California Independent
System Operator Corporation

Memorandum

To: ISO Board of Governors

From: Nancy Saracino, Vice President, General Counsel and Corporate Secretary

Date: February 3, 2010

Re: **Regulatory Update**

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

- **Scarcity pricing (ER10-500)**

The ISO submitted proposed tariff language to FERC on December 24, 2009 to implement its reserve scarcity pricing design approved by the ISO Board of Governors in response to FERC's directive to implement scarcity pricing by April 1, 2010. Several parties have intervened in the FERC proceeding and filed comments. Western Power Trading Forum and Dynegy have filed protests. They argue the ISO should establish scarcity premiums in ancillary service sub-regions that match scarcity premiums in the ISO's expanded system region and that the ISO should conduct annual reviews of its scarcity pricing design during the first years of implementation.

Responsible Attorney: Andrew Ulmer

- **Procurement of ancillary services in the hour-ahead scheduling process (ER10-479)**

The ISO submitted proposed tariff language to FERC on December 23, 2009 to allow for the incremental procurement of ancillary services from external non-dynamic system resources in the hour-ahead scheduling process thereby reinstating one of the deferred functionalities. The ISO has requested an effective date of April 1, 2010 for these tariff modifications. No protests were filed in response to the ISO's submittal.

Responsible Attorneys: Anna McKenna and Andrew Ulmer

- **Battery storage demonstration project (ER10- 660)**

On January 27, 2010, the ISO filed a letter agreement with AES and a related request for tariff waivers to establish a pilot program for testing the operation and capability the Sano Regulation Center as new technology to provide regulation in the ISO market. Sano is the first battery storage facility to seek participation in the ISO market. The agreement covers two phases of Sano's relationship with the ISO. The first stage is a test period, during which the ISO will evaluate and confirm Sano's ability to provide regulation service within the parameters set forth in the agreement. The second phase will commence following successful resolution of any predefined issues that may arise during the test period. For this second phase, the agreement provides interim terms and conditions under which AES will actively bid Sano into the ISO market to provide regulation service. These provisions, in conjunction with the current ISO tariff provisions, will govern Sano's participation until completion of the stakeholder process and amendment of the ISO tariff to better accommodate the provision of regulation by non-generation facilities.

Responsible Attorney: Beth Ann Burns

- **Transmission constraints enforcement and management (ER10-1542)**

In compliance with FERC's October 2, 2009 order, the ISO submitted proposed tariff provisions to include high level guidelines that describe the ISO's transmission constraint management practices. In addition, the ISO reported on the status of its efforts to explore with stakeholders alternatives for improving market transparency and information sharing, including publication by the ISO of "(1) either the list of the constraints that are not enforced in the ISO market or more visibility into how they are established and (2) the list of contingencies that are enforced in the ISO market process." The ISO is now requesting Board-approval of the new information policy that resulted from the stakeholder process.

Responsible Attorney: Anna McKenna

- **Generator interconnection procedure hearing (EL10-15; ER09-1722)**

In its order accepting the ISO's large generator interconnection procedures tariff amendment, FERC also initiated a hearing to consider whether interconnection customers electing to switch deliverability status to "energy only" deserve additional relief from the financial security requirements. The ISO submitted its filing demonstrating the just and reasonableness of the tariff provisions on December 17, 2009. One generator party filed responsive comments, arguing that the tariff provision has a disparate impact on mid-sized and small sized generator companies. FERC's order establishing the hearing provides for FERC to issue its ruling by mid-May 2010.

Responsible Attorney: Bill Di Capo

- **Eligible intermittent resource amendments (ER10-319)**

On November 25, 2009, the ISO filed a tariff amendment to expand the scope of data required to be provided by wind and solar resources, and potentially other eligible intermittent resources, larger than 1 MW. The additional data requirements consist primarily of (1) extending the scope of resources subject to the obligation to install specified forecasting and telemetry equipment and to communicate relevant data to the ISO, including assessment of the forecast fee to most such resources even if they are not participating in the participating intermittent resource program, and (2) reducing the threshold for reporting a forced outage of an eligible intermittent resource with total capacity of greater than 10 MW from the current outage capacity level of 10 MW to one MW. On January 29, 2010, FERC advised the ISO that its filing was deficient and requested further explanation and documentation related to a number of areas, including information regarding the costs for telemetry, forecasting and communications equipment required by the proposal, the justification for applying the forecast fee to intermittent resources not participating in the participating intermittent resource program, and an explanation for why intermittent resources will not be unduly burdened by the ISO proposal. The ISO must respond by the end of February. In a separate but related matter, FERC initiated a proceeding on January 21 to examine whether barriers exist that may impede the reliable and efficient integration of variable energy resources in the grid and whether reforms are needed to eliminate the barriers.

