UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

J.P. Morgan Ventures Energy Corp.,	)	
	)	
Complainant,	)	
	)	
v.	)	Docket No. EL12-___-000
	)	
California Independent System Operator Corp.,	)	
	)	
Respondent.	)	

COMPLAINT OF J.P. MORGAN VENTURES ENERGY CORP. AGAINST CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORP.

The California Independent System Operator Corp. ("CAISO") is violating its tariff ("Tariff" or "CAISO Tariff") by underpaying J.P. Morgan Ventures Energy Corp. ("JPMVEC") for CAISO's Exceptional Dispatches[1] of energy generating resources controlled through tolling agreements by JPMVEC and its subsidiary BE CA LLC. In April, May and June 2012, CAISO Exceptional Dispatched generating units controlled by JPMVEC on at least 18 occasions but failed to pay JPMVEC approximately $3.7 million of the total amount required by its Tariff (the "Unpaid Amounts"). To this day, CAISO continues to unlawfully withhold significant amounts due to JPMVEC for energy generated pursuant to its Exceptional Dispatch authority, in clear violation of the Tariff.[2]

JPMVEC hereby submits this complaint (the "Complaint") pursuant to section 206 of the Federal Power Act ("FPA"), 16 U.S.C. § 824e, and Rule 206 of the Commission's Rules of

[1] The CAISO Tariff defines "Exceptional Dispatch" as "a Dispatch Instruction issued for the purposes specified in Section 34.9. Energy from Exceptional Dispatches shall not set any Dispatch Interval LMP." CAISO Tariff, App. A.

[2] Given the continuing nature of the Exceptional Dispatch orders, the unlawful withholding of payments due to JPMVEC, and the CAISO resettlement process, JPMVEC reserves the right to modify and update this complaint—or file a new complaint—as conditions warrant.

Practice and Procedure, 18 C.F.R. § 385.206, seeking (1) a determination by the Commission that CAISO's failure to pay JPMVEC its bid prices for Exceptional Dispatches violated Section 11.5.6 of the CAISO Tariff, and (2) an order from the Commission directing CAISO to comply immediately with the Tariff provisions governing payment for Exceptional Dispatches and to pay JPMVEC the full amount owed for energy acquired through Exceptional Dispatches, with interest as calculated under 18 C.F.R. § 35.19a.

I. SUMMARY

CAISO's Tariff includes detailed provisions governing "Exceptional Dispatches," which are manual dispatches of generation ordered by CAISO outside of the market optimization software. These Tariff provisions, which have been carefully scrutinized by the Commission,[3] establish the rules governing issuances of Exceptional Dispatches, payments for Exceptional Dispatches, and mitigation of Exceptional Dispatches.[4] From April through June 2012—and continuing today—CAISO has failed to pay JPMVEC for Exceptional Dispatches in accordance with those provisions. Because the filed rate doctrine requires CAISO to pay market participants the rates specified in the Tariff,[5] CAISO has violated both its Tariff and the filed rate doctrine by unlawfully withholding the Unpaid Amounts from JPMVEC.

The Tariff rules regarding payment for Exceptional Dispatches make clear that in most cases of Exceptional Dispatches—and all of the situations at issue here—CAISO is required to

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[3] *See, e.g.*, *Calif. Indep. Sys. Operator Corp.*, 136 FERC ¶ 61,118 (2011); *Calif. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,218 (2009); *Calif. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,150 ("February 20 Order"), *order on reh'g*, 129 FERC ¶ 61,144 (2009); *Calif. Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,055 (2008); *Calif. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 (2006) ("September 2006 Order").

[4] *See* CAISO Tariff, §§ 11.5.6, 34.9 & 39.10.

[5] *See, e.g.*, *Williams Power Co. v. Calif. Indep. Sys. Operator Corp.*, 110 FERC ¶ 61,231 at PP 18, 23 ("*Williams v. CAISO*")(granting generator complaint and authorizing refunds to generators wrongfully denied compensation under CAISO's approved tariff and requiring prior Commission authorization of proposed tariff changes), *clarif. denied*, 111 FERC ¶ 61,348 (2005).

pay a resource that has been exceptionally dispatched the higher of its actual bid price, its Default Energy Bid ("DEB"), or the Locational Marginal Price ("LMP").[6] While CAISO has the authority to mitigate payments for Exceptional Dispatches, this authority is expressly limited to three circumstances where the Exceptional Dispatch is issued to either (1) address reliability requirements related to non-competitive transmission constraints, (2) dispatch a resource with an Ancillary Service Award or Residual Unit Commitment ("RUC") Capacity at a level that ensures their availability in Real-Time, or (3) address unit-specific environmental constraints relating to "Delta Dispatch."[7] Absent these circumstances, CAISO may not mitigate Exceptional Dispatch payments by paying the higher of DEB or LMP, rather than paying bid price.[8] None of these mitigable circumstances are applicable to the Exceptional Dispatches at issue here.

In April, May and June of 2012, CAISO violated the Tariff requirement to pay JPMVEC the higher of its bid price, DEB or LMP for Exceptional Dispatches of JPMVEC's resources. In April 2012, CAISO Exceptionally Dispatched JPMVEC's resources on 13 occasions. CAISO's initial settlement statement reflected the correct rate for these Exceptional Dispatches. In subsequent settlement statements, however, CAISO inexplicably "clawed back" these payments and paid JMVEC only the higher of DEB or LMP. In May and June 2012, CAISO Exceptionally Dispatched JPMVEC's resources on at least 5 occasions and incorrectly paid JPMVEC only the higher of DEB or LMP—not the bid price—in its settlement statements. By refusing to pay

[6] *See* CAISO Tariff, §§ 11.5.6.1, 11.5.6.2 & 11.5.6.4.

[7] *See id.* § 39.10. On August 28, 2012, in Docket No. ER12-2539-000, CAISO made a section 205 filing to add a fourth reason for mitigating Exceptional Dispatches, when the Exceptional Dispatch is needed to ramp the resource to the "Minimum Dispatchable Level" in Real-Time. CAISO asked for an effective date of August 29, 2012 for this prospective Tariff revision. *Calif. Indep. Sys. Operator Corp.*, Docket No. ER12-2539-000, Tariff Amendment and Request for Waiver of Sixty Day Notice Requirements (filed Aug. 28, 2012) ("August 28 Filing").

[8] CAISO Tariff, § 11.5.6.7.2.

