

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

**California Independent System )  
Operator Corporation )**

**Docket No. ER06-615-000  
Docket No. ER07-1257-000**

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION  
TO COMMENTS OF THE CALIFORNIA DEPARTMENT OF WATER RESOURCES  
STATE WATER PROJECT ON THIRD ANNUAL DEMAND RESPONSE REPORT  
OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR**

The California Independent System Operator Corporation submits this answer to comments submitted by the California Department of Water Resources State Water Project to the ISO's Third Annual Demand Response Report, pursuant to the Commission's Rule 213.<sup>1</sup>

**Background**

The ISO files a public version and a confidential version of the report. As the ISO explained in its request for confidential treatment, in the past, the ISO had requested confidential treatment because the report covered only one demand response market participant, SWP. The ISO noted in the Third Annual Report that, for 2009, participation had increased with the addition of three California IOU pilots, and so, for the first time, multiple demand response participants had participated in the ISO market for non-spinning reserves. But because the 2009 pilots were limited in scope and duration,

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<sup>1</sup> Third Annual Report of the California Independent System Operator Evaluating Demand Response Participation in the ISO, Reporting Period: Calendar Year 2009, Date: January 15, 2010, public version available on the ISO's website at: <http://www.caiso.com/271f/271fd58538f30.pdf>.

SWP's comments are "Comments of the California Department of Water Resources, State Water Project, dated February 5, 2010.

market participation was still heavily weighted in favor of SWP. Accordingly, there were only four participants and SWP remained the predominant non-generation market participant. Continued confidential treatment was necessary because aggregation of the four market participants did not ensure protection.

Again this year SWP asked for a copy of the confidential version. While the ISO was able to oblige SWP in the last two years, the ISO informed SWP that it could not do so for the Third Annual Report, or future years, because of multiple market participants. SWP then asked for the ISO for a version of the report with its own data only<sup>2</sup>. The ISO replied that the request was a request that ISO prepare an individualized market participant report for SWP's convenience, that preparing customized reports for each market participant was beyond the scope of the order, and noted that SWP's bidding award and ISO payment information was equally available to SWP through the settlement information it receives in the normal course. (A copy of the ISO's communication to SWP's counsel is attached as Exhibit A to this answer.)

#### **I. SWP'S REQUEST FOR CUSTOMER SPECIFIC REPORTS GOES BEYOND THE SCOPE OF THE ORDER'S REPORTING REQUIREMENT**

SWP's request essentially requires that the ISO prepare customized award information for each demand response customer. This obligation is beyond the scope of the order requiring annual reporting.<sup>3</sup> It bears repeating that the individual customer

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<sup>2</sup> The ISO expects that, at a certain point, there will be a sufficient number of demand response market participants that aggregating the confidentiality will ensure confidentiality.

<sup>3</sup> The reporting requirement is contained in *California Independent System Operator Corp.* 119 FERC ¶ 61,313 (2007) "June 25, 2007 Order on Compliance Filings" (hereinafter "June 25, 2007 Order") at P 226.

226. Finally, we direct the CAISO to file annual reports evaluating its demand response programs, including the amount of demand response it has elicited. The CAISO should file the first report January 15, 2008. At a minimum, the CAISO's report must include: (a) information on customer enrollment for each demand response program in terms of the

information regarding its awarded bids and payments is equally available to the customer through settlement data that the customer received. Preparing individualized reports for customers would place additional and undue burden upon the ISO, especially as the number of demand response participants increase as new demand response products are put in place, such as the ISO's proxy demand resource product this spring.

