

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

<b>California Independent System Operator Corporation</b>	) ) )	<b>Docket Nos. ER06-615-011, ER06-615-012, and ER07-1257-000</b>
---	-------------	--

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

The California Independent System Operator Corporation (“ISO”) hereby submits its comments pursuant to the “Notice Seeking Comment on Need for Technical Conference” issued by the Commission in these proceedings on September 15, 2009 (“Notice Seeking Comment”).<sup>1</sup> For the reasons explained below, the ISO does not believe that it is necessary for the Commission to hold a technical conference in these proceedings. Even if the Commission finds that a technical conference is required, the scope of the conference should be limited to the issue of whether changes made to the ISO’s Business Practice Manuals (“BPMs”) from November 15, 2007 to March 30, 2009 – the latter being the date the ISO’s new market went live and the date the formal change management process for BPMs went into effect – should be incorporated into the ISO tariff. If the scope of the BPM technical conference were to be thus narrowed, and the Commission found that a technical conference is required, the ISO would not object to deferring the technical conference by two months. To the extent that parties have not had sufficient time to review the new material added to the

---

<sup>1</sup> The ISO is also sometimes called the CAISO, and the ISO tariff is also sometimes called the Market Redesign and Technology Upgrade or MRTU tariff. The ISO tariff went into effect on March 31, 2009, the date on which the ISO’s new market was implemented.

BPMs since the last technical conference and evaluate whether additional detail should be added to the tariff, the ISO believes that a modest delay of two months is more than sufficient for such review.

## **I. Background**

As explained in the Notice Seeking Comment, on September 26, 2007, the Commission staff held a technical conference in these proceedings to address the issue of whether certain provisions in the BPMs should be included in the ISO tariff. Pursuant to that technical conference the ISO filed on November 15, 2007 various tariff changes incorporating provisions from the BPMs. The Commission conditionally accepted in part and rejected in part these tariff changes in an order issued March 24, 2008.<sup>2</sup> The March 2008 Order also contemplated convening a technical conference approximately six months after the implementation of the ISO's new market to provide parties with a final opportunity to identify remaining BPM provisions that should be included in the ISO tariff.<sup>3</sup>

---

<sup>2</sup> Notice Seeking Comment at 1 (citing *California Independent System Operator Corp.*, 122 FERC ¶ 61,271 (2008) ("March 2008 Order")). In the March 2008 Order, the Commission directed the ISO to submit a compliance filing, which the Commission conditionally accepted in an order issued March 9, 2009. *California Independent System Operator Corp.*, 126 FERC ¶ 61,211 (2009). On April 8, 2009, the ISO submitted the further compliance filing required by the March 9, 2009 order. Commission action on that further compliance filing is pending.

<sup>3</sup> March 2008 Order at PP 122-23.

## II. Comments

### A. The Commission Should Find that There is No Need to Hold a Further Business Practice Manual Technical Conference.

The Commission now seeks comments from parties on the question of whether there is any “need for Commission staff to convene a technical conference for the purposes of providing all parties with a final opportunity to identify any details in *new or revised BPM language developed after November 15, 2007*, which commenters believe should be included in the MRTU tariff.”<sup>4</sup> As the Commission explained in the March 2008 Order, the issue of whether BPM language needs to be included in the MRTU tariff “is determined through the ‘rule of reason,’” which requires that “only those practices that significantly affect rates, terms and conditions” of service must be filed under Section 205 of the Federal Power Act (“FPA”) for inclusion in the ISO tariff.<sup>5</sup>

The Commission should find that there is no need to hold a further technical conference in these proceedings. Although the ISO agreed in principle at the September 2007 technical conference to consider such a technical conference if it was warranted, the ISO believes there is no justification for such a conference in the current circumstances. Based on the additional detail added to the ISO tariff as a result of the September 2007 technical conference, and the further detail added to the ISO tariff in the past two years, the ISO believes that all of the significant rates, terms, and conditions of service which should be

---

<sup>4</sup> Notice Seeking Comment at 2 (emphasis in original) (internal quotation marks and brackets omitted).

<sup>5</sup> March 2008 Order at P 16.

included in the ISO tariff under the Commission's "rule of reason" have already been added to the ISO tariff.

To the extent any party disagrees, stakeholders already have avenues available to them for determining, or for requesting that the Commission determine, whether details in any new or revised BPM language developed after November 15, 2007 must be included in the ISO tariff pursuant to the rule of reason. These avenues are the ISO's stakeholder processes generally (including the formalized BPM change management process for all BPM changes after March 30, 2009) and the opportunity to raise concerns in response to ISO tariff amendments. Therefore, it is unnecessary to hold a technical conference and requiring a technical conference would be result in a needless commitment of valuable time and resources for all involved.