JPMVEC's bid price as required by the Tariff, CAISO has unlawfully withheld from JPMVEC at least $3.7 million for these Exceptional Dispatches.

JPMVEC has disputed CAISO's unlawful withholding of the Unpaid Amounts under the Tariff's settlement dispute provisions, and has also separately requested from CAISO an explanation for CAISO's withholding of these amounts. Although CAISO should know the reasons for the Exceptional Dispatches at issue and the rationale for withholding the Unpaid Amounts, it has not provided this information despite several JPMVEC requests. CAISO's failure to provide this information is inconsistent with the Commission's repeated statements regarding the importance of transparency in CAISO's Exceptional Dispatch and mitigation decisions.[9]

CAISO has not identified any Tariff provision justifying its refusal to pay JPMVEC the amounts required by Section 11.5.6 of the Tariff, and JPMVEC is not aware of any such justification. The only possible authority to reduce payments to JPMVEC is through Exceptional Dispatch mitigation authority under Section 39.10 of the Tariff, but none of the three limited circumstances in which CAISO can exercise mitigation authority appear to be applicable in this case. And, CAISO has not shown, or even claimed in its communications with JPMVEC, that it has authority to mitigate any of the Exceptional Dispatches involved in this Complaint.

For these reasons, JPMVEC is now filing this Complaint against CAISO.

II. BACKGROUND

A. The Parties.

CAISO is a not-for-profit public benefit corporation that is responsible for operating electric power markets in California and exercising operational control over the electric

[9] *See, e.g.*, February 20 Order, 126 FERC ¶ 61,150 at PP 34, 263; *Calif. Indep. Sys. Operator Corp*., 128 FERC ¶ 61,218 at PP 43-45.

transmission facilities of those transmission owners that have transferred operational control of those facilities to CAISO. CAISO exercises this authority pursuant to tariffs and contracts filed with this Commission. CAISO operates both Day Ahead and Real-Time energy markets in California and has the authority to dispatch generating resources participating in those markets and compensate those resources in accordance with the CAISO Tariff. Most of CAISO's dispatch decisions result from the CAISO's market optimization software. However, under the Tariff, CAISO's operators also have the authority to Exceptionally Dispatch generation units, which are manual dispatches issued outside of market awards.

JPMVEC is a Delaware corporation with principal offices in New York, New York, and Houston, Texas. JPMVEC is an indirect subsidiary of JPMorgan Chase & Co. JPMVEC operates a global business engaged in transacting commodities in many markets worldwide. JPMVEC is authorized to sell capacity, energy, and ancillary services in these organized electricity markets. JPMVEC does not directly own any generating facilities, but has the right to dispatch and/or purchase the output of certain generating facilities through tolling agreements and other arrangements. In addition, certain indirect, wholly-owned subsidiaries of JPMVEC own or control generation facilities. JPMVEC is a CAISO-certified Scheduling Coordinator.

BE CA LLC ("BE CA"), a Delaware corporation and indirect, wholly-owned subsidiary of JPMVEC, is authorized to sell energy, capacity, and ancillary services in the CAISO's markets at market-based rates. BE CA obtained market-based rate authority in Docket No. ER07-1113-000, *BE Allegheny LLC*, Docket Nos. ER07-1112-000, *et al.* (unpublished delegated letter order issued Aug. 9, 2007). BE CA does not own any generating facilities, but has the right to dispatch and purchase the output of certain generating facilities in the CAISO's markets through tolling agreements.

During the relevant time period (April 2012 and forward), JPMVEC and BE CA controlled through tolling agreements the following ten generating units operating in the CAISO markets: Alamitos Unit Nos. 1 through 4, Alamitos Unit No. 6, Huntington Beach Unit No. 1, and Redondo Beach Unit Nos. 5 through 8.

B. Exceptional Dispatch Provisions of the CAISO Tariff.

Section 34.9 of the CAISO Tariff authorizes CAISO to issue Exceptional Dispatches. Exceptional Dispatches are manual dispatch instructions that are issued outside of the CAISO's market optimization software and that are not used to establish the applicable LMP. Section 34.9 was accepted by the Commission in September 2006, to be effective upon the commencement of the Market Redesign and Technology Upgrade ("MRTU").[10] Because Exceptional Dispatches require units to produce energy outside of market outcomes, the Commission emphasized that Exceptional Dispatches should only occur infrequently under the MRTU.[11] As the Commission later stated: Exceptional Dispatch should be "by definition, 'exceptional.'"[12]

The permissible reasons for issuing Exceptional Dispatches are described in Sections 34.9.1, 34.9.2 and 34.9.3 of the CAISO Tariff. Under Section 34.9.1, CAISO may issue Exceptional Dispatches during System Emergencies or to prevent an imminent System Emergency or a situation that threatens system reliability. Under Section 34.9.2, CAISO may issue Exceptional Dispatches in certain specific situations limited to: (1) performing Ancillary Services testing; (2) performing pre-commercial operation testing and periodic testing for generating units; (3) mitigating over-generation; (4) providing for Black Start and Voltage Support; (5) accommodating certain self-schedule changes; (6) reversing certain commitment

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10 *See* September 2006 Order, 116 FERC ¶ 61,274 at PP 266-69.

11 *Id.* at P 267.

12 *Calif. Indep. Sys. Operator Corp*., 125 FERC ¶ 61,055 at P 100.

instructions; and (7) preventing or minimizing a Market Disruption. Under Section 34.9.3, CAISO may issue Exceptional Dispatches to address transmission-related modeling limitations or "in response to system conditions including threatened or imminent reliability conditions for which the timing of the Real-Time Market optimization and system modeling are either too slow or incapable of bringing the CAISO Controlled Grid back to reliable operations in an appropriate time-frame based on the timing and physical characteristics of available resources to the CAISO."

Section 11.5.6 of the CAISO Tariff establishes the settlement rules for energy acquired through Exceptional Dispatches. In most cases of Exceptional Dispatches—including Exceptional Dispatches resulting from System Emergency conditions, transmission modeling limitations or non-transmission modeling limitations—CAISO must pay generating resources the *higher of* the resource's bid price, the LMP, or the DEB price for incremental energy acquired through Exceptional Dispatches. *See* CAISO Tariff, §§ 11.5.6.1, 11.5.6.2 & 11.5.6.2.4. This Commission has recognized CAISO's obligation to pay the higher of LMP, DEB or bid price for energy acquired through Exceptional Dispatches. *See, e.g.*, September 2006 Order, 116 FERC ¶ 61,274 at P 266 ("Units producing energy for Exceptional Dispatch are paid at least the higher of the applicable settlement interval LMP or the unit's bid price.").

