

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

<b>The Alliance for Retail Energy Markets</b>	)	
<b>Shell Energy North America (US), L.P.</b>	)	
	)	
<b>v.</b>	)	<b>Docket No. EL14-67-000</b>
	)	
<b>California Independent System</b>	)	
<b>Operator Corporation</b>	)	

**ANSWER TO COMMENTS OF THE CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR CORPORATION**

The California Independent System Operator Corporation (“CAISO”) submits this answer to comments filed by Morgan Stanley Capital Group Inc. (“Morgan Stanley”) and Powerex Corp. (“Powerex”) regarding the complaint submitted by the Alliance for Retail Energy Markets and Shell Energy North America (US), L.P. on June 16, 2014 (together, “Complainants”).<sup>1</sup> The complaint concerns the CAISO’s resettlement of must-offer charges and payments pursuant to the Commission-established refund effective date and the Commission-directed changes to Amendment No. 60. Morgan Stanley seeks to stay the resettlement pending the CAISO production of additional information and resolution of disputes. The Commission should reject this request for relief because the CAISO is implementing Commission-directed tariff changes filed on

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<sup>1</sup> The CAISO files this answer pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213. To the extent that the Commission concludes that this filing is an impermissible answer to an answer (see 18 C.F.R. § 385.213(a)(2)), the Commission should grant leave to file the answer pursuant to Rule 212 (18 C.F.R. § 385.212) because it will clarify the issues in dispute and assist the Commission in its deliberations. See, e.g., *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,023, at P 16 (2010); *Xcel Energy Services, Inc.*, 124 FERC ¶ 61,011, at P 20 (2008); *El Paso Electric Co. v. Southwestern Pub. Serv. Co.*, 72 FERC ¶ 61,292, at 62,256 (1995).

compliance, in accordance with the settlement provisions of the CAISO tariff, which require market participants to pay invoices even if they submit settlement disputes.

In addition, Morgan Stanley and Powerex also request that the Commission direct the CAISO to provide them with sufficient information to validate their resettlement amounts. The CAISO has previously performed settlement reruns and the CAISO has provided the same level of detail to market participants for the Amendment No. 60 rerun that it has historically provided in connection with other reruns pertaining to trade dates prior to April 1, 2009. The basis of the allocations, such as measured demand, are the same values utilized in the original settlement statements and no additional information beyond what the CAISO has already provided is needed. Accordingly, there is no basis for the Commission to issue such a directive. To the extent market participants did not retain their original settlement statements, the CAISO is willing to provide certain additional detail to help them understand how to allocate costs to their customers, but the CAISO is not willing and it would be unreasonable to order the CAISO to regenerate and reissue historical settlement statements.

#### **I. Background<sup>2</sup>**

Amendment No. 60 to the CAISO tariff addressed the allocation of costs associated with the CAISO's commitment of resources pursuant to the must-offer requirement. In orders issued between 2004 and 2011, the Commission directed revisions to the allocation proposed in Amendment No. 60 and accepted CAISO

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<sup>2</sup> A more detailed description of the background is provided in the answer to complaint filed by the CAISO in this proceeding on July 7, 2014 ("Answer to Complaint").

filings to comply with the Commission's directives.<sup>3</sup> The orders apply to the CAISO settlement of the must-offer charges and payments during the refund period, which began on July 17, 2004.<sup>4</sup> The orders are all final.

On May 16, 2014, the CAISO provided each affected scheduling coordinator with a disk containing files of its resettlement data and provided a 30-day period to submit disputes. On June 19, 2014, the CAISO issued invoices to implement the resettlement, with a required payment date of June 26, 2014.<sup>5</sup>

Complainants asserted that the CAISO's resettlements of charges and payments in compliance with the Amendment No. 60 orders constitute impermissible retroactive rate increases and surcharges. Complainants also asked the Commission to stay the CAISO's issuance of invoices on the resettlement pending a Commission ruling regarding the accuracy of the resettlement amounts.

Motions to intervene and comments on the complaint, and the CAISO's Answer to Complaint, were due on July 7, 2014.<sup>6</sup> In the Answer to Complaint, the CAISO explained that the complaint should be dismissed as premature or, in

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<sup>3</sup> See *Cal. Indep. Sys. Operator Corp.*, 113 FERC ¶ 63,017 (2005); *Cal. Indep. Sys. Operator Corp.*, 117 FERC ¶ 61,348 (2006); *Cal. Indep. Sys. Operator Corp.*, 121 FERC ¶ 61,193 (2007), *reh'g denied*, 136 FERC ¶ 61,197 (2011); *Cal. Indep. Sys. Operator Corp.*, 136 FERC ¶ 61,198 (2011).

