

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

California Independent System) Docket No. ER11-3616-004
Operator Corporation)

**MOTION TO FILE ANSWER OUT OF TIME, AND ANSWER TO COMMENTS,
OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (“ISO”)¹ files this answer to the comments submitted by the California Department of Water Resources State Water Project (“SWP”) in this proceeding on October 17, 2012. SWP’s comments concern the response that the ISO filed on September 26, 2012 to the Commission staff’s request for additional information regarding the ISO’s March 14, 2012 compliance filing in this proceeding. The ISO also respectfully submits a motion to file this answer out of time.²

As explained below, SWP’s comments in no way suggest that the ISO’s September 26 response is not fully responsive to the Commission staff’s request for additional information. Moreover, SWP’s comments raise issues that are beyond the scope of this proceeding and that are already the subject of a

¹ Capitalized terms not otherwise defined herein have the meanings set forth in Appendix A to the ISO tariff. The ISO is sometimes referred to as the CAISO.

² 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. Although the standard 15-day period for the ISO to file the answer ended on November 1, 2012, the ISO requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to file this answer out of time. Good cause for this waiver exists here because the answer will provide additional information to assist the Commission in the decision-making process, will not unduly prejudice any party, and will not delay the proceeding. See, e.g., *Midwest Independent Transmission System Operator, Inc.*, 141 FERC ¶ 61,050, at P 30 (2012); *Broadwater Energy, LLC*, 140 FERC ¶ 61,009, at P 4 n.5 (2012); *TC Ravenswood, LLC*, 136 FERC ¶ 61,213, at P 6 (2011).

separate stakeholder process. The Commission should accept the March 14 compliance filing without condition or further procedures.

I. Answer

A. SWP Raises Issues that Are Beyond the Scope of this Proceeding and that Are Already Subject to Separate Stakeholder Review.

The primary focus of SWP's comments is the argument that the ISO should reduce "barriers" to participation by SWP's participating loads in wholesale demand response in California.³ But as the Commission has explained, "the requirements of Order No. 745 do not apply to Participating Load," and "the Participating Load program is not affected by CAISO's [Order No. 745] compliance filing."⁴ Therefore, SWP's arguments regarding participating load are beyond the scope of this proceeding.

SWP claims that there have been delays in the stakeholder process initiated by the ISO to consider modifications to the terms under which participating loads can participate in the ISO markets.⁵ However, SWP's comments fail to present an accurate and up-to-date picture on this subject, in addition to being beyond the scope of this proceeding. First, it is important to recall that participating loads already can participate in the ISO's energy and ancillary service markets under terms found by the Commission to be just and reasonable. In addition, the comments do not mention that the ISO has included

³ SWP at 1.

⁴ *California Independent System Operator Corp.*, 137 FERC ¶ 61,217, at P 7 n.6 and P 54 (2011).

⁵ SWP at 1 and Attachment A.

the very participating load issues raised in the comments – at SWP's request – in its draft 2012 Stakeholder Initiatives Catalog currently under stakeholder review.⁶ The ISO and stakeholders necessarily must determine the appropriate priority and delegation of limited resources to participating load enhancements as part of the regular process of prioritizing the proposed initiatives described in the Stakeholder Initiatives Catalog. The ISO will host a conference call with stakeholders on November 27, 2012, and proposes to issue the final version of the catalog establishing priorities for a range of market initiatives in early December.⁷

This regular process for determining stakeholder prioritization of initiatives should be permitted to go forward without interruption or intervention. An issue favored by one stakeholder, SWP, should not be allowed to move to the front of the line merely because the stakeholder mentioned it in comments filed with the Commission that are not even within the scope of this proceeding.

Further, the ISO recently submitted an amendment to the Participating Load Agreement (“PLA”) between the ISO and SWP to extend the PLA’s termination date from November 1, 2012 to May 1, 2013.⁸ The PLA sets forth the terms and conditions that govern the provision of ancillary services and

⁶ See pages 26-27 of the draft Stakeholder Initiatives Catalog available on the ISO website at http://www.caiso.com/Documents/Draft2012StakeholderInitiativesCatalogOct22_2012.pdf. The ISO issued a market notice regarding this draft catalog on October 23, 2012. See <http://www.caiso.com/Documents/2012StakeholderInitiativesCatalog-UpdatePosted20121023.htm>.