When the Exceptional Dispatch provisions of the Tariff were first proposed and accepted by the Commission, those provisions did not include mitigation measures for Exceptional Dispatches. However, prior to MRTU commencement, CAISO proposed to revise its Tariff to add mitigation measures for Exceptional Dispatches. The Exceptional Dispatch mitigation measures are contained in Section 39.10 of the Tariff.

Under Section 39.10, CAISO has the authority to apply mitigation measures to Exceptional Dispatches in three limited circumstances where the Exceptional Dispatch is required to: (1) address reliability requirements related to non-competitive transmission constraints; (2) dispatch a resource with a previously-awarded Day Ahead Ancillary Service or RUC Capacity Award to a dispatch level that ensures their availability in Real-Time; or (3) address unit-specific environmental constraints relating to "Delta Dispatch."[13]

Section 39.10.1 of the tariff provides that Exceptional Dispatch energy that is mitigated shall be settled as provided in Section 11.5.6.7. Under Section 11.5.6.7.2, CAISO must pay the higher of the DEB price or the LMP for resources (like the JPMVEC generating resources at issue in this proceeding) that are not eligible for supplemental revenues.[14]

CAISO initially sought the authority to mitigate Exceptional Dispatches in a wide variety of circumstances. However, in the February 20 Order, the Commission denied CAISO such broad mitigation authority and approved mitigation authority in only two "limited" Exceptional Dispatch situations—one involving non-competitive transmission constraints, and one involving Delta Dispatch.[15] Subsequently, in 2011, CAISO sought and received approval to mitigate Exceptional Dispatches in a third limited circumstance where Exceptional Dispatches were

[13] "Delta Dispatch" refers to CAISO's need to manually dispatch certain resources in a particular order during several weeks of the year to address environmental restrictions in the San Francisco Bay.

[14] Under Section 11.5.6.7.1, CAISO must pay the higher of the bid price or the LMP for resources that are entitled to supplemental revenues. Under Section 11.5.6.7.3, if the bid price is lower than the DEB price and the LMP is lower than both the bid price and the DEB price, then CAISO must pay the bid price for Exceptional Dispatch energy that has been mitigated.

[15] February 20 Order, 126 FERC ¶ 61,150 at PP 74-75. In the February 20 Order, the Commission expressly rejected CAISO's request for authority to mitigate Exceptional Dispatches in other circumstances, including to ramp units to minimum dispatchable levels (*id.* at P 76); to address anticipated and unplanned outages (*id.* at P 96); to address capacity-based constraints (*id.* at P 103); to address unit-specific operating characteristics such as forbidden operating regions (*id.* at P 107); and to provide voltage support (*id.* at P 110).

needed to ramp a unit with an Ancillary Service Award or RUC Capacity up to a dispatchable level.[16]

In the February 20 Order, the Commission also required CAISO to submit periodic reports providing details on the instances and causes of CAISO's Exceptional Dispatches and any mitigation of Exceptional Dispatches.[17] The Commission reasoned that these reports were important because they provide necessary transparency to keep stakeholders and market participants informed in a timely manner about CAISO's use and mitigation of Exceptional Dispatches, and assist in ensuring that CAISO does not develop an over-reliance on exceptional dispatches.[18] Accordingly, Section 34.9.4 of the CAISO Tariff requires CAISO to provide reports twice a month regarding Exceptional Dispatches that have occurred, including an identification of "the frequency, volume, costs, causes, and degree of mitigation of Exceptional Dispatches."

On August 28, 2012, in Docket No. ER12-2539-000, CAISO made a filing under section 205 of the FPA to, *inter alia*, revise Section 39.10 of its Tariff to give CAISO mitigation authority in a fourth Exceptional Dispatch situation: when the Exceptional Dispatches are needed to ramp a resource to its "Minimum Dispatchable Level"[19] in Real-Time.[20] In that filing, CAISO indicated that it has been exercising its existing mitigation authority to mitigate certain Exceptional Dispatches of a "market participant" that have purportedly occurred recently under

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16 *See Calif. Indep. Sys. Operator Corp.*, 136 FERC ¶ 61,118 at PP 33-34.

17 *See* February 20 Order, 126 FERC ¶ 61,150 at PP 34, 263.

18 *Id. See also Calif. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,218 at PP 43-45.

19 "Minimum Dispatchable Level" is defined to mean "[t]he greater of (1) the lower limit of the fastest segment of a Generating Unit's Operational Ramp Rate, as adjusted for the Generating Unit's Forbidden Operating Regions, if any, and (2) if the resource is providing regulation, the lower limit of a Generating Unit's Regulation Range." CAISO Tariff, App. A.

20 Because CAISO seeks an effective date of August 29, 2012 for this Tariff revision, the revision—if approved by the Commission—would not apply to the Exceptional Dispatches addressed in this Complaint.

these circumstances.[21] But CAISO does not explain the basis for that purported authority it has recently exercised.

C. CAISO's Failure to Pay JPMVEC for Exceptional Dispatches as Required by the Tariff.

In April, May and June 2012, CAISO Exceptionally Dispatched certain JPMVEC generation resources—Alamitos Unit Nos. 3, 4, and 6, Huntington Beach Unit No. 1, and Redondo Beach Unit No. 7—at least 18 times, without paying JPMVEC the amount required by the Tariff. For these Exceptional Dispatches, CAISO did not pay JPMVEC the higher of the bid price, DEB or LMP as required by Section 11.5.6. Rather, CAISO ignored JPMVEC's energy bid price and instead paid JPMVEC only the DEB or LMP. CAISO has underpaid JPMVEC at least $3.7 million for these Exceptional Dispatches during this time period.

CAISO pays generating resources through a series of settlement statements at established intervals following the transaction date. The relevant settlement intervals are T+3B (three business days following the transaction), T+12B (twelve business days following the transaction), and T+55B (fifty-five business days following the transaction). After CAISO has issued the first settlement statement in which a payment occurs (typically first payments are made on the T+3B or T+12B settlement statement), it sometimes "resettles" previous payments on a follow-up or "recalculation" settlement statement. Ostensibly, such resettlements are meant to correct errors and bring payments into conformity with Tariff requirements.

