

# Memorandum

**To:** ISO Board of Governors  
**From:** Nancy Saracino, Vice President, General Counsel and Corporate Secretary  
**Date:** May 8, 2009  
**Re:** **Regulatory Update**

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*This memorandum does not require Board action.*

## **Federal Energy Regulatory Commission (FERC) matters and related decisions of the Court of Appeals**

### **Tariff amendment filings and orders**

- **Standard capacity product and ancillary services offer obligation (ER09-1064)**

On April 28, 2009, the ISO submitted proposed tariff language to implement the resource adequacy standard capacity product (SCP) and ancillary services offer obligation proposal developed with stakeholders and approved by the ISO Board of Governors in March, 2009. The ISO has proposed an effective date of January 1, 2010. The ISO developed its SCP proposal based on the following objectives: (1) improve grid reliability through a set of standards and incentives that will increase the availability of resource adequacy resources; (2) streamline resource adequacy contracting and product tradability through a common set of standards in the ISO tariff; and (3) satisfy FERC and CPUC regulatory requirements. The proposed ancillary services offer obligation requires that resource adequacy resources that are certified for ancillary services make those services available to the ISO through the submission of ancillary services bids. This obligation would be in addition to the energy offer obligation that is already required by the tariff. Adding the ancillary services offer obligation will enable the ISO to optimize the use of energy and ancillary services capabilities of resource adequacy capacity in its markets.

Responsible Attorneys: Anthony Ivancovich, Judi Sanders and Beth Ann Burns

- **Tariff clarification to address PricewaterhouseCoopers (PwC) audit findings (ER09-918)**

On March 30, 2009, the ISO submitted for filing an amendment to the ISO tariff that corrects technical differences between the ISO tariff and Business Practice Manuals that are now fully integrated into ISO systems and those of the ISO's market participants. The need for the amendment was identified through an audit conducted by PricewaterhouseCoopers ("PwC") of the tariff language governing settlements in MRTU markets and the configuration of the relevant charge codes in the settlements software. The ISO requested an effective date for these amendments of March 31, 2009.

Responsible Attorney: Anna McKenna

- **Parameter tariff amendment proceeding (ER09-240)**

On March 23, 2009, the ISO submitted tariff revisions in compliance with FERC's February 19, 2009 order to identify specific effectiveness thresholds to be used in the ISO's market software to determine when bids are economic for the purpose of re-dispatching resources to relieve a transmission constraint. In addition, the ISO proposed clarifying changes that relate to scheduling priorities and enforcement of transmission constraints. On April 28, 2009 the ISO filed its answer to the comments and protests filed in response to the March 23, 2009 filing.

Responsible Attorney: Anna McKenna

- **Exceptional Dispatch tariff amendment proceeding (ER08-1178)**

On March 23, 2009, the ISO submitted its compliance filing in response to FERC's February 20, 2009 order regarding exceptional dispatch. In this compliance filing, the ISO filed tariff language to reflect FERC's directives to mitigated bids for exceptional dispatches occurring within the first four months of the new market operation and to limit mitigation to after the first four months to more limited circumstances. The tariff language filed also reflected the requirement that the ISO offer capacity payments to resources that do not have capacity contracts when subject to exceptional dispatch under some circumstances. The ISO filed an answer to comments on protests on April 28, 2009. In its answer, the ISO addressed exceptional dispatch reporting requirements and agreed that exceptional dispatches due to planned outages should be afforded the same treatment as dispatches for unplanned outages.

Responsible Attorney: Sidney Davies

- **Order re miscellaneous tariff clarifications (ER09-556)**

By order dated March 24, 2009, FERC accepted the ISO's February 9 tariff amendments as modified by its March 6, 2009 compliance filing and also accepted the ISO's motion to defer the proposed effective date of the simplified ramping tariff amendments to October 1, 2009 subject to minor conditions. The ISO filed its compliance filing on March 30, 2009. The tariff clarifications addressed numerous issues to clarify existing tariff policy, including issues identified by independent consultants, and to correct errors identified by the ISO and market participants.