## **II THE ISO'S EFFORTS TO PROMOTE DEMAND RESPONSE IN 2009 ARE DESCRIBED IN THE PUBLIC REPORT**

It is not the case that the public version of the Third Annual Report says nothing of the ISO's activities in 2009 to further demand response. To the contrary, the report explains two new opportunities for demand response participation. The report explains that in 2009, the ISO along with the California investor owned utilities, in coordination with the California Public Utilities Commission, conducted a participating load pilot which explored and demonstrated the feasibility of configuring end-use customer loads, both residential and industrial, to provide ancillary services, specifically non spinning reserves, to the ISO in the form of economically bid demand response resources. The report explains that the number of demand response participants has increased from only one entity (SWP) to four (with the IOUs, through their pilot programs, making up the other three).<sup>4</sup> The report also mentions that in 2010 the ISO will introduce the proxy

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number of customers and total potential in load reduction in MWs; and (b) information on total load reductions achieved per program per event during the prior year, including the CAISO's system load at time of curtailments, total MWs reduced, total payments for reductions and effects of the demand response programs on wholesale prices [fn omitted]

<sup>4</sup> The ISO filed a report assessing the Participating Load Pilots to FERC on February 18, 2010 "California Independent System Operator Corporation 2009 Participating Load Pilot Project Report, Assessment of Smaller Demand Resources Providing Ancillary Services, in compliance with Order No. 719 (Docket Nos. RM07-19 and ER09-1048), available on the ISO's web site at <http://www.caiso.com/2741/2741d04aa660.pdf>.

demand resource product.<sup>5</sup> The proxy demand resource product will allow demand response to bid directly into the ISO's energy and ancillary services markets (and to participate separately from the load-serving entity) as required by Order 719; allows retail demand response programs that are embedded as part of a utility's load to participate in the ISO's markets through a market bid; and simplifies forecasting and scheduling requirements for load-serving entities to more easily enable end-use customer participation.<sup>6</sup>

Over the prior two years that the ISO has issued a public and confidential report, SWP did not request that the public report include further trending information on demand response participation in the reporting year, as compared to the prior year. Having read SWP's request in its comments on the Third Annual Report, the ISO offers the following information. For 2009 the percentage of demand response contribution towards the hourly average non-spinning reserve capacity requirement held steady at 8% as compared to 2008. However, the real-time energy provided by demand response declined by 22% for 2008-2009 as compared to 2007-2008. This decline was expected, due to the partial implementation of participating load functionality at the start of MRTU which allows participating load to provide imbalance energy only for the purpose of providing non-spinning reserve. The ISO plans to complete the refinements to allow participating load full participation in the ISO markets for energy, residual unit commitment (RUC) and ancillary services in February 2011. The ISO will agree to include in future public versions of the annual report such additional information to show

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<sup>5</sup> Since the report was filed, the ISO submitted tariff amendments to FERC for proxy demand resource, on February 19, 2010. (FERC Docket No. ER10-765), available on the ISO website at <http://www.caiso.com/273f/273fcac5d70.pdf>.

<sup>6</sup> Wholesale Competition in Regions with Organized Electric Markets, 73 Fed. Reg. 64100 (Oct. 17, 2008), FERC Stats. & Regs. ¶ 31,281 (2008) ("Order No. 719")

whether demand response increased or decreased over the past year as compared to prior years.

### **III THE GRAVAMEN OF SWP'S COMPLIANT, THAT PARTICIPATING LOAD ENHANCEMENTS HAVE NOT HAPPENED SOONER, REFLECTS CONSENSUS OF THE STAKEHOLDERS THAT PROXY DEMAND RESOURCE BE DEVELOPED FIRST**

The gravamen of SWP's compliant is its dissatisfaction with the fact that the ISO's participating load enhancements, originally anticipated in 2009 have been scheduled for 2010-2011.<sup>7</sup> SWP most recently complained to the Commission about this in January its Answer in Opposition to the ISO's Motion for Clarification or in the Alternative, Rehearing<sup>8</sup>