In April 2012, CAISO Exceptionally Dispatched JPMVEC generation resources on at least five days without paying JPMVEC the rate required by the Tariff (the "April Exceptional Dispatches"). Initially, the April Exceptional Dispatches were settled correctly—at the higher of

[21] *See* August 28 Filing at 1, 8-9, 13, Attach. D at 17-18, 31.

bid price, DEB or LMP—in the T+3B and T+12B settlement statements. However, on the T+55B settlement statements for those transactions, CAISO resettled—or "clawed back"—those payments, disregarding JPMVEC's energy bid price and instead decreasing the payments to levels based on only DEB or LMP. These actions resulted in an unlawful withholding from JPMVEC of approximately $630,000 for the April Exceptional Dispatches.

In May 2012, CAISO Exceptionally Dispatched JPMVEC resources on at least two days without paying JPMVEC the rate required by the Tariff (the "May Exceptional Dispatches"). In the T+3B and T+12B settlement statements, CAISO unlawfully paid for the May Exceptional Dispatches at the DEB price or the LMP, instead of the higher of bid price, DEB or LMP as required by the Tariff. These actions resulted in the unlawful withholding of approximately $225,000 due to JPMVEC for the May Exceptional Dispatches.

During June 2012, CAISO Exceptionally Dispatched JPMVEC generation resources on at least three days without paying JPMVEC the rate required by the Tariff (the "June Exceptional Dispatches"). The June Exceptional Dispatches appear to have been settled incorrectly on the T+3B and T+12B settlement statements. CAISO appears to have ignored JPMVEC's energy bid prices and instead settled the June Exceptional Dispatches only at DEB or LMP. This action resulted in unlawful withholding of approximately $2.9 million due to JPMVEC for the June Exceptional Dispatches. Attachment A to this Complaint shows estimates of the April, May and June 2012 Exceptional Dispatches of JPMVEC's generating resources by CAISO and the payment amounts unlawfully withheld in connection with those Exceptional Dispatches.

CAISO has continued into September 2012 to Exceptionally Dispatch JPMVEC's generating resources without paying the rate required by the Tariff. In fact, CAISO's Exceptional Dispatches of JPMVEC's resources, and resulting withholding of payments due to

JPMVEC under the Tariff, escalated significantly in July and August of 2012. JPMVEC reserves the right to amend this Complaint or file a new complaint to address these continuing unlawful actions.

D. JPMVEC's Unsuccessful Efforts to Learn the Reasons for and Dispute CAISO's Actions.

After receiving settlement statements reflecting CAISO's failure to pay JPMVEC for Exceptional Dispatches according to the rules in the Tariff, JPMVEC disputed CAISO's settlements under the settlement dispute requirements of the CAISO Tariff.[22] JPMVEC has disputed all of the erroneous settlements subject to this complaint and is prepared to dispute all additional erroneous settlement statements as they are provided by CAISO.

For each of the disputed settlements, the Exceptional Dispatches were classified as "NONTMOD"—non-transmission-related modeling limitations—at the time of the dispatch. CAISO provided limited information to JPMVEC as to the reason for the Exceptional Dispatches, and no information at all as to the basis for withholding the Unpaid Amounts. JPMVEC has repeatedly asked CAISO for information regarding the basis for the erroneous settlements and resettlements for these Exceptional Dispatches. To date, CAISO has not provided JPMVEC with that information.

On July 22, 2012, JPMVEC sent an email to JPMVEC's CAISO client representative asking for, among other things, an explanation of the reasons for the Exceptional Dispatches and the settlement calculations that resulted in the withholding of payments due to JPMVEC under the Tariff.[23] Although the reasons for CAISO's Exceptional Dispatches and payments for those

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[22] CAISO Tariff, §§ 11.29.8.4 & 11.29.8.5.

[23] *See* Email from Stephen Greenleaf, V.P., Compliance Director, J.P. Morgan to Steve Cassinelli, Senior Client Representative, CAISO (July 22, 2012), appended hereto at Attachment B.

Exceptional Dispatches should be transparent and clear, the client representative has been unwilling or unable to provide this information to JPMVEC. Instead, the client representative responded on July 25, 2012 that the CAISO settlement representative along with the CAISO legal department and the market monitor "are still in discussions as to how best to address these disputes."[24] The client representative responded again with an update on July 27, 2012 indicating that while the CAISO settlement representative had reached a resolution, CAISO was still "waiting for legal to confirm her position and the write-up that will be attached to the disputes."[25] On August 10, 2012, the client representative confirmed that CAISO's legal department would not give him "an estimate on when they will be prepared to provide feedback."[26] On August 21, 2012, JPMVEC again asked the client representative whether CAISO could provide any information regarding the Unpaid Amounts, but the client representative responded that he did not "have any further feedback regarding the status or timeline associated with the resolution of these disputes."[27]

In light of CAISO's failure to appropriately pay JPMVEC for Exceptional Dispatches in accordance with the rules in the Tariff as well as its refusal to provide JPMVEC with an explanation for this failure, on August 27, 2012, JPMVEC sent a demand letter to CAISO regarding its unlawful withholding of the Unpaid Amounts.[28] The August 27 Demand Letter stated that CAISO unlawfully underpaid JPMVEC for Exceptional Dispatches of JPMVEC's

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[24] Email from Steve Cassinelli to Stephen Greenleaf (July 25, 2012), appended hereto at Attachment B.

[25] Email from Steve Cassinelli to Stephen Greenleaf (July 27, 2012), appended hereto at Attachment B.

[26] Email from Steve Cassinelli to Stephen Greenleaf (Aug. 10, 2012), appended hereto at Attachment B.

[27] Email from Stephen Greenleaf to Steve Cassinelli (Aug. 21, 2012) and Email from Steve Cassinelli to Stephen Greenleaf (Aug. 22, 2012), appended hereto at Attachment B.

[28] Letter from William Scherman, Skadden, Arps, Slate Meagher & Flom LLP to Nancy Saracino, V.P., General Counsel and Chief Administrative Officer, CAISO (Aug. 27, 2012) ("August 27 Demand Letter"), appended hereto at Attachment C.

resources in April, May and June 2012 and requested that CAISO remit to JPMVEC approximately $3.6 million, plus interest in unlawfully withheld settlements. The letter further stated that, if CAISO did not adequately respond within 7 days, JPMVEC reserved the right to pursue all available legal remedies, including a complaint against CAISO under section 206 of the FPA. *Id.*

CAISO responded to the August 27 Demand Letter in a letter dated August 31, 2012 (the "CAISO Response").[29] In the CAISO Response, CAISO again refused to provide an explanation for its failure to pay JPMVEC the appropriate rate for the referenced Exceptional Dispatches as required by the Tariff or for its withholding of the Unpaid Amounts. Nor did CAISO identify any existing authority that would have allowed it to mitigate these Exceptional Dispatches. Instead, CAISO surprisingly stated that it still needed "to thoroughly research and evaluate the factual circumstances surrounding each challenged dispatch." *Id.* at 1. CAISO further informed JPMVEC that it has designated JPMVEC's disputes as "complex" under the Tariff's dispute provisions, and claimed that it has "up to 15 months to investigate and resolve" the disputes. *Id.* at 1-2.