Responsible Attorney: Mike Dozier

- **Grid management charge extension and rate modification (ER10-188)**

On October 30, 2009, the ISO submitted an application for approval of tariff language that would extend the grid management charge (GMC) rate design and revenue requirement cap, with one rate modification, until December 31, 2010. The sole rate modification involves the market usage-forward energy charge. Based on concerns raised by stakeholders in the prior GMC filing, the ISO initiated a stakeholder process to redesign this rate. As result of that process, the ISO has proposed to remove inter-scheduling coordinator trades from the calculation of market usage-forward energy charges for energy scheduled in the day-ahead market. In addition, the ISO also proposed to eliminate “netting” of purchases and sales (or of supply and demand) and to calculate the charge based on the greater of total supply schedules or total demand schedules. Interested parties filed interventions and comments on November 20, 2009. In an order dated December 30, 2009, FERC approved the extension of the GMC through December 31, 2010. Although no party protested the market usage-forward energy rate design, FERC concluded that the ISO had not sufficiently justified the proposal. The order suspended the proposed charge for five months, set the issue for evidentiary hearing and initiated settlement proceedings. A settlement conference was held on January 20, 2010.

Responsible Attorney: Judi Sanders

- **Order denying rehearing re GMC (ER08-585)**

On December 30, 2009, FERC denied a rehearing request filed by the Financial Institutions Energy Group regarding netting of inter-scheduling coordinator trades from the market usage forward energy charge. In a compliance filing, the ISO clarified that all trades would be netted, but explained that the ISO would reconsider the rate design in a future stakeholder process. The Commission accepted the ISO’s compliance filing as of March 31, 2009. Financial Institutions sought rehearing of the compliance filing. FERC denied rehearing because the arguments raised by Financial Institutions were not appropriate for rehearing of a compliance filing.

Responsible Attorney: Judi Sanders

- **Interconnected Balancing Authority Area (IBAA) tariff amendment (ER08-1113)**

On December 17, 2009, FERC issued an order on rehearing that addresses a number of topics involving market efficiency enhancement agreements that allow entities controlling resources within the Sacramento Municipal Utility District and Turlock Irrigation District Integrated Balancing Authority Area with the opportunity to obtain alternative pricing for interchange transactions with the ISO balancing authority area. The order allows MEEA signatories to self-certify that a resource indentified in a MEEA supported an interchange transaction. The order provides that an officer of a MEEA signatory must sign this certification under oath. The ISO may challenge and audit this certification. The order affirms that MEEA signatories provide the ISO with sufficient historical information to model power flows between the IBAA and the ISO. The ISO has submitted tariff modifications to comply with FERC's order.

Responsible Attorneys: Anna McKenna and Andrew Ulmer

- **Reference bus tariff amendment (ER09-240)**

On August 4, 2009, FERC issued an order accepting tariff revisions, subject to modification, that allow the ISO the flexibility to use a distributed generation reference bus in calculating the marginal cost of energy in cases where the integrated forward market cannot clear using a distributed load reference bus. In addition, the order also required the ISO to add specific language to its tariff that would obligate the ISO to notify market participants when a distributed reference bus is utilized and to post on its website an informational report detailing the nodal pricing ramifications whenever a distributed generation reference bus is utilized. On December 7, 2009, FERC granted the ISO's request for clarification regarding information requirements in the event the integrated forward market runs using the distributed generation reference bus. The clarification requires the ISO to inform the market whenever a districted generation reference bus is used, but would require the ISO to post the nodal financial information resulting from re-running the integrated forward market using the distributed load reference bus only to the extent that it is feasible for the ISO to do so. FERC also clarified that to the extent the ISO is unable to re-run the integrated forward market using the distributed load reference bus within 90 days following the particular use of the distributed generation reference bus, the ISO would no longer be required to post the nodal financial information.

Responsible Attorney: Anna McKenna

- **Miscellaneous tariff clarifications-simplified ramping (ER09-556)**

FERC accepted the ISO's motion to modify the effective date of tariff revisions to implement simplified ramping from October 1, 2009 to November 5, 2009. Simplified ramping allows the ISO to utilize the operational ramp rate rather than the regulation ramp rate when dispatching resources. On October 15, 2009, the ISO filed a status report indicating that it was on track to implement simplified ramping on November 5, 2009. On November 4, 2009, however, the ISO filed a motion seeking a one week extension to address an issue that arose during testing. FERC granted the ISO's motion by order dated November 12, 2009 and the ISO successfully implemented simplified ramping as of that date. On January 19, 2010, FERC accepted the ISO's compliance filing of tariff language effective as of November12, 2009.