Responsible Attorneys: Sidney Davies, Anna McKenna and Mike Dozier

- **Underscheduling order and compliance filing (ER06-615)**

On March 26, 2009, FERC issued an order conditionally accepting the ISO's January 21, 2009 compliance filing. In December 2008, FERC had issued an order directed the ISO to provide an exemption from the underscheduling penalty to scheduling coordinators for scheduled load in the day-ahead market that is administratively curtailed by the ISO due to reasons beyond the scheduling coordinators' control. The ISO filed an additional definition to define the quantities subject to such exemption. In the March 26, 2009 order, FERC required additional changes to revise the definition of the qualified quantities so that it is clear that any administratively curtailed load is entitled to the exemption. The ISO submitted tariff changes in compliance with March order.

Responsible Attorney: Anna McKenna

- **Business Practice Manual compliance filings (ER06-615)**

On April 8, 2009, the ISO submitted a filing in compliance with FERC's March 9, 2009, order regarding details in Business Practice Manuals that might more appropriately be included in the tariff. This order dealt specifically with actions the ISO would take in the event of a disruption of any of the ISO market processes. The ISO submitted revisions to limit the tariff definition of market disruptions to sections 7.6 and 7.7 of the tariff. FERC also required that the ISO provide additional detail regarding the process the ISO will follow and the conditions for the removal of a bid that would cause a market disruption. Finally, FERC required that the ISO include specific language in its tariff regarding the ISO's reporting requirements for the frequency and cause of market disruptions and the actions the ISO took under such instances. The ISO submitted additional proposed tariff language in compliance with these requirements.

In its March 12, 2009, filing, the ISO addressed two remaining compliance items from the February 19, 2009, FERC order requiring additional modifications regarding the inclusion of certain details inadvertently omitted from tariff sections 11.10.2.1.3 and 11.10.2.2.2. By letter order dated May 4, 2009, FERC accepted the March 12 compliance filing.

Responsible Attorney: Anna McKenna

- **December 21, 2007 MRTU tariff filing (ER08-367 and ER06-615)**

On March 26, 2009, FERC issued an order on the ISO's February 9, 2009 compliance filing. The order conditionally accepted the ISO's tariff changes, including its description of the rate for wheeling service rather than a mathematical formula. However, FERC required that the ISO submit a further compliance filing relating to access by entities to non-public ISO Operating Procedures. On April 24, 2009, the ISO submitted proposed tariff language, which describes the process for entities to request access to non-public Operating Procedures and the ISO's proposed criteria for determining whether to provide access subject to agreed upon controls relating to use and disclosure of non-public Operating Procedures.

Responsible Attorneys: Mike Dozier, Sidney Davies and Andrew Ulmer

- **Caps on start-up and minimum load costs (ER08-73)**

On March 26, 2009, the ISO filed its compliance filing in response to FERC's February 24, 2009 order, which directed the ISO to develop a more geographically appropriate approach for calculating the caps on start up and minimum load costs. No comments or protests were filed.

Responsible attorney: Sidney Davies

- **Effective date for contract revisions for MRTU ( ER09-188 et al)**

On March 30, 2009, the ISO submitted an informational filing in response to FERC orders in the proceedings on agreements that the ISO had revised to be effective as of the implementation of MRTU, specifying that the effective date for each of these agreements is March 31, 2009.

Responsible Attorney: Mike Dozier

- **Effective date for tariff sheets for MRTU tariff (ER06-615 et al)**

On March 27, 2009, the ISO submitted an informational filing in response to FERC orders in tariff amendment proceedings to submit an informational filing specifying the effective date of the MRTU tariff as March 31, 2009.

Responsible Attorneys: Sidney Davies and Anna McKenna

- **Order on credit policy tariff amendments (ER09-589)**

FERC issued an order on March 30, 2009 unconditionally accepting the ISO's January 9, 2009 tariff amendment to enhance its credit policies. These amendments lowered unsecured credit limits for market participants and changed the methodology for calculating these limits

Responsible Attorney: Sidney Davies

- **Integrated Balancing Authority Area (IBAA) tariff amendment (ER08-113)**

On March 6, 2009, FERC issued an order on compliance addressing the ISO's proposed tariff language to implement the Sacramento Municipal Utility District-Turlock Irrigation District Integrated Balancing Authority Area (IBAA) proposal. FERC approved many aspects of the ISO's proposed tariff language but also requires further changes to the ISO's proposed structure for Market Efficiency Enhancement Agreements (MEEAs) under which a signatory may obtain alternative pricing for interchange transactions between the ISO and IBAA. On April 7, 2009, the ISO filed a request for rehearing and clarification regarding several compliance directives in FERC's March 6, 2009 order, including a description of locational marginal pricing under a MEEA as well as the data requirements to verify that resources within the IBAA are operating to support interchange transactions between the IBAA and the ISO Balancing Authority Area.