CAISO's statements in the CAISO Response appear to conflict with its representations to the Commission in the August 28 Filing. In the August 28 Filing, CAISO represented to the Commission that it has been using its existing mitigation authority to mitigate payments made for certain Exceptional Dispatches to one "market participant."[30] Assuming that CAISO was referring to JPMVEC in that Filing, it is contradictory for CAISO to assert in the August 28

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[29] *See* Letter from Nancy Saracino to William Scherman (Aug. 31, 2012) ("CAISO Response"), appended hereto at Attachment D. Although the CAISO Response is dated August 31, 2012, CAISO elected to send the letter via certified mail and the letter was not received until September 6, 2012.

[30] *See* August 28 Filing at 1, 8-9, 13, Attach. D at 17-18, 31.

Filing that it has relied on its existing mitigation authority to mitigate Exceptional Dispatch payments to JPMVEC,[31] and then, three days later, to refuse to disclose to JPMVEC the claimed justification for withholding the Unpaid Amounts or the purported authority for mitigating the relevant Exceptional Dispatches and inform JPMVEC that it still needs to study "the factual circumstances surrounding each challenged dispatch."

III. ARGUMENT

A. CAISO Has Violated Its Tariff by Failing to Pay the Required Rate for Exceptional Dispatches.

Under the filed rate doctrine, CAISO is obligated to pay generators the rates stated in its Tariff.[32] If CAISO believes that the rates stated in the Tariff are unjust and unreasonable, CAISO should seek to change the Tariff's payment provisions by requesting Commission approval prior to making any such changes.[33] CAISO cannot unilaterally and retroactively implement a new rate or procedure that affects rates, terms and conditions for service under the Tariff.[34] As the Commission found in an analogous complaint, the CAISO violated its Tariff by failing to pay a generator the rate required by the CAISO's Tariff:

> The *CAISO must operate in conformance with its approved tariff*. If the CAISO believes that additional tariff provisions are necessary to maintain operational control of its system and to minimize operating costs, it must request prior Commission authorization of the proposed tariff changes.

Id. at P 18 (emphasis added).

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[31] JPMVEC disagrees with many of the assertions made in the August 28 Filing but, for purposes of the Complaint only, will assume that CAISO believes it had such mitigation authority.

[32] *See, e.g., Ark. La Gas Co. v. Hall*, 453 U.S. 571, 577 (1981) (the filed rate doctrine "forbids a regulated entity to charge rates for its services other than those properly filed with the appropriate federal regulatory authority"); *Williams v. CAISO*, 110 FERC ¶ 61,231 at PP 18-21.

[33] *Williams v. CAISO*, 110 FERC ¶ 61,231 at P 18.

[34] *Id.* at P 21.

CAISO has violated the filed rate doctrine and its own Tariff by failing to pay JPMVEC the required rate for Exceptional Dispatches. As discussed above, Section 11.5.6 of the CAISO Tariff requires CAISO to pay for energy acquired through Exceptional Dispatches at the higher of the bid price, the DEB price or the LMP. However, CAISO has not paid JPMVEC the required rate for Exceptional Dispatches of JPMVEC's resources in April, May and June of 2012. During those months, CAISO Exceptionally Dispatched five generation units controlled by JPMVEC at least 18 times. However, CAISO has not paid JPMVEC the higher of bid price, DEB or LMP as required by its Tariff. Rather, CAISO has refused to pay JPMVEC its bid prices and has instead paid either the DEB or LMP price. As a result, CAISO has underpaid JPMVEC by approximately $3.7 million for these Exceptional Dispatches. *See* Attachment A.

JPMVEC is unaware of any justification under the CAISO Tariff for CAISO's failure to pay JPMVEC in accordance with Section 11.5.6; and CAISO has not provided any such justification to JPMVEC. Despite JPMVEC's filed disputes, multiple inquiries and a demand letter, CAISO has not provided JPMVEC with any explanation for the relevant Exceptional Dispatches or its withholding of the Unpaid Amounts. And although the August 28 Filing suggests that CAISO has been mitigating payments to JPMVEC for these Exceptional Dispatches based on some purported authority, CAISO has not informed JPMVEC that it has been exercising any such mitigation authority and has not identified any other ground for withholding amounts due to JPMVEC under the Tariff.

To the extent CAISO has in fact been mitigating its Exceptional Dispatches of JPMVEC's resources, it has no Tariff authority to do so. As explained above, Section 39.10 of the Tariff authorizes CAISO to apply mitigation measures to Exceptional Dispatches only in three narrow circumstances, and none of these circumstances are applicable to any of the

Exceptional Dispatch orders that are the subject of this Complaint. The first circumstance under which CAISO is authorized to mitigate Exceptional Dispatches—where the Exceptional Dispatch addressed reliability requirements related to non-competitive transmission constraints—does not appear to be applicable here because CAISO has not identified any such constraints that may have necessitated the Exceptional Dispatches. Nor did there exist circumstances that would justify CAISO exercising its other mitigation authority: The CAISO has not demonstrated that the relevant Exceptional Dispatches were issued to dispatch a unit to a level needed to serve an Ancillary Service Award or RUC Capacity, and the applicable units are not located near the San Francisco Bay as would be required for mitigation under Delta Dispatch.

Because the Exceptional Dispatches at issue here are not subject to mitigation under Section 39.10 of the Tariff, and any mitigation of them would be improper, there is no valid explanation—and none has been provided—for CAISO's failure to pay JPMVEC the Unpaid Amounts due to it under the Tariff.

B. The Commission Should Order CAISO to Pay JPMVEC the Amounts Required Under the Tariff, with Interest on Payments Improperly Withheld.

