

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

California Independent System Operator Corporation))))	Docket No. ER12-1856-001
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**MOTION FOR LEAVE TO FILE ANSWER
AND LIMITED ANSWER OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (“ISO”) hereby submits this Motion for Leave to File Answer and Limited Answer to the answer filed by the Western Power Trading Forum in this proceeding on November 6, 2012.¹ The Western Power Trading Forum filed its answer in response to the Motions for Reconsideration of PacifiCorp and the Portland General Electric Company regarding the Commission’s August 31, 2012, Order on Compliance Filing.² The ISO seeks to file this answer to correct an erroneous implication in the Western Power Trading Forum’s Answer, which suggests that the relevant regulations of the California Air Resources Board Commission were not final until after the Commission issued its Order.

I. MOTION FOR LEAVE TO FILE ANSWER

Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure generally prohibits answers to answers.³ The Commission has accepted answers

¹ The ISO submits this filing pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213 (2012).

² *Calif. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,169 (2012) (“August 31 Order”).

³ 18 C.F.R. § 385.213(a)(2) (2012).

that are otherwise prohibited if they clarify the issues in dispute⁴ and when the information assists the Commission in making a decision.⁵

As discussed below, the Western Power Trading Forum's answer includes several statements to the effect that the California Air Resources Board's regulations at issue in the Motions for Reconsideration were not final until September 1, 2012, which was after the Commission issued its Order. This limited answer explains why these suggestions are incorrect. The ISO believes it will clarify the issues and assist the Commission's understanding of the factual background, and therefore requests that the Commission accept this answer.

II. ANSWER

In the Motions for Reconsideration, PacifiCorp and Portland General Electric Company assert that circumstances have changed, making reconsideration appropriate, because the California Air Resources Board did not decline to amend its cap and trade regulations concerning responsibility for emissions permits in connection with imported energy until September 20, 2012. Because this was after the Commission had issued the August 31 Order, PacifiCorp argues that it constitutes changed circumstances.⁶ In its answer, the ISO explained that the relevant regulations were adopted almost a year earlier, on

⁴ See *Southwest Power Pool, Inc.*, 89 FERC ¶ 61,284 at 61,888 (1999).

⁵ See *El Paso Electric Co., et al. v. Southwestern Pub. Serv. Co.*, 72 FERC ¶ 61,292 at 62,256 (1995).

⁶ PacifiCorp Motion at 7. In its answer, the ISO pointed out that this date was within the period for filing requests for rehearing and, even if accurate, would constitute changed circumstances justifying reconsideration. ISO Answer at 9.

October 20, 2011, went into effect on January 1, 2012, and therefore cannot constitute changed circumstances.⁷

In its answer to PacifiCorp, the Western Power Trading Forum adds a new variation on the contention that reconsideration is appropriate. It states that the California Air Resources Board's regulations were not finalized on September 1, 2012, and indicates that this constitutes changed circumstances.⁸

There are two problems with the Western Power Trading Forum's argument. First, while CARB did approve certain amendments to the regulations on July 31, 2012, those amendments were irrelevant to the motions of PacifiCorp and Portland General Electric Company because they did not concern the identification of the party responsible for emissions permits in connection with imported energy. As explained by the California Air Resources Board, those late amendments concerned only program implementation and the establishment of a joint market program between California's and Quebec's programs.⁹

Second, even if those amendments had been relevant to PacifiCorp's motion, they would not constitute a changed circumstance after the Commission's August 31 Order. The California Air Resources Board finalized its consideration of the amendments on July 31, 2012,¹⁰ so PacifiCorp and Portland General Electric Company were fully aware of the content of the amendments at that time.

⁷ ISO Answer at 7.

⁸ Western Power Trading Forum Answer at 10.

⁹ See Final Statement of Reasons at 2-3, available at <http://www.arb.ca.gov/regact/2012/capandtrade12/fsor.pdf>. See also Final Regulation Order, available at <http://www.arb.ca.gov/regact/2012/capandtrade12/fro.pdf>.

¹⁰ See Notice of Decision, available at <http://www.arb.ca.gov/regact/2012/capandtrade12/nod.pdf>.

The September 1, 2012, date refers to the approval by California Office of Administrative Law.¹¹ Even the September 1, 2012, date, moreover, was well before the expiration of the period in which PacifiCorp and Portland General Electric Company could have sought rehearing.

III. CONCLUSION

For the reasons explained above, the Commission should accept this answer and consider it in ruling on the Motions.

Respectfully submitted,

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Dated: November 16, 2012

¹¹ See <http://www.arb.ca.gov/regact/2012/capandtrade12/capandtrade12.htm>.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each party listed on the official service list for these proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Executed at Folsom, California, on this 16th day of November, 2012.

Anna Pascuzzo

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