Responsible Attorneys: Anna McKenna, Andrew Ulmer

- **Division of responsibility between Folsom and Alhambra Control Centers (No. ER09-710)**

On February 12, 2009, the ISO requested authority to amend its tariff to: (1) provide that the primary ISO control center located in Folsom, California has operational control over all transmission lines on the ISO grid; and (2) provide that the ISO may delegate responsibilities to the back-up control center located in Alhambra, California, in which case the primary ISO control center would serve as back-up facility for those responsibilities. On April 14, 2009, FERC issued a letter order accepting the ISO's proposed tariff language.

Responsible Attorneys: Andrew Ulmer and Sidney Davies

- **Grid Management Charge (ER08-585-001)**

On January 21, 2009, the ISO submitted a compliance filing to respond to FERC's directive to clarify whether both physical and financial inter-scheduling coordinator trades would be netted against energy for purposes of calculating the market usage charge. In that filing, the ISO explained that only physical inter-

scheduling coordinator trades would be netted. In comments regarding the ISO compliance filing, the Northern California Power Agency (“NCPA”) questioned the policy basis for netting only physical trades in the calculation. In its February 26, 2009 answer to NCPA, the ISO agreed that it should treat both types of SC trades the same way and proposed to accommodate this change in a future compliance filing. In a letter ruling on March 30, 2009, FERC accepted the ISO’s position and directed the ISO to submit a second compliance filing reflecting its modified position on the issue. The ISO submitted a second compliance filing on March 31, 2009. On May 6, 2009, the ISO submitted an answer to a late filed motion to intervene and protest filed by the Western Power Trading Forum (WPTF). WPTF opposes the modification directed by FERC. The ISO’s answer opposes WPTF’s motion on procedural and substantive grounds.

Responsible Attorney: Judi Sanders and Sidney Davies

- **Small Generator Interconnection Procedures (SGIP)/Small Generator Interconnection Agreement (SGIA) (ER06-629, 630)**

On March 20, 2009, the ISO submitted separate filings in compliance with FERC’s March 3, 2009 order on the SGIP and pro forma SGIA. The compliance filings consisted of: (1) insertion of an express reference to the interconnection handbooks of the participating transmission owners into the SGIP; (2) extension of the timeline for preparing an accounting for interconnection costs from three months to six months in the SGIA; and (3) insertion of provisions for allocation of filing rights between the ISO and the participating transmission owners into the SGIA.

Responsible attorney: Mike Dozier

## **Regulatory contracts filings and orders**

- **Transmission Control Agreement amendment for Path 15 facilitator (ER09-462)**

On March 30, 2009, FERC issued an order accepting the ISO’s December 22, 2008 filing of revisions to the Transmission Control Agreement, effective as of March 31, 2009. These revisions implement PG&E’s agreement with its existing contracts holders and the ISO’s operations staff that PG&E need no longer serve as the facilitator for purposes of scheduling of the use of existing contract rights across Path 15 as of the start of MRTU.

Responsible attorney: Mike Dozier

- **Nevada Hydro Company Large Generator Interconnection Agreement (LGIA) (ER08-654)**

On February 27, 2009, the ISO and San Diego Gas & Electric Company (SDG&E) submitted a second compliance filing in response to FERC’s order conditionally accepting the ISO’s and SDG&E’s prior compliance filing of revisions to the unexecuted LGIA with Nevada Hydro for its proposed Lake Elsinore Pumped Storage (LEAPS) project and its associated proposed transmission interconnection between the SDG&E’s and Southern California Edison Company’s systems. This second compliance filing responded to FERC’s directive to revise the milestones for the construction schedule in the LGIA. It included a detailed explanation of the several factors that the ISO and SDG&E took into account in establishing the revised milestone dates, including the use of Nevada Hydro’s requested date for the in-service date to be used in the LGIA. On March 30, 2009, Nevada Hydro filed a protest of the compliance filing, seeking

different dates for three other milestone dates without any explanation of their relevance and without addressing any of the considerations the ISO and SDG&E described as forming the basis for their specification of these dates in the LGIA. On April 14, 2009, the ISO and SDG&E filed an answer to Nevada Hydro's protest, explaining further why Nevada Hydro's request for different dates should be rejected.