Rule 206 authorizes complaints against persons who are "in contravention or violation of any statute, rule, order, or other law administered by the Commission." 18 C.F.R. § 385.206(a). As shown above, CAISO has violated its FERC-approved Tariff by refusing to pay JPMVEC the higher of bid price, DEB or LMP for Exceptional Dispatches on multiple occasions since April 2012. Therefore, exercising its authority under Rule 206 and section 206 of the FPA, 16 U.S.C. § 824e, the Commission should order CAISO to immediately conform its settlements for Exceptional Dispatches of JPMVEC's resources to the Tariff requirements and to pay JPMVEC the higher of bid price, DEB or LMP for Exceptional Dispatches as required by Section 11.5.6 of the CAISO Tariff. *See Williams v. CAISO*, 110 FERC ¶ 61,231 at P 23 (ordering CAISO to refund to generators payments not made by CAISO in violation of the CAISO Tariff). The Commission should further order CAISO to provide to JPMVEC all Unpaid Amounts with interest as calculated under 18 C.F.R. § 35.19a.

IV. ADDITIONAL INFORMATION REQUIRED BY COMMISSION REGULATIONS

A. Correspondence and Communications.

JPMVEC requests that all communications and correspondence with respect to the Complaint be directed to the following individuals and that these individuals be included on the Commission's official service list for this proceeding.

Catherine M. Krupka*
Alexandra Konieczny
Sutherland Asbill & Brennan, LLP
1275 Pennsylvania Ave., N.W.
Washington, DC 20004-2415
Tel. (202) 383-0248
Catherine.Krupka@sutherland.com

William S. Scherman
John N. Estes III
Gerard A. Clark
Jason J. Fleischer*
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005
Tel. (202) 371-7916
Fax (202) 661-0518
Jason.Fleischer@skadden.com

* Persons Designated for Service

B. Other Proceedings.

In accordance with Rule 206(b)(6) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.206(b)(6), the Commission is currently considering in Docket No. ER12-2539 an FPA section 205 filing submitted by CAISO to revise prospectively the Tariff to increase CAISO's mitigation authority for Exceptional Dispatches. In addition, while not directly related to this proceeding, in an August 19, 2011 order issued in Docket No. ER11-3856-000, the Commission instituted a non-public investigation involving JPMVEC's past bidding activity in California. *Calif. Indep. Sys. Operator Corp.*, 136 FERC ¶ 61,218 (2011).

C. Documents and Other Things Supporting the Complaint.

In accordance with Rule 206(b)(8) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.206(b)(8), all documents supporting the facts in the Complaint are attached to the Complaint.

D. Negotiations Among the Parties.

In accordance with Rule 206(b)(9) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.206(b)(9), JPMVEC verifies that it has attempted in good faith to resolve these matters, but those attempts have been unsuccessful. The efforts to resolve these matters include JPMVEC's August 27 Demand Letter and the CAISO Response, appended in Attachments C and D, the Emails identified in this Complaint and appended in Attachment B, and the efforts under the dispute resolution provisions of the CAISO Tariff. JPMVEC does not believe that it would be productive to utilize the Commission's informal dispute resolution procedures.

E. Financial Impact.

For the months of April, May and June 2012, the Unpaid Amounts for Exceptional Dispatches issued to JPMVEC, excluding interest, is approximately $3.7 million. CAISO's Tariff violations continue to this day and, in fact, increased during the months of July and August 2012. If these Tariff violations continue unaddressed, the financial impact on JPMVEC could be considerably greater than $3.7 million.

F. Service and Form of Notice.

In accordance with Rule 206(c) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.206(c), JPMVEC is simultaneously serving a copy of this filing on the respondent, CAISO, whom JPMVEC reasonably expects to be affected by this Complaint.

A Form of Notice suitable for publication in the *Federal Register* in accordance with 18 C.F.R. § 385.206(b)(10) is provided in Attachment E.

V. CONCLUSION

Based on the foregoing, JPMVEC respectfully requests that the Commission grant the Complaint.

Respectfully Submitted,

/s/

William S. Scherman
John N. Estes III
Gerard A. Clark
Jason J. Fleischer
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005
William.Scherman@Skadden.com

Catherine M. Krupka
Alexandra Konieczny
Sutherland Asbill & Brennan, LLP
1275 Pennsylvania Ave., N.W.
Washington, DC 20004-2415
Catherine.Krupka@sutherland.com

Counsel for JP Morgan Ventures Energy Corp.

Dated: September 14, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Complaint on the persons listed below via email and overnight delivery:

Anthony Ivancovich
Senior Regulatory Counsel
California Independent System Operator Corporation
250 Outcropping Way
Folsom, CA 95630
Tel. (916) 351-4400
Fax (916) 608-7222
AIvancovich@caiso.com

Kenneth G. Jaffe
Alston & Bird LLP
950 F Street, N.W.
Washington, DC 20004
Tel. (202) 239-3154
Fax: (202) 654-4884
Kenneth.Jaffe@alston.com

Counsel for the California Independent Transmission System Operator Corp.

Dated in Washington, D.C. this 14th day of September, 2012.

Respectfully Submitted,

/s/

Jason J. Fleischer
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, DC 20005

ATTACHMENT A

EXCEPTIONAL DISPATCHES (APRIL, MAY AND JUNE 2012)

EXCEPTIONAL DISPATCHES IN APRIL, MAY AND JUNE 2012[1]

DATE	UNIT	T+12B PAYMENT	T+55B CLAWBACK	TARIFF AMOUNT	UNDERPAYMENT
13-Apr	AL3	$144,875.76	$74,688.58	$144,875.76	($70,187.18)
	AL4	$179,059.53	$104,592.51	$179,059.53	($74,467.02)
	HB1	$158,346.53	$131,200.41	$158,346.53	($27,146.12)
14-Apr	AL3	$84,991.29	$38,869.25	$84,991.29	($46,122.04)
	AL4	$60,949.11	$19,065.08	$60,949.11	($41,884.03)
	HB1	$55,717.52	$18,930.76	$55,717.52	($36,786.76)
15-Apr	AL3	$77,530.34	$26,375.72	$77,530.34	($51,154.62)
	AL4	$98,320.06	$43,268.85	$98,320.06	($55,051.21)
	HB1	$20,904.92	$6,424.42	$20,904.92	($14,480.50)
17-Apr	AL3	$99,598.65	$52,342.13	$99,598.65	($47,256.52)
	AL4	$110,115.39	$58,732.56	$110,115.39	($51,382.83)
21-Apr	AL4	$104,201.88	$45,704.01	$104,201.88	($58,497.87)
	AL6	$106,966.94	$50,929.40	$106,966.94	($56,037.54)
3-May	RB7	$41,594.58		$136,528.00	($94,933.42)
8-May	HB1	$5,691.57		$135,000.00	($129,308.43)
13-Jun	AL3	$211,317.85		$1,462,198.60	($1,250,880.75)
14-Jun	AL3	$43,410.28		$1,260,758.20	($1,217,347.92)
27-Jun	AL3	$42,713.83		$473,151.70	($430,437.87)
				TOTAL UNPAID AMOUNT	($3,753,362.63)

[1] The dollar figures contained in this table are estimates and are subject to change.