<sup>4</sup> See *Cal. Indep. Sys. Operator Corp.*, 117 FERC ¶ 61,348 (2006). The Commission approved the CAISO's Amendment No. 60 methodology, with modifications, effective as of July 17, 2004. The modifications included exempting wheel-through transactions from system must-offer charges, applying the Amendment No. 60 methodology to start-up and emissions costs, and reclassifying must-offer resource commitments to address the Miguel constraint as zonal, rather than local. The Commission also made one exception to the July 17, 2004, effective date: it approved the use of the "incremental-cost-of-local" methodology, which is used to allocate must-offer costs for local needs, effective as of October 1, 2004. *Id.* at P 123.

<sup>5</sup> See Answer to Complaint at Attachments A and B.

<sup>6</sup> Notice of Filing, Docket No. EL14-67-000 (June 17, 2014).

the alternative, denied on substantive grounds. Morgan Stanley and Powerex were the only intervenors that filed comments in support of the complaint. Southern California Edison Company also filed comments opposing the complaint.

## **II. Answer**

### **A. The Commission Should Deny the Requests for a Stay.**

Morgan Stanley argues that the Commission has generally declined to order resettlements under the circumstances presented in the Amendment No. 60 proceeding, and that any resettlement of Amendment No. 60 payments and charges should be stayed until the Commission has addressed all disputes related to the resettlement.<sup>7</sup>

The Commission should deny Morgan Stanley's request for a stay. First, it is beside the point to argue about whether the Commission has generally approved resettlements in particular circumstances. The only relevant point is that the Commission *has* issued orders in the Amendment No. 60 proceeding that require the CAISO to resettle charges in accordance with those directives.<sup>8</sup> The orders are now final. Therefore, to the extent Morgan Stanley is challenging the validity of the CAISO's resettlement, Morgan Stanley's argument is a collateral attack on the Commission's directives that require such resettlement.

Morgan Stanley has also made no showing that would justify a stay of the obligation to pay the invoices. Complainants requested a stay, but the Commission did not issue one. Accordingly, the CAISO proceeded to issue the

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<sup>7</sup> Morgan Stanley at 5-8.

<sup>8</sup> See Answer to Complaint at 8-10.

invoices on June 19, with a required payment date of June 26. Thus, the request for a stay is moot.

Further, the CAISO tariff requires all scheduling coordinators to pay the amounts invoiced even if those amounts are disputed.<sup>9</sup> If the dispute is granted, the tariff requires the CAISO to provide refunds with interest at the Commission interest rate.<sup>10</sup> Therefore, regardless of the outcome of the dispute resolution process, a disputing party will not suffer irreparable harm, which is a basic requirement for a stay.

**B. The Commenters Have Previously Been Provided Sufficient Information to Validate Their Resettlement Amounts.**

Morgan Stanley and Powerex argue that the CAISO has not provided them with sufficient information to validate their resettlement amounts and that the Commission should direct the CAISO to provide that information.<sup>11</sup> There is no need for the Commission to issue such a directive.

The CAISO has previously performed settlement reruns and has provided the same level of detail to market participants for the Amendment No. 60 rerun – including Morgan Stanley and Powerex – that it has historically provided in connection with other reruns. The basis of the allocations in the Amendment No. 60 rerun, such as measured demand, are the same values utilized in the original settlement statements. For market participants that retained their original settlement statements or underlying validation data, no additional information is needed.

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<sup>9</sup> CAISO tariff section 11.29.8.6.

<sup>10</sup> CAISO tariff section 11.29.10.2.

<sup>11</sup> Morgan Stanley at 3-4; Powerex at 7-9.

However, as explained in the Answer to Complaint, the CAISO is willing to provide customers that may no longer have their original settlement statements with some additional granularity to help them understand how to allocate costs to their customers.<sup>12</sup> If Morgan Stanley and Powerex failed to retain their original settlement statements, the CAISO can provide this additional level of granularity as part of the settlement dispute process. In any event, the Commission should not allow Morgan Stanley or Powerex to perform an end-run around the normal CAISO process or order the CAISO to regenerate and reissue historical settlement statements. The functionality to generate settlement statement files for trade dates prior to April 1, 2009 was decommissioned in late 2009. Restoration of this functionality would require hardware and software modifications that would be onerous to the CAISO. The CAISO would incur significant costs with minimal benefit to the participants. Given the current market initiatives implementation planning, the CAISO would not have resources available for this effort until late 2015 at the earliest.

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<sup>12</sup> Answer to Complaint at 12 n.31.

### III. Conclusion

For the foregoing reasons, the Commission should issue an order dismissing or denying the complaint consistent with the discussion above and the Answer to Complaint.

Respectfully submitted,

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Attorneys for the California Independent System Operator Corporation

Dated: July 25, 2014

## 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 captioned 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, DC this 25th day of July, 2014.

/s/ Bradley R. Miliauskas

Bradley R. Miliauskas  
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