Responsible attorney: Mike Dozier

- **CDWR-SWP Participating Load Agreement (ER08-1203-001; EL-08-85-001)**

On May 1, 2009, the ISO submitted a compliance filing to FERC containing a revised version of the Amended Participating Load Agreement with the California Department of Water Resources – State Water Project (CDWR-SWP) to reflect a modification ordered by FERC's April 1, 2009 order. The modification permits CDWR-SWP to immediately remove from the participating load program any part of CDWR-SWP's pumping load due to water management needs.

Responsible attorney: Bill Di Capo

## **FERC rulemaking and informational proceedings**

- **Order No. 719 Compliance Filing, FERC Docket No. ER09-1048**

On April 28, 2009, the ISO made its compliance filing for FERC Order No. 719. The filing addressed four issues common to all ISOs and RTOs:

1. The responsiveness of the ISO's governance, as discussed at the March 27, 2009 meeting of the ISO Board of Governors;
2. Market monitoring, including new tariff provisions which are centralized in one section and reorganized as suggested by FERC;
3. Demand response and scarcity pricing – progress toward enabling greater participation of demand response resources; and
4. Facilitating voluntary long-term contracting by linking to a bulletin board on which market participants may post offers to buy and sell energy.

Responsible Attorneys: Dan Shonkwiler and David Zlotlow

- **Smart grid policy statement and action plan (PL09-04)**

On March 19, 2009, FERC issued a Proposed Policy Statement and Action Plan in a newly-opened docket on smart grid policy (Docket No. PL09-4-000). The proceeding has two purposes. The first purpose is to develop standards in six key smart grid areas. The six areas are: (1) cyber-security and reliability; (2) inter-system communication and coordination; (3) wide-area situational awareness; (4) demand response; (5) electric storage; and (6) electric transportation. The second purpose is to set an interim rate policy to cover smart grid expenditures made before FERC develops a complete smart grid policy. The Policy Statement sets out FERC's proposed approaches in these areas and seeks comment on the proposals. Comments are due May 11, 2009.

Responsible Attorney: David Zlotlow

- **Order 890 compliance filing orders (OA08-12; OA09-113; OA09-17)**

On April 1, 2009, FERC issued a letter order in docket nos. OA9-12 and OA9-112 that accepted the ISO's compliance filing which explained that the directives in Order No. 890-B pertaining to rollover transmission rights, designation of network resources, are inapplicable to the ISO's transmission service model.

On March 31, 2009, FERC issued a letter order in docket no. OA-09-112 that accepted our compliance filing to revise tariff Appendix L, Methodology to Assess Available Transmission Capability, consistent with the directives of Order No. 890 and the Commission's May 16, 2008 order on a previous compliance filing. The modifications accepted by FERC include greater detail about the available transmission capacity calculation, each component of that calculation, and the mathematical algorithms used. In addition, FERC waived certain Order No. 890 requirements related to rollover rights and point-to-point transmission service, which are not applicable to the ISO's service model. The Commission directed the ISO to submit a further compliance filing that modifies Appendix L to include a link to the ISO website where the actual mathematical algorithms are posted. The ISO submitted that compliance filing on April 30, 2009.

Responsible Attorney: Beth Ann Burns

## **Report filings**

- **Quarterly report re generator interconnection process reform (GIPR) (ER08-1317)**

On April 30, the ISO filed its Q1 2009 quarterly report on the status of progress if its generator interconnection process reform. The report notes progress as follows:

Serial Study Group (75 projects in queue). 35 completed interconnection studies (compared to 11 in last quarterly report); 71 completed system impacts studies (compared to none complete and six in progress in last quarterly report); and 35 facilities studies completed.

Transition Cluster (108 projects in cluster). The ISO has completed all deliverability assessment studies, and has had discussions with the participating transmission owners (PTOs) where studies have identified the need for mitigation plans. The PTOs continue to work on the power flow portion of the required reliability studies.