⁷ See <http://www.caiso.com/Documents/Draft2012StakeholderInitiativesCatalogCall112712.htm>.

⁸ October 31, 2012 ISO filing to amend PLA, Docket No. ER13-258-000.

supplemental energy into the ISO markets by SWP's participating load, in a manner analogous to the participating generator agreement with regard to generating resources. The purpose of the recent amendment is to extend the term of the PLA to continue discussions between SWP and the ISO regarding extensive and fundamental changes to the PLA proposed by SWP that have not been agreed to by the ISO. Thus, the amendment will allow SWP's participating load to continue full participation in the ISO markets in accordance with the PLA and the ISO tariff as approved by the Commission, all while the parties will continue their discussions concerning the PLA changes proposed by SWP and the stakeholder process described above can unfold.

B. SWP Provides No Evidence that Undermines the Detailed Discussion Already Provided in the ISO's September 26 Response.

SWP requests that the Commission direct the ISO to provide additional detail regarding the ISO's conclusions on how demand response affects locational marginal prices and how the calculations required to conduct the analysis might be performed.⁹ The Commission should deny SWP's request.

The ISO's September 26 response already fully responds to the Commission staff's request for additional information. As part of its September 26 response, the ISO provided the sworn declaration of an expert addressing the basis for the ISO's conclusions. Dr. Abdul-Rahman, Director, Power Systems Technology Development for the ISO, described the extreme complexity of the analysis and noted that, in any event, further analysis is not needed to

⁹ SWP at 2.

understand that demand response is treated similarly to generating resources in the load balance and transmission constraints in the California region, because both types of resources have similar impacts on the system energy market clearing price and shadow prices of transmission constraints.¹⁰

Dr. Abdul-Rahman addressed this matter in the course of his explanation that the ISO system is subject to the same four general conditions that ISO New England described in explaining how its allocation of real-time demand response costs complies with Order No. 745.¹¹ Given the existence of comparable conditions in California, the ISO explained why the Commission should find that the ISO's cost allocation methodology, like that of ISO New England, satisfies the Order No. 745 requirements.¹² Indeed, the ISO's explanation provided somewhat more detail than the explanation provided by ISO New England, which the Commission found to be compliant with Order No. 745.¹³

In contrast to the detailed explanation and the supporting expert declaration provided in the ISO's September 26 response, SWP offers only unsupported concerns that there may be instances where demand response might have the possible effects theorized in its comments. These theoretical concerns are not sufficient to rebut the sworn declaration of the ISO's expert

¹⁰ September 26 ISO response, Declaration of Dr. Abdul-Rahman, at 8.

¹¹ *Id.* at 2-8.

¹² Transmittal letter for September 26 ISO response at 9-11.

¹³ Compare transmittal letter for September 26 ISO response at 9-11 and Declaration of Dr. Abdul-Rahman at 2-8, with August 19, 2011 ISO New England filing to comply with Order No. 745, Docket No. ER11-4336-000, at pages 5-6 of transmittal letter and pages 65-66 of Attachment 5 (Testimony of Henry Y. Yoshimura).

witness.¹⁴ Therefore, the Commission should reject SWP's request that the ISO supply unnecessary detail over and above the explanation already provided in the September 26 response.

II. Conclusion

For the reasons explained above and in the ISO's earlier filings in this proceeding, the Commission should accept the ISO's March 14 compliance filing, as supplemented by its September 26 response, as compliant with Order No. 745.

Respectfully submitted,

Nancy Saracino
General Counsel
Sidney M. Davies
Assistant General Counsel
John C. Anders
Senior Counsel
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

/s/ Bradley R. Miliauskas
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) 239-3300
E-mail: sean.atkins@alston.com
bradley.miliauskas@alston.com

Attorneys for the California Independent System Operator Corporation

Dated: November 7, 2012

¹⁴ See, e.g., *Indicated Shippers v. Tennessee Gas Pipeline Co.*, 121 FERC ¶ 61,151, at P 65 (2007) ("The Commission finds further that the opposing parties have presented no evidence in rebuttal and so have not rebutted Tennessee's evidence."); *ISO New England Inc.*, 119 FERC ¶ 61,178, at P 14 (2007) ("The New England Advocates have provided no evidence that would refute ISO-NE's estimates.")

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 7th day of November, 2012.

/s/ Bradley R. Miliauskas
Bradley R. Miliauskas