Responsible Attorney: Sidney Davies

- **Payment acceleration tariff amendment (ER09-1247)**

On September 17, 2009, FERC issue an order conditionally accepting the ISO's tariff amendment to modify the payment acceleration program to resolve a settlement imbalance issue discovered during the dry run. On January 21, 2010, FERC issue an order accepting the ISO's October 19, 2009 compliance filing. The January 21 order also rejected a request for rehearing filed by Six Cities a group of Southern California municipal utilities that argued the seven day period to raise disputes was insufficient.

Responsible Attorney: Beth Ann Burns

Regulatory contracts filings and orders

- **El Dorado Energy Pseudo Participating Generator Agreement and Nevada Power Interconnected Control Area Operating Agreement (ICAOA) amendment no. 4 (ER10-342; ER10-340)**

On January 8, 2010, FERC issued an order accepting the ISO's agreement with El Dorado Energy for a pilot pseudo-tie of the 48 MW Copper Mountain Solar 1 photovoltaic generating facility to the ISO balancing authority area from the Nevada Power balancing authority area. On January 11, 2010, FERC issued an order accepting the ISO's companion amendment to its ICAOA with Nevada Power to facilitate this pseudo-tie. While the ISO currently has a pilot pseudo-tie of a conventional facility to the ISO balancing authority area, this new pilot will permit the ISO to demonstrate the feasibility of a pseudo-tie of an intermittent resource. The pseudo-tie agreement permits the ISO to treat the Copper Mountain facility for most purposes as if it were interconnected to the electric system within the ISO balancing authority area subject to the ISO's general operating authority. FERC granted the ISO's requested effective date of February 1, 2010

Responsible Attorney: Mike Dozier

Report filings

- **Market disruption reports (ER06-615)**

On December 15, 2009 the ISO submitted its monthly market disruption report. A market disruption is an action or event that causes a failure of an ISO market, related to system operation issues or system emergencies. Section 7.7.15 of the tariff authorizes the ISO to take one or more of a number of specified actions in the event of a market disruption, to prevent a market disruption, or to minimize the extent of a market disruption. On December 24, 2009, the ISO filed a compliance filing to include specific language requested by FERC regarding the definition of a market disruption.

Responsible Attorney: Anna McKenna

- **Exceptional dispatch reports (ER08-1178)**

In response to FERC's September 2, 2009 order, the ISO now submits two monthly exceptional dispatch reports. On December 15, 2009 and January 15, 2010, the ISO submitted transactional data including incremental and decremental MW volume, duration and location for exceptional dispatches occurring during the months of October and November 2009, respectively. On December 30, 2009, the ISO submitted MWh hour data and cost date for exceptional dispatches occurring during the month of October, 2009.

Responsible Attorney: Sidney Davies

- **Third annual demand response report (ER06-615)**

On January 15, 2010, the ISO filed its third annual demand response report. In addition to data for traditional participating load resources, the ISO provided data from three participating load pilot programs.

Responsible Attorney: Bill Di Capo

Other FERC proceedings

- **Southern California Edison Eldorado-Ivanpah incentive rate filing (EL10-1)**

On December 17, 2009, FERC issued an order on Southern California Edison's petition for a declaratory order requesting FERC approval of certain rate incentives for the proposed Eldorado-Ivanpah transmission project. FERC conditionally granted most of SCE's requested incentives including the request for recovery of the costs of "abandoned plant" that was the subject of ISO comments in the proceeding. FERC conditioned its acceptance of these incentives on the ISO's future approval of the project which is being considered in the ISO's generation interconnection process. On January 19, 2010, SCE and several other parties, not including the ISO, filed requests for rehearing or clarification of the FERC order on various grounds.

Responsible Attorney: Mike Dozier

- **Trans Bay Cable transmission owner tariff filing (ER10-266)**

On December 16, 2009, the ISO filed a late intervention and comments in the proceeding on Trans Bay Cable's transmission owner tariff. The ISO's comments clarified an issue raised by PG&E that ISO tariff provisions regarding the allocation of excess costs of exceptional dispatches are inapplicable to Trans Bay. On January 14, 2010, FERC issued an order conditionally accepting Trans Bay's tariff, effective as of the date Trans Bay turns its facilities over to ISO operational control. The order included a condition requiring revisions to Trans Bay's tariff to reflect the ISO's clarification concerning exceptional dispatch cost allocation. FERC also clarified that Trans Bay's proposed transmission revenue requirement is subject to the outcome of a separate proceeding in ER10-116.