Responsible attorney: Bill Di Capo

- **MRTU quarterly seams report (ER06-615)**

On April 30, 2009, the ISO submitted its first quarter 2009 joint seams report with Imperial Irrigation District and the Western Area Power Administration. On May 5, 2009, the ISO filed a motion requesting that FERC eliminate this reporting requirement as a result of the launch of MRTU on March 31, 2009.

Responsible Attorneys: Anna McKenna and Andrew Ulmer

## Other FERC proceedings

- **California ISO Bond Offering (ES09-26-000)**

On April 10, 2009, the ISO filed an application pursuant to Section 204 of the Federal Power Act requesting FERC to authorize the ISO's proposed issuance of bonds in an amount not to exceed \$225 million. Approximately \$160 million of this amount will be used for facility and other infrastructure-related costs, and the balance of the \$225 million amount – approximately \$50 million – will cover a net bond discount, capitalized and contingency interest, a debt service reserve fund, and issuance costs for this bond issuance. The ISO has requested FERC to issue its order on or before June 3, 2009 in anticipation of a July 2009 bond offering. Please note based on discussions subsequent to the April 10 FERC filing, Management expects to issue bonds not to exceed \$210 million.

Responsible Attorney: Grace Arupo

- **California Municipal Utility Association (CMUA) complaint (EL09-38)**

FERC issued its order denying CMUA's March 3, 2009 complaint on March 31, 2009. In its complaint, CMUA argued that FERC should direct the ISO to include tariff provisions to allow net debtors in any ISO settlement period to pay less than the full amount due if payment obligations exceeded an historical threshold. In its March 16, 2009 answer to complaint, the ISO had argued that CMUA's proposal was not only unnecessary, but would undermine the ISO's new market design.

Responsible Attorneys: Sidney Davies and Anna McKenna

- **PricewaterhouseCoopers (PwC) audit informational filing ER06-615)**

On January 16, 2009, the ISO submitted in an informational filing certifying the readiness of the ISO's MRTU tariff to go into effect on March 31, 2009, that certain essential milestones were met. In the readiness filing, the ISO explained that it would issue a market notice regarding the results of an audit opinion of PwC confirming that the ISO's MRTU settlements and market clearing software calculates quantities and prices in compliance with the MRTU tariff. Consistent with the ISO's commitment to file the notice of PwC's opinion, the ISO submitted, for informational purposes only, a copy of the market notice issued on March 31, 2009.

Responsible Attorney: Anna McKenna

## Appellate matters

- **OptiSolar v. FERC, D.C. Circuit No. 08-1367**

OptiSolar appealed a series of FERC orders that waived parts of the ISO's tariff in order to enable the transition to the reformed interconnection study process. Following the Court's denial in February of OptiSolar's motion to stay the FERC orders pending appeal, the Court on April 30, 2009 granted OptiSolar's motion to stay the briefing schedule until August. The ISO plans to complete its study of the transition cluster, which includes OptiSolar, in July. In the meantime, OptiSolar's motion will avoid any need for the ISO to brief this appeal.

Responsible Attorney: Dan Shonkwiler



## California Public Utilities Commission (CPUC) matters

### **CPUC Rulemaking to Revise and Clarify Regulations Relating to the Safety of Electric Utility and Communications Infrastructure Provider Facilities (RM08-11-005)**

On November 6, 2008, the CPUC issued this rulemaking to revise and clarify regulations relating to the safety of electric utility and communications infrastructure provider facilities. Among other issues, the CPUC is considering rules that may apply to transmission facilities under the operational control of the ISO. On April 8, 2009, the ISO filed reply comments in the proceeding to clarify its role and activities to ensure the safe and reliable operation of transmission facilities under its control.

Responsible Attorneys: Judith Sanders and Andrew Ulmer

### **CPUC Smart Grid Rulemaking (RM08-12-009)**

On May 1, the CPUC issued a scoping memo for its smart grid proceeding. Over the course of the summer, the CPUC will hold five different workshops addressing the following five issues: (1) consumer issues; (2) smart grid and the transmission system; (3) smart grid and the distribution system; (4) electric vehicles; and (5) various regulatory issues, including return on investment. Parties will have the opportunity to file additional comments in September, with an ALJ proposed decision scheduled for November 18 and a final Commission decision due December 17. The scoping memo indicated that the proceeding will encompass Federal stimulus issues and that a supplemental scoping memo will be issued shortly on those issues.

Responsible Attorney: David Zlotlow

### **Filings Through April 2009**



