



October 17, 2011

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

**Re: California Independent System Operator Corporation  
Docket Nos. ER11-4151-000 and ER11-4151-001  
Compliance Filing**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d, and Part 35 of the regulations of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. Part 35, the California Independent System Operator Corporation (“CAISO”) hereby electronically submits the instant filing and accompanying tariff amendment in compliance with the Commission’s Order Conditionally Accepting Tariff Revisions Subject to Compliance Filing, issued on September 30, 2011.<sup>1</sup>

**I. Background**

On July 29, 2011, the CAISO filed proposed modifications to the CAISO Tariff applicable to non-resource-specific system resources with resource adequacy contracts (“NRS-RA Resources”). The modifications establish provisions to: (i) allow for the CAISO to submit bids on behalf of NRS-RA Resources in the event they fail to meet the obligation to offer their resource adequacy capacity into the market; (ii) limit generated bids to the subset of hours in which NRS-RA Resources are contractually obligated to provide resource adequacy capacity, if their obligation is less than twenty-four hours a day, seven days a week; (iii) establish outage reporting requirements for the resources; and (iv) apply a new availability assessment methodology for NRS-RA Resources that is equivalent to that used for resource adequacy resources internal to the CAISO’s balancing authority area.<sup>2</sup>

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<sup>1</sup> *California Indep. Sys. Operator Corp.*, 136 FERC ¶ 61,238 (2011)(“September 30 Order”).

<sup>2</sup> Capitalized terms not otherwise defined herein have the same meaning as set forth in the CAISO Tariff, Appendix A, Master Definitions Supplement.

In the September 30 Order, the Commission accepted the ISO's proposed tariff amendments, subject to the additional tariff modifications discussed below. The Commission directed the CAISO to submit the required tariff modifications within 15 days of the date of the order

## **II. Discussion of Tariff Modifications**

The September 30 Order directed the CAISO to revise Section 9.3.10.6.1, Outage Reporting by NRS-RA Resources, to incorporate verbatim the requirements of the Commission's regulations set forth in 18 C.F.R. Sections 35.28(g)(3)(ii)(C) and 35.28(g)(3)(iv)(A). These regulations establish how the market monitoring units of independent system operators and regional transmission organizations are to notify the Commission's Office of Enforcement or refer to the Commission instances where behavior may warrant investigation or a market violation may have occurred.

In this compliance filing, the CAISO amends Tariff Section 9.3.10.6.1 to effectuate the changes required by the September 30 Order. The CAISO respectfully requests that the Commission accept these tariff modifications as complying with the directive in the September 30 Order.

The CAISO is nonetheless concerned that the tariff modifications required in the September 30 Order potentially conflict with prior Commission directives regarding the tariff language that discusses DMM and the protocols for referring investigations to the Commission's Office of Enforcement.

In its Order No. 719, the Commission required "RTOs and ISOs to include in their tariffs, and centralize in one section, all of their [market monitoring unit] provisions."<sup>3</sup> Consistent with that directive, the CAISO modified ISO Tariff Appendix P, Section 11. As a result of that amendment, DMM already is obligated to "make a non-public referral to FERC in all instances where DMM has reason to believe that a Market Violation has occurred." This general obligation would cover the specific instance where the suspected Market Violation involves the reporting of a Forced Outage or Constraint that purportedly prevents a non-Resource-Specific System Resource that provides Resource Adequacy Capacity from delivering some portion of its Resource Adequacy Capacity. In creating a specific DMM referral obligation in Section 9.10.3.6.1, the CAISO could thus be viewed as non-compliant with Order No. 719 by including a market monitoring provision outside of Appendix P (*i.e.*, the section of its tariff in which the CAISO has chosen to centralize its market monitoring unit provisions). Furthermore, in a recent Order No. 719 compliance order issued to the CAISO, the

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<sup>3</sup> *Wholesale Competition in Regions with Organized Electric Market*, 125 FERC ¶ 61,071, P 392 (2008) (Order No. 719).

Commission required the CAISO to remove Section 37.7 from its tariff.<sup>4</sup> Section 37.7 had prohibited market participants from engaging in fraudulent or deceptive schemes. Finding that this provision largely duplicated existing Commission regulations, the Commission ordered that Section 37.7 removed because it was redundant, unnecessary, and potentially confusing.<sup>5</sup> In the instant case, however, the Commission has directly ordered the CAISO to repeat a Commission regulation in its tariff verbatim.

In consideration of these prior directives, the CAISO suggests that an alternative approach to amending Section 9.3.10.6.1 may be solely to delete the tariff language the ISO had proposed in the following sentence: "If the CAISO determines that any Forced Outage or Constraint may have been the result of gaming or other questionable behavior, the CAISO shall submit a report describing the basis for its determination to the FERC." The CAISO would not replace this sentence with any additional language regarding Office of Enforcement referrals, as it was ordered to do in the September 30 Order. Under the existing provisions of Section 11 of Appendix P, DMM already is obligated to refer the matter to FERC where it has reason to believe that the reporting of the Forced Outage or Constraint may constitute a market violation. Accordingly, if ordered to do so by the Commission in an additional compliance filing, the CAISO is prepared to file further amendments to Section 9.3.10.6.1 which strike any reference to Commission referrals.