Responsible Attorney: Mike Dozier

- **Western Grid Development LLC (EL10-19)**

On January 21, 2010, FERC issued an order on the petition for declaratory order filed by Western Grid seeking a finding that certain battery storage facilities constitute transmission facilities. FERC concluded, based on the circumstances and characteristics of the specific battery storage projects, that they would constitute transmission facilities. FERC made a general finding that electricity storage devices do not fit into only one of the traditional asset functions of generation, transmission or distribution. FERC found that depending on the circumstance battery storage devices could be classified as any of the above, or even as a load resource. Accordingly, FERC concluded that it would address the classification of storage devices on a case-by-case basis but that in this case, Western Grid would operate the batteries as transmission assets similar to capacitors or alternate transmission circuits that address line overloads or trips. FERC also conditionally granted Western Grid's request for the incentives rates, except for abandoned plant costs, which FERC rejected entirely, subject to the projects being approved in the ISO transmission planning process.

Responsible Attorney: Anthony Ivancovich

- **Pacific Gas & Electric Company (EL09-72)**

On January 15 2010, the ISO/RTO Council (IRC) filed a request for clarification, or in the alternative, request for rehearing of FERC's December 17, 2009 order. In that order, FERC stated that entities should designate the substations where phasor measurement units (PMUs) and phasor data concentrators (PDCs) are located as critical assets under CIP-002 and that PMUs and PDCs that feed directly into operational decisions should also be identified and protected as critical cyber assets. The IRC requested that FERC clarify that these statements do not constitute binding FERC rulings as to what constitutes critical assets and critical cyber assets. The IRC noted that many existing PMUs and PDCs, and the substations where they are located, do not currently meet the NERC definitions of critical assets or critical cyber assets. The IRC requested that FERC confirm that it was not intending to override the currently effective CIP-002 classification procedure. Finally, the IRC argued that Section 215 of the Federal Power Act does not provide FERC the authority to unilaterally create new reliability standards or change existing ones. Rather that can only be done through NERC's reliability standards development process.

Responsible Attorney: Anthony Ivancovich

Rulemakings and policy statements

- **Order 890 Transmission Planning Process (OA08-62-005)**

On January 21, 2010, FERC issued an order in response the ISO's Order 890 transmission planning process compliance filing. The ISO filed its initial tariff and business practice manual revisions to comply with the Order 890 requirements in December, 2007. In June 2008, FERC directed the ISO to make a further compliance filing to address the role of the participating transmission owners in the planning process. The ISO submitted responsive revisions in October 2008. In May 2009, FERC denied several rehearing requests, conditionally accepted most of the tariff revisions, and directed the ISO to make a further compliance filing to address, among other things, time periods between the transmission planning process milestones. The ISO submitted revised tariff language in July 2009. The January 21 order accepted the tariff language but directed that minimum time periods between two more milestones be added to the tariff: namely the date upon which participating transmission owner submits reliability projects and mitigation solutions must be identified as the third major milestone in the planning process, and that a minimum time period be added between the ISO technical study results and the PTO submissions. FERC has also directed the ISO to submit tariff language that identifies the closing of the request window as the fourth major milestone in the transmission planning process, and that a minimum of six weeks be provided between the third and fourth milestones.

Responsible Attorney: Judi Sanders

Appellate matters

- **Interconnected-Balancing Authority Area appeal (Court of Appeals case no. 09-1213)**

The following parties filed petitions for review of FERC's July 30, 2009 and September 19, 2008 orders in the United States Court of Appeals for the District of Columbia Circuit: Sacramento Municipal Utility District, Modesto Irrigation District, Turlock Irrigation District, the Transmission Agency of Northern California, the City of Redding and the City of Santa Clara. These orders generally accepted ISO tariff provisions concerning how adjacent balancing authority areas should be modeled and how related transactions should be calculated. The parties have filed a joint proposal that opening briefs in the appeal be filed on March 22, 2010. If the court approves the schedule, the ISO's brief, as an intervenor in support of FERC, will be due in June 2010. Turlock Irrigation District filed an additional petition for review of FERC's December 17, 2009 order in the IBAA proceeding.

Responsible Attorneys: Roger Collanton and Dan Shonkwiler

<u>California Public Utilities Commission (CPUC) matters</u>

Smart Grid and the Energy Independence and Security Act of 2007 (R.08-12-009)

On December 29, 2009, the CPUC issued a final decision on smart grid issues raised by the Energy Independence and Security Act of 2007 (EISA). EISA required state utility commissions to consider whether a utility must: (1) demonstrate that it considered a smart grid investment before it makes any grid investment; (2) recover any costs (including a reasonable rate of return) relating to the deployment of a qualified smart grid system; (3) recover the book value of equipment rendered obsolete by the deployment of a smart grid system; (4) provide customers with daily information regarding their energy usage (including retail and wholesale prices); and (5) provide customers with access to their information at any time through the Internet and must provide any interested person aggregated usage information. Consistent with the draft orders released for public comment, the final order rejects adopting all of these standards. As for the two standards related to information, the draft and final