ATTACHMENT B

EXCEPTIONAL DISPATCH EMAILS

From: Cassinelli, Steve [mailto:SCassinelli@caiso.com]
Sent: Wednesday, August 22, 2012 11:36 AM
To: Greenleaf, Stephen T
Subject: RE: Dispute Nos. 122915 and 122947

Hi Steve
At this time, I still do not have any further feedback regarding the status or timeline associated with the resolution of these disputes. I will be sure to let you know as soon as I receive any additional information.

Thank you,

Steve Cassinelli | Senior Client Representative | California Independent System Operator
Phone 916-608-5888
scassinelli@caiso.com

From: Greenleaf, Stephen T [mailto:stephen.t.greenleaf@jpmorgan.com]
Sent: Tuesday, August 21, 2012 8:11 AM
To: Cassinelli, Steve
Cc: 'catherine.krupka@sutherland.com'; 'william.scherman@skadden.com'
Subject: RE: Dispute Nos. 122915 and 122947

Steve,

Have you received any further information from CAISO legal regarding when we may receive feedback on our disputes? I believe the CAISO is supposed to respond within 30 days or so and I think we've past that point. Thanks for your help.

Steve

From: Cassinelli, Steve [mailto:SCassinelli@caiso.com]
Sent: Friday, August 10, 2012 10:21 AM
To: Greenleaf, Stephen T
Cc: 'catherine.krupka@sutherland.com'; 'william.scherman@skadden.com'
Subject: RE: Dispute Nos. 122915 and 122947

Hi Steve,
The disputes are still being reviewed by our Legal group and they have not given me an estimate on when they will be prepared to provide feedback. As soon as I hear more I will certainly let you know.

Thank you,

Steve Cassinelli | Senior Client Representative | California Independent System Operator
Phone 916-608-5888
scassinelli@caiso.com

From: Greenleaf, Stephen T [mailto:stephen.t.greenleaf@jpmorgan.com]
Sent: Friday, August 10, 2012 9:34 AM
To: Cassinelli, Steve
Cc: 'catherine.krupka@sutherland.com'; 'william.scherman@skadden.com'
Subject: RE: Dispute Nos. 122915 and 122947

Steve,

Any update on when we may receive feedback on the disputes? Thanks.

Steve

From: Cassinelli, Steve [mailto:SCassinelli@caiso.com]
Sent: Friday, July 27, 2012 2:03 PM
To: Greenleaf, Stephen T
Subject: RE: Dispute Nos. 122915 and 122947

Hi Steve,
We are close, but unfortunately we will not be able to resolve these disputes and provide feedback just yet. After speak with Uma, we are now waiting for legal to confirm her position and the write-up that will be attached to the disputes. Uma believes that we should have a response early next week. As soon as I have more info I will pass it on.

Thank you,

Steve Cassinelli | Senior Client Representative | California Independent System Operator
Phone 916-608-5888
scassinelli@caiso.com

From: Cassinelli, Steve
Sent: Wednesday, July 25, 2012 10:10 AM
To: Greenleaf, Stephen T.
Subject: RE: Dispute Nos. 122915 and 122947

Hi Steve,
I just wanted to give you a quick update regarding the below issue. Uma, Legal, and DMM are still in discussions as to how best to address these disputes. We have another meeting planned for tomorrow (pending availability), but at this point it is unclear if we will meet your requested timeline for a response by this Friday. I'll be sure to provide another update on Friday regardless of whether we have resolved the issue or not.

Please let me know if you have any further questions or concerns.

Thank you,

Steve Cassinelli | Senior Client Representative | California Independent System Operator
Phone 916-608-5888
scassinelli@caiso.com

From: Greenleaf, Stephen T [mailto:stephen.t.greenleaf@jpmorgan.com]
Sent: Sunday, July 22, 2012 8:50 PM
To: Cassinelli, Steve
Cc: 'Scherman, William S'; 'Krupka, Catherine'
Subject: Re: Dispute Nos. 122915 and 122947

Steve,

I'm following up on our conversation of last Thursday regarding the recent CAISO Exceptional Dispatches of resources under JPM control and our corresponding Dispute Nos. 122915 and 122947. As I explained, the commercial team needs to finalize its monthly trade records and financial books and to do that, we need a response to our dispute inquiries by July 27, 2012.

Specifically, we first request that the CAISO provide an explanation as to why, with respect to the disputes in question, Alamitos Unit No. 3 was exceptionally dispatched to 190MWs on the identified trade dates and hours. In addition to the relevant Exceptional Dispatch code, we would appreciate an explanation of prevailing system and/or local operating and market conditions that gave rise to the need to Exceptionally Dispatch the JPM resources. Second, we also request an explanation of the compensation paid to JPM for the Exceptional Dispatches identified in the disputes. We believe that a complete understanding of the circumstances (reliability needs and market conditions) that gave rise to the Exceptional Dispatches is necessary in order to understand the appropriate compensation level. Finally, in order to understand any explanation you provide, we request that the CAISO provide citations to all applicable CAISO Tariff provisions, both as to the CAISO's authority to issue the Exceptional Dispatches and the compensation method for the applicable Exceptional Dispatches.

I appreciate your effort in securing answers to our questions.

I will be in Houston Monday through Wednesday, returning Thursday. If you need to get a hold of me call me on my cell (916) 802-5420.

Thanks!