### **III. Materials Provided in the Instant Compliance Filing**

The following documents, in addition to this transmittal letter, support the instant filing:

Attachment A	Clean sheets incorporating the red-lined changes contained in Attachment B
Attachment B	Red-lined changes to the Tariff to implement the revisions contained in this filing

### **IV. Effective Date**

The CAISO requests that the Commission approve the tariff modifications submitted in this compliance filing to become effective on January 1, 2012, which is the effective date for the provisions that were approved in the Commission's September 30 Order.

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<sup>4</sup> *Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,050, PP 62-65 (2011) (*January 2011 Compliance Order*).

<sup>5</sup> *Id.*

**V. Conclusion**

The CAISO respectfully requests that the Commission accept the instant filing as complying with the directives of the September 30 Order and approve the tariff modifications to be effective on the date requested. The ISO additionally notes that it is prepared to file an additional compliance filing, as described above.

Respectfully submitted,

***/s/ Beth Ann Burns***

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Dated October 17, 2011

## **CERTIFICATE OF SERVICE**

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service lists for the above-referenced proceedings, 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 Folsom, CA this 17th day of October, 2011.

**/s/ Charity N. Wilson**  
Charity N. Wilson

**California Independent System Operator Corporation**

**Fifth Replacement FERC Electric Tariff**

**Attachment A – Clean Tariff**

**Non-Resource-Specific System –Resource Adequacy Requirements Compliance**

**October 17, 2011**

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#### **9.3.10.6.1 Outage Reporting By NRS-RA Resources**

The Scheduling Coordinator for a non-Resource-Specific System Resource that provides Resource Adequacy Capacity shall report to the CAISO through the outage management system any Forced Outage of a Generating Unit or Forced Outage or Constraint of transmission facilities external to the CAISO Balancing Authority Area that directly results in the inability of the resource to deliver all or a portion of the Resource Adequacy Capacity identified in the resource's Supply Plan to the CAISO Balancing Authority Area. The Scheduling Coordinator for a non-Resource-Specific System Resource that provides Resource Adequacy Capacity is required to provide to the CAISO notice of the Forced Outage or Constraint within sixty (60) minutes after becoming aware of the circumstance and an explanation of the Forced Outage or Constraint within two (2) Business Days after providing the notice. The explanation shall include the following: a description of the Forced Outage affecting the Generating Unit intended to be the source of the Resource Adequacy Capacity and the estimated return time of the unit; a description of the Forced Outage or Constraint of transmission facilities external to the CAISO Balancing Area Authority; and the impact of such circumstance on the resource's ability to deliver Resource Adequacy Capacity to the CAISO Balancing Authority Area. Upon request of the CAISO, the Scheduling Coordinator for a non-Resource-Specific System Resource that provides Resource Adequacy Capacity shall promptly provide additional information requested by the CAISO to enable the CAISO to review the Forced Outage or Constraint and its impact on the ability of the resource to deliver Resource Adequacy Capacity to the CAISO Balancing Authority Area.

DMM shall identify and notify the Commission's Office of Enforcement staff of instances in which the reporting of the Forced Outage or Constraint may require investigation. DMM is to make a non-public referral to the Commission in all instances where DMM has reason to believe that the reporting of the Forced Outage or Constraint constitutes a Market Violation other than those Market Violations identified in Section 11.1.13 of Appendix P. While DMM need not be able to prove that a Market Violation has occurred, DMM is to provide sufficient credible information to warrant further investigation by the Commission. Once DMM has obtained sufficient credible information to warrant referral to the Commission, DMM is to immediately refer the matter to the Commission and desist from independent

action related to the alleged Market Violation. This does not preclude DMM from continuing to monitor for any repeated instances of the activity by the same or other entities, which would constitute new Market Violations. DMM is to respond to requests from the Commission for any additional information in connection with the alleged Market Violation it has referred.

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**California Independent System Operator Corporation**

**Fifth Replacement FERC Electric Tariff**

**Attachment B – Marked Tariff**

**Non-Resource-Specific System –Resource Adequacy Requirements Compliance**

**October 17, 2011**

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#### **9.3.10.6.1 Outage Reporting By NRS-RA Resources**

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DMM shall identify and notify the Commission's Office of Enforcement staff of instances in which the reporting of the Forced Outage or Constraint may require investigation. DMM is to make a non-public referral to the Commission in all instances where DMM has reason to believe that the reporting of the Forced Outage or Constraint constitutes a Market Violation other than those Market Violations identified in Section 11.1.13 of Appendix P. While DMM need not be able to prove that a Market Violation has occurred, DMM is to provide sufficient credible information to warrant further investigation by the

Commission. Once DMM has obtained sufficient credible information to warrant referral to the Commission, DMM is to immediately refer the matter to the Commission and desist from independent action related to the alleged Market Violation. This does not preclude DMM from continuing to monitor for any repeated instances of the activity by the same or other entities, which would constitute new Market Violations. DMM is to respond to requests from the Commission for any additional information in connection with the alleged Market Violation it has referred.

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