



California Independent  
System Operator Corporation

October 2, 2007

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

**Re: FERC Technical Conference  
Docket No. AD07-12**

Dear Ms. Bose:

The California Independent System Operator Corporation (“CAISO”) respectfully submits the prepared comments of Anthony Ivancovich, Assistant General Counsel – Regulatory, for the September 18, 2007 technical conference in the captioned proceeding.

If there are any questions concerning this filing, please contact the undersigned.

Respectfully Submitted,

**Anthony J. Ivancovich**  
**Anthony J. Ivancovich**

Counsel for the California Independent  
System Operator Corporation

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

**Reliability Standard Compliance and Enforcement )  
in Regions with Independent System Operators )Docket No. AD07-12-000  
and Regional Transmission Organizations )**

**PREPARED COMMENTS OF  
ANTHONY IVANCOVICH, ASSISTANT GENERAL COUNSEL-REGULATORY  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

**Technical Conference, September 18, 2007**

The CAISO sees this technical conference as addressing two important issues:

- #1 If an ISO or RTO is responsible for violating a Reliability Standard, what type of penalty should be imposed on the ISO or RTO (and if a monetary penalty is imposed should the ISO or RTO be permitted to pass through such penalty to its customers)?
- #2 What is the appropriate process to address a situation where an ISO/RTO may be assessed a penalty, but the violation is caused by a third-party?

**Question No. 1**

- I. Monetary penalties are not the most appropriate method of penalizing non-profit ISOs and RTOs for Reliability Standards violations**
  - Over the long-run, non-profit ISOs and RTOs have virtually no ability to pay financial sanctions, absent some pass-through mechanism, because they have no resources of their own.
- II. Monetary penalties are not necessary to incent compliance with Reliability Standards. Non-monetary penalties and incentive compensation mechanisms such as the CAISO's incentive compensation program, are sufficient incentive for ISOs and RTOs**

## **to comply with Reliability Standards**

- The CAISO's Board of Governors has approved a comprehensive Five-Year Business Plan that sets forth the CAISO's strategic objectives, corporate priorities and corporate initiatives. One of the CAISO's strategic objectives is to "Achieve Excellence in Grid and Market Operations."
- A key "deliverable" in achieving this corporate objective is complying with Reliability Standards. To that end, the CAISO's 2007 annual corporate goals (as well as previous years' corporate goals) include a specific goal for meeting Reliability Standards.
- Each and every CAISO employee "owns" this goal because each and every CAISO employees' incentive compensation is affected by the CAISO's complying, or failing to comply, with the specified Reliability Standards. The level of satisfaction of this goal is measured by established, Board of Governors approved metrics.
- This performance-based approach provides for direct accountability and constitutes an effective incentive for the CAISO to comply with Reliability Standards. Because the CAISO's approach gets leaders and resources committed to complying with the Reliability Standards and "penalizes" the persons who are directly responsible for compliance, it constitutes an effective "substitute" for shareholders bearing the penalties.
- In addition to incentive compensation measures, non-monetary penalties such as publication of violations can be an extremely effective and transparent means of incenting compliance. Publication can include publication of violations/penalties as they occur, publication of self-reported violations, year-end summary reports of all violations/penalties and/or an obligation to report violations in a timely manner to the ISO/RTO governing board.

### **III. If monetary penalties are imposed on ISOs and RTOs, the Commission should allow them to be passed through to all customers**

- Non-profit ISOs and RTOs must have the ability to pass through monetary penalties. There is no other source of funds to pay such penalties.
- The CAISO recognizes the Commission's concern that ISOs and RTOs have adequate incentive to comply with Reliability Standards. The CAISO has tremendous incentive to comply with Reliability

Standards because every CAISO employee's compensation is affected by non-compliance.

- Precedent exists for passing through monetary penalties for violations of reliability standards. In that regard, the CAISO's existing tariff permits the CAISO to pass through WECC penalties for reliability standards violations to customers through the CAISO's Grid Management Charge. See *California Independent System Operator Corporation*, 88 FERC ¶61,182 (1999).
- It is fair to spread penalty costs as broadly as possible so as not to unduly burden any particular class of customer, especially given that customers were not the cause of the non-compliance.

## **Question No. 2**

### **I. A fair and efficient process must be in place to ensure that penalties are imposed on the entity that causes the Reliability Standard violation**

- Absent some sort of tariff or contract mechanism, the potential exists for ISOs and RTOs to be assessed penalties for violations that they did not cause. This can occur when the ISO/RTO and its members are both registered for the same function, when the ISO/RTO must rely upon its members in order to comply with a standard, or when the ISO/RTO and its members must comply with the same standard. The CAISO has attempted to address this issue as follows:
  - The CAISO has entered into, and submitted to WECC, a Reliability Standards Agreement ("RSA") with its PTOs who are registered along with the CAISO as Transmission Operators ("TOPs"). The RSA specifies the requirements associated with each and every Reliability Standard with which the CAISO and its member TOPs must comply and identifies the specific entity(ies) responsible for each requirement. If two entities are responsible for a specific requirement, the RSA specifies a primary party and a supporting party and sets forth the specific responsibilities of each party.
  - Under the RSA, if the CAISO is the Responsible Entity,<sup>1</sup> we will receive the notice of violation from WECC. The CAISO will advise the supporting party that we have received the notice of violation so that both parties can participate in the WECC hearing process.

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<sup>1</sup> The RSA defines "Responsible Entity" as "the Party that is charged, as set forth in the attached Schedules, with the responsibility for demonstrating Compliance as the registered TOP in accordance with the joint registration of the CAISO and TE." The Responsible Entity is responsible for assembling the documentation necessary for demonstrating compliance.

Under WECC's procedures, it does not appear that WECC will seek to determine who actually caused a violation. Rather, WECC would perform an investigation to determine whether there was a violation, and if there is a violation, WECC would impose a penalty on the Responsible Entity even though the Responsible Entity may not have caused the violation. This could result in the CAISO being penalized simply because the CAISO is registered as the Responsible Entity even though the CAISO did not cause the violation. Under the RSA, if WECC imposes a penalty, the CAISO would work with the supporting party to determine who is responsible for causing the violation. If the CAISO and the supporting party cannot agree, the matter will go to arbitration for purposes of determining who caused the violation. The RSA provides that, if the CAISO is determined to be the culpable party, the penalty will be passed through in accordance with the CAISO tariff. If the PTO is determined to be the culpable party, then the CAISO will "assign" the penalty to the PTO.

- The CAISO believes that a better approach would be for the Commission to direct the Regional Entity, as part of its investigation of the violation, to determine the root cause of the violation, who caused the violation and who should be penalized. This would eliminate potential overlap or duplication in proceedings and would be more administratively efficient than having two proceedings or investigations for a single event.
- As a final note, the CAISO believes that the format used for the TOP RSA can be used for other Reliability Standards where the CAISO's compliance is dependent upon the tasks to be performed by its members, or where compliance with other standards creates overlapping responsibilities and the need to coordinate compliance activities and information exchange.

Respectfully submitted,

/s/ Anthony J. Ivancovich

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Dated: October 2, 2007

## 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-captioned docket, 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 2nd day of October, 2007.

/s/ Anthony J. Ivancovich

**Anthony J. Ivancovich**