The first avenue available to the ISO and stakeholders for determining whether details in the BPM language must be included in the ISO tariff is the ISO's own stakeholder processes. Even prior to the implementation of the ISO's new market on March 31, 2009, the ISO issued a market notice whenever it made or proposed to make changes to the BPMs and posted proposed BPM changes for public review. Consequently, stakeholders were informed of all of the new or revised BPM language developed after November 15, 2007. Stakeholders were and are free to raise concerns with the ISO at any time regarding whether BPM language should be included in the ISO tariff.

A prime example of the ISO's stakeholder processes at work is the process the ISO held in late 2008 on proposed tariff clarifications that were then

submitted in what was referred to as the “bucket” filing (Docket No. ER09-556). The bucket filing involved numerous tariff clarifications, including many details originally contained in BPMs and software design specifications that the ISO’s outside independent consultant, Science Applications International Corporation (“SAIC”), recommended to be included in the tariff. The ISO and stakeholders also proposed additional tariff clarifications that included details from the BPMs. This stakeholder process resulted in over eighty pages of tariff clarifications filed with the Commission,<sup>6</sup> which the Commission conditionally accepted.<sup>7</sup>

Following the implementation of the new ISO market, the ISO’s stakeholder processes have been supplemented by the BPM change management provisions set forth in Section 22.11 of the ISO tariff and in the BPM for BPM Change Management. Section 22.11 requires the ISO to establish a stakeholder process “in order to ensure that all affected parties have an opportunity to comment on and shape the proposed nature of any proposed changes to any Business Practice Manual.”<sup>8</sup> Section 22.11 specifies that, under this stakeholder process, the ISO and stakeholders “shall consider whether any amendments to the CAISO Tariff are necessary in order to ensure the consistency of the CAISO Tariff and the Business Practice Manuals.” Therefore, Section 22.11 requires the ISO to determine based on stakeholder comment

---

<sup>6</sup> See Attachment B to the bucket filing, which was submitted on January 15, 2009.

<sup>7</sup> See *California Independent System Operator Corp.*, 126 FERC ¶ 61,262 (2009). The Commission accepted the tariff clarifications subject to a further compliance filing which the ISO submitted on March 30, 2009.

<sup>8</sup> Details regarding this stakeholder process are contained in the rest of Section 22.11 of the ISO tariff and in the BPM for BPM Change Management.

whether any proposed BPM language needs to be added to the ISO tariff pursuant to the rule of reason.

Moreover, most significant BPM changes prior to implementation of the formal BPM change management process related to issues also reflected in tariff amendments. In every Commission proceeding regarding proposed changes to the ISO tariff, including every proceeding on tariff changes proposed after November 15, 2007,<sup>9</sup> stakeholders have the opportunity to argue that any provisions included or proposed to be included in the BPMs and related to the pending tariff amendment should be included in the proposed tariff revisions pursuant to the rule of reason. Stakeholders have in fact made that very argument in a number of ISO tariff amendment proceedings – sometimes successfully, sometimes unsuccessfully.<sup>10</sup> Thus, the Commission has already made its determinations as to a number of the stakeholders' contentions that BPM language should be included in the ISO tariff.

These avenues have provided stakeholders with ample opportunities to raise concerns about BPM details that they believe should be included in the ISO tariff, and the ISO is not aware of additional details from new or revised BPM

---

<sup>9</sup> Since November 15, 2007, the ISO has filed over twenty amendments to the MRTU tariff. See <http://www.caiso.com/pubinfo/amendments/index.html> (containing copies of MRTU tariff amendments).

<sup>10</sup> See *California Independent System Operator Corp.*, 128 FERC ¶ 61,265, at PP 41-46 (2009) (directing ISO to include, in its tariff rather than in BPMs, maximum number of days the ISO has to respond to a settlement dispute under its payment acceleration program); *California Independent System Operator Corp.*, 128 FERC ¶ 61,103, at PP 317-18 (2009) (permitting ISO to include methodology for determining default Resource IDs in BPMs rather than in tariff); *California Independent System Operator Corp.*, 125 FERC ¶ 61,262, at PP 62-67 (2008) (directing ISO to maintain formula for calculating weighted average rate for wheeling service in tariff rather than in BPMs); *California Independent System Operator Corp.*, 124 FERC ¶ 61,271, at PP 398-401 (2008) (permitting ISO to include details regarding modeling specifications for an Integrated Balancing Authority Area in BPMs rather than in tariff).

language developed after November 15, 2007, that should be included in the ISO tariff. As such, a further technical conference in these proceedings would require a needless commitment of limited time and resources by Commission staff, stakeholders, and the ISO itself.

**B. Even if the Commission Finds that a Further Technical Conference Is Needed, the Conference Should Be Limited in Scope.**

As explained above, the Commission should not require a further technical conference in these proceedings. However, if the Commission finds that a technical conference is needed in order to determine whether the rule of reason requires details in the new or revised BPM language developed since November 15, 2007 to be included in the ISO tariff, the Commission should limit the scope of the technical conference inquiry in several respects.