Steve

Steve Greenleaf
Vice President, Compliance Director
J.P. Morgan
(916) 933-1001

ATTACHMENT C

AUGUST 27 DEMAND LETTER

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

(202) 371-7000
http://www.skadden.com

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PARIS
SINGAPORE
SYDNEY
TOKYO
TORONTO

August 27, 2012

VIA FIRST CLASS MAIL AND EMAIL

Ms. Nancy Saracino
Vice President, General Counsel
and Chief Administrative Officer
California Independent System Operator Corporation
250 Outcropping Way
Folsom, CA 95630

Dear Ms. Saracino,

We are writing on behalf of J.P. Morgan Ventures Energy Corp. ("JPMVEC") regarding the California Independent System Operator Corporation's ("CAISO's") unlawful failure to pay JPMVEC for Exceptional Dispatches of energy as required by the CAISO Tariff. In April, May and June 2012, CAISO exceptionally dispatched generating units that have been tolled to JPMVEC on at least 18 occasions without paying JPMVEC the rates required by section 11.5.6 of the CAISO Tariff. These actions, which are continuing to this day, have resulted in at least \$3.6 million in underpayments to JPMVEC during this time period.

JPMVEC has repeatedly asked CAISO to explain the reasons why CAISO has been exceptionally dispatching JPMVEC's generating units and why it has been paying JPMVEC rates that are inconsistent with section 11.5.6 of the CAISO Tariff. CAISO has been unable or unwilling to provide us with any explanation despite the fact that the reasons for CAISO's Exceptional Dispatches, and related payments, should be clear and transparent under the CAISO Tariff.

JPMVEC therefore requests that, within seven days of this letter, CAISO remit to JPMVEC the \$3.6 million, plus interest, it owes JPMVEC for Exceptional Dispatches of energy as required by the Tariff. Interest on the underpayments should be calculated in accordance with Section 35.19 of the Commission's Rules and Regulations. JPMVEC notes that the CAISO has continued to issue Exceptional Dispatch orders to JPMVEC generating units through the date of this letter. Should the CAISO elect to continue unlawfully underpaying JPMVEC in violation of the Tariff, JPMVEC reserves the right to modify the above demand amount as appropriate.

If JPMVEC does not receive an adequate response to this letter within seven days, JPMVEC reserves the right to pursue all of its legal rights and remedies, including its right to file a complaint with the Federal Energy Regulatory Commission under section 206 of the Federal Power Act.

Nothing in this letter should be read as a waiver, implied or explicit, of any legal right or cause of action that JPMVEC has or will have in the future.

Sincerely,

William Scherman
John N. Estes III
Jason Fleischer
Skadden, Arps, Slate, Meagher
& Flom LLP
1440 New York Ave., N.W.
Washington, D.C. 20005-2111
(202) 371-7060

Catherine M. Krupka
Sutherland Asbill & Brennan LLP
1275 Pennsylvania Ave., N.W.
Washington, DC 20004-2415
(202) 383-0248

Counsel for JP Morgan Ventures Energy Corp.

ATTACHMENT D

CAISO RESPONSE

California ISO
Shaping a Renewed Future

California Independent System Operator

August 31, 2012

Via Certified Mail

Mr. William Scherman
Skadden, Arps, Slate, Meagher & Flom LLP
1140 New York Avenue, N.W.
Washington, D.C. 20005-2111

Dear Mr. Scherman,

This letter responds to your letter to me on August 27, 2012 regarding a series of pending settlement disputes J.P. Morgan Energy Ventures Corp. ("J.P. Morgan") has recently filed involving the amount to be paid for exceptional dispatches of generating units controlled by J.P. Morgan.

In the disputes, J.P. Morgan generally contends that the ISO has erroneously applied mitigation to the challenged exceptional dispatches. Although your letter refers to disputes for energy dispatched in April, May, and June of this year, it is important to note that these disputes have been initiated only more recently. J.P. Morgan initiated its first dispute in July, challenging an individual exceptional dispatch that took place in June. In July and August, J.P. Morgan has since filed more than ten additional disputes relating to exceptional dispatches that took place on more than 20 trade dates over the period of April through August. Eight of these disputes, covering exceptional dispatches on 14 disputed trade dates, were initiated only within the last three weeks.

Given the relatively large number of exceptional dispatches and disputes at issue and the substantial monetary amounts at stake, it is important for the ISO to thoroughly research and evaluate the factual circumstances surrounding each challenged dispatch. Please be assured that we are actively doing so and will communicate our conclusions on these disputes as soon as we have completed our analysis.

Your letter reserves the right to take further action, including potentially filing a complaint with the Federal Energy Regulatory Commission, if the ISO does not remit payment of the disputed amounts within seven days. This course of action would be inconsistent with the dispute resolution process set forth in the ISO's tariff. As I'm sure you are aware, tariff section 11.29.8.5 sets forth the timelines for resolution of settlement disputes and affords the ISO up to 15 months to investigate and resolve any complex settlement disputes. The ISO has designated the settlement disputes at issue in your letter as complex. Although we certainly intend to complete our investigation and resolve these disputes in a much more expeditious manner than this designation would allow, it would be improper for J.P. Morgan to short circuit this process by prematurely filing a complaint with FERC.

Finally, your letter demands the payment of interest on any underpayments, pursuant to section 35.19 of FERC's rules. Although section 35.19 is not directly applicable in this context, section 11.29.10.2 of the ISO's tariff requires the ISO to pay interest on incremental changes to settlement statements using the interest calculation methodology identified in section 35.19 of FERC's rules. Thus, if the ISO determines through its ongoing review that any adjustments are necessary, interest will be paid on those adjustments. This provision serves to protect J.P. Morgan by allowing the recovery of the time value of money for any adjustments that may ultimately be made.

Please do not hesitate to contact me if you want to discuss this matter further.

Sincerely,

Nancy Saracino

Nancy Saracino
Vice President, General Counsel
and Chief Administrative Officer
California Independent System
Operator Corporation
250 Outcropping Way
Folsom, CA 95630

ATTACHMENT E

FORM OF NOTICE

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

J.P. Morgan Ventures Energy Corp.	)	
	)	
v.	)	Docket No. EL12-___-000
	)	
California Independent System Operator Corp.	)	
	)	

NOTICE OF COMPLAINT
(September [--], 2012)

Take notice that on September 14, 2012, J.P. Morgan Ventures Energy Corp. ("JPMVEC") filed a formal complaint against the California Independent Transmission System Operator Corp. ("CAISO") pursuant to section 206 of the Federal Power Act, and Rule 206 of the Commission's Rules of Practice and Procedure, alleging that CAISO has failed to pay JPMVEC for energy acquired through Exceptional Dispatches as required by the CAISO Tariff.

JPMVEC certifies that copies of the complaint were served on the CAISO and on parties and regulatory agencies JPMVEC reasonably expects to be affected by this Complaint.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at http://www.ferc.gov. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at http://www.ferc.gov, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on (insert date).

Kimberly D. Bose
Secretary

Document Content(s)