As the ISO explained in answer to SWP's Answer in Opposition, because the participating load refinements and the proxy demand resource product have interdependencies and involve many of the same personnel, the ISO cannot simultaneously develop and implement both. ISO stakeholders engaged in the design of these products expressed a strong preference that the ISO implement the proxy demand resource product first because it satisfies critical needs expressed by the broadest group of stakeholders.<sup>9</sup> The ISO also explained that it must avoid implementation of market enhancements during the high demand summer months. The

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<sup>7</sup> See, eg, SWP Comments at p 6 ["The permanent software solutions, however, now are not scheduled to be implemented until 2011; and 7 ["delaying the FERC-mandated Participating Load refinements at the cost of reduced Participating Load demand response in CAISO markets, however, neither complies with Order 719 nor makes any sense in terms of programs like scarcity pricing, which is supposed to elicit additional demand response."]

<sup>8</sup> Answer in Opposition of the California Department of Water Resources State Water Project and Request to File One Day out of Time, filed January 7, 2010 in Docket Nos. ER09-1048-001 and the instant docket, ER06-615. SWP's answer in opposition includes a request to "require the CAISO to commit to instituting long-awaited Participating Load refinements by a date certain no later than April 2010, in line with their April 27, 2009 Update on Participating Load Functionality for Markets and Performance Initiative." *Id.* at p. 2.

<sup>9</sup> Motion for leave to Answer and Answer of the California Independent System Operator Corporation, filed January 22, 2010, at p 6, available on the ISO's website at <http://www.caiso.com/272d/272db66757d10.pdf>.

potential for serious market disruption if the new market design enhancements have unexpected consequences is much higher during the summer. At this point, the ISO cannot implement the participating load refinements prior to summer 2010, but plans implementation well before summer 2011.<sup>10</sup>

SWP rounds out its comments with various statements to support a claim that delay in ISO's participating load refinement initiative makes the ISO non-compliant with Order 719. SWP's comments do not take into account that a primary focus of Order 719 was the integration of retail customer load into wholesale markets, through direct bidding into wholesale markets of Aggregators of Retail Customers (ARCs). SWP's comments do not acknowledge that the ISO engaged in significant efforts over 2009 to develop the proxy demand resource product, described above, which provides a mechanism for load to participate the market for energy and ancillary services in day ahead market, the real time market, and residual unit commitment (RUC). The proxy demand resources product meets the requirements of FERC Order 719 to allow an ARC to participate directly in the ISO market separately from the load serving entity responsible for the retail customer's load. SWP, along with other market participants, is eligible to participate in the ISO market through proxy demand resource in May 2010, which would allow SWP additional functionality until the participating load refinements are completed in February 2011.

Moreover, the participating load pilot program and the proxy demand resource product development were direct outgrowths of the collaborative effort between the ISO, the CPUC, the California IOUs and third party aggregator entities that the Commission directed the ISO to undertake in the June 25, 2007 order, the same order which directed

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<sup>10</sup> *Id.* at p. 5.

the annual reporting. The proxy demand resource product meets the Commission's directives previously laid out for the ISO to work with stakeholders to develop new products to increase demand response participation in the ISO market.

Finally, it is worth noting that the ISO, like other RTOs and ISOs conducted a demand response barriers study in 2009 pursuant to Order 719, and reported on these efforts to the Commission. SWP engaged in vigorous debate over the content of that report, SWP arguing that "barriers of particular concern to Participating Load" were not addressed in the barriers study. SWP described these concerns as (1) the need for accurate price signals; (2) nondiscrimination against load designated as a demand response resource when it is functioning as Demand; (3) comparability in bidding, payment and cost allocation for a demand response resource when it is functioning as Supply; and (4) legal protections to ensure that a demand response resource is not subject to open ended ISO tariff or other requirements that may impose additional burdens or obligations without the demand response provider's consent.<sup>11</sup> SWP asked the Commission to issue one or more directives regarding each of these "barriers," as well as a requirement that the ISO accept certain services that SWP currently provides under its existing transmission contracts.<sup>12</sup> Accordingly, the Commission has been well informed of the issues that SWP identifies as barriers in the proposed additional efforts and directives that SWP seeks the Commission to undertake its comments on the Third Annual Report.

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<sup>11</sup> Motion to Intervene and Comments of the California Department of Water Resources State Water Project, filed May 26, 2009 in (Docket ER09-1048-000) at pp. 4-5.

<sup>12</sup> *Id.* at p. 2

## CONCLUSION

The ISO appreciates SWP's concurrence with the ISO that the Commission adjust the filing dates for the annual report to a date more than 50 days after the beginning of the calendar year, to allow the ISO to include information from late-November through year end in the reporting period.

For the reasons explained above, the Commission should reject the balance of SWP's request, including the requirements that the ISO prepare custom reports for market participants to synopsise the customer's individualized demand response activities or to require the CAISO to "acknowledge barriers" to demand response (SWP Comments at p. 8).

Respectfully submitted,

**/s/ Baldassaro "Bill" Di Capo**

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Counsel for the California Independent  
System Operator Corporation

Dated: February 22, 2010

**Exhibit A**

**Email communication from ISO to SWP**

## Dicapo, Bill

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**From:** Dicapo, Bill  
**Sent:** Thursday, January 21, 2010 12:07 PM  
**To:** Grammer, Elisa  
**Subject:** RE: Your telephone request for confidential copy of CAISO Third Annual DR report

Elisa

I am sorry, but the data was compiled in aggregated form, which in response to FERC's reporting requirement for overall participation in the CAISO market for ancillary services. Your request asks the CAISO to go back and conduct the analysis again and disaggregate the information to provide specialized reports for the market participants. While we understand that it would be convenient to CDWR-SWP to organize the information for its use, the CAISO does not perform this function and it is beyond the scope of what FERC has asked the CAISO to undertake in its reporting requirement. The information is equally available to the market participants such CDWR-SWP through the market and settlement information that the CAISO provides to its market participants.

We provided the information in the prior two years because CDWR-SWP was the only participant and there was no additional work required to provide the confidential version which contained only its participation information. So the First and Second Annual Reports were a unique case--I regret that situation is not the same this year. We also expect that the number of market participants will increase in 2010 and future years.

### **Baldassaro "Bill" Di Capo**

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**From:** Elisa Grammer [<mailto:ejgrammer@gkrse-law.com>]  
**Sent:** Tuesday, January 19, 2010 11:03 AM  
**To:** Dicapo, Bill  
**Subject:** RE: Your telephone request for confidential copy of CAISO Third Annual DR report

I was wondering—would it be possible to obtain a version that is redacted as to the non-SWP participants?

Thanks!

*Elisa J. Grammer*

Law Offices of GKRSE

1500 K St, NW, Suite 330

Washington, DC 20005

202.408.5400

202.408.5406 FAX

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**From:** Dicapo, Bill [mailto:BDiCapo@caiso.com]  
**Sent:** Tuesday, January 19, 2010 1:49 PM  
**To:** Grammer, Elisa  
**Cc:** Dicapo, Bill; Goodin, John  
**Subject:** Your telephone request for confidential copy of CAISO Third Annual DR report

Elisa  
I received your voicemail request for a copy of the confidential copy of the CAISO's Annual Report to FERC on DR Participation on behalf of CDWR-SWP.

For the first year, the CAISO has multiple participants in Demand Response—the new participants this year were the California IOUs, who each conducted a pilot program to provide non-spinning reserves. Accordingly, because the confidential version has other market participant information besides CDWR-SWP, we cannot provide you with a copy of the confidential/non-public version of the report.

I have attached the CAISO's Jan 15 filing which includes the public/redacted version.

Bill

***Baldassaro "Bill" Di Capo***  
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## CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service list in the captioned 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, California this 22<sup>nd</sup> day of February, 2010

*/s/ Anna Pascuzzo*

Anna Pascuzzo