First, only the set of BPM changes made since November 15, 2007 should be considered in the technical conference. BPM language developed prior to that date has been fully considered in the filings resulting from the prior technical conference. In the Notice Seeking Comment, the Commission appeared to stress this scope of the potential technical conference by emphasizing the words “*new or revised BPM language developed after November 15, 2007.*”<sup>11</sup> Stakeholders should not be permitted to suggest reinventing the wheel by proposing to include in the ISO tariff any BPM provisions that predate November 15, 2007.

Second, the Commission should limit the scope of the technical conference to any BPM language that was added during the time period from

---

<sup>11</sup> Notice Seeking Comment at 2 (emphasis in original) (brackets omitted).

November 15, 2007 to March 30, 2009. As explained above, Section 22.11 of the ISO tariff, which went into effect on March 31, 2009, requires a more formalized stakeholder process for revising the BPMs that includes consideration of whether any proposed BPM language needs to be added to the ISO tariff pursuant to the rule of reason. Therefore, effective as of March 31, the ISO tariff includes a process that eliminates any need to address that issue in a technical conference.

If the Commission determines that a further technical conference is needed, the ISO has no objection to a deferred schedule for such a technical conference beyond the six months contemplated by the March 2008 Order, provided the scope of the technical conference is appropriately limited and the deferral would not extend beyond two months. This modest two-month delay would give all parties sufficient time to review the new material added to the BPMs between the time of the last technical conference and the implementation of the ISO's new market, and to evaluate whether additional detail should be added to the tariff. The incremental material is not extensive. The only purpose of the delay would be to provide parties with some additional time to review the documents and not for the purpose of keeping the proceeding open for the sake of keeping it open longer.

In comments submitted in response to the Notice Seeking Comment, the Indicated Parties and the Western Power Trading Forum ("WPTF") request that the Commission defer consideration of the need for a technical conference for an

additional six months.<sup>12</sup> This six-month delay would give the parties an unnecessary and excessive amount of time to consider whether any of the incremental material warrants inclusion in the ISO tariff. It is not clear from their comments what additional “issues” the Indicated Parties and WPTF suspect will arise over the next six months to enhance this evaluation. If the Commission finds any reason for the technical conference at all, the Commission can safely hold the conference after no more than a two months’ delay, thus providing the parties with an ample opportunity to make their determinations given that they will have already had an opportunity to evaluate the incremental changes to the BPMs.

There is no basis for subjecting any BPM changes that were considered after March 30, 2009 through the formal BPM change management process to additional review in a Commission technical conference, and there is no basis for indefinitely deferring the technical conference so that any issues can be finally resolved. Expanding the technical conference to include BPM changes after the BPM change management process was put into effect would be contrary to the objective of the technical conference to be a “final opportunity” to consider rule-of-reason issues with BPM revisions developed prior to implementation of the ISO’s new market. To the extent that, following the implementation of the formalized BPM change management process, stakeholders still believe that BPM revisions need to be added to the ISO tariff, they can file a complaint under

---

<sup>12</sup> Indicated Parties at 3-4; WPTF at 2-4.

Section 206 of the FPA in order to request that the Commission decide the issue.<sup>13</sup>

Lastly, the technical conference should be limited to the issue identified in the March 2008 Order and the Notice Seeking Comment – the discussion of “any details in new or revised BPM language developed after November 15, 2007, which commenters believe should be included in the MRTU tariff.”<sup>14</sup> The technical conference should not be used as a forum to revisit other issues related to the BPMs themselves or to the ISO tariff that have already been considered, or to identify new issues unrelated to the application of the “rule of reason” which should have already been raised either in the ISO’s stakeholder processes or in prior Commission proceedings.

---

<sup>13</sup> This is the same approach the Commission has adopted for considering issues of what should be included in the tariffs of other Independent System Operators and Regional Transmission Organizations. See, e.g., *ANP Funding I, LLC v. ISO New England, Inc. and New England Power Pool*, 110 FERC ¶ 61,040 (2005) (granting in part and denying in part a complaint against ISO New England contending that revisions to ISO New England’s operating procedures must be included in its tariff).

<sup>14</sup> Notice Seeking Comment at 2 (emphasis and brackets omitted).

### III. Conclusion

For the foregoing reasons, the Commission should find that no technical conference is required in these proceedings, and even if the Commission determines that a technical conference is needed, the scope of the conference should be limited as discussed above.

Respectfully submitted,

/s/ Sidney M. Davies

Sidney M. Davies

Assistant General Counsel

Anna A. McKenna

Senior Counsel

California Independent System

Operator Corporation

151 Blue Ravine Road

Folsom, CA 95630

Tel: (916) 351-4400

Fax: (916) 608-7296

E-mail: [sdavies@caiso.com](mailto:sdavies@caiso.com)

[amckenna@caiso.com](mailto:amckenna@caiso.com)

Dated: September 22, 2009

## 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 the above-referenced proceedings, 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. on this 22<sup>nd</sup> day of September, 2009.

/s/ Bradley R. Miliauskas  
Bradley R. Miliauskas