehearing. This will not only provide clarity to the ISO but will also permit enhancements to demand response in California to move forward. Within a month after the ISO submitted that filing on April 14, the CPUC issued its May 9 ruling that extended by 18 months the CPUC's schedule for the implementation of new demand response requirements in California. Issuance of

[54] EPSA at 5-7.

a Commission order on the ISO's request for clarification and rehearing may allow that CPUC process to move forward with greater speed.

II. Conclusion

For the reasons explained above, the Commission should accept the ISO's July 22, 2011, compliance filing as submitted in this proceeding.

Respectfully submitted,

/s/ Bradley R. Miliauskas

Nancy Saracino
General Counsel
Sidney M. Davies
Assistant General Counsel
John C. Anders
Senior Counsel
The California Independent
System Operator Corporation
250 Outcropping Way
Folsom, CA 95630
Tel: (916) 351-4400
Fax: (916) 608-7296
E-mail: sdavies@caiso.com
janders@caiso.com

Sean A. Atkins
Bradley R. Miliauskas
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004
Tel: (202) 239-3300
Fax: (202) 654-4875
E-mail: sean.atkins@alston.com
bradley.miliauskas@alston.com

Attorneys for the California Independent System Operator Corporation.

Dated: August 29, 2011

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 29th day of August, 2011.

/s/ Bradley R. Miliauskas
Bradley R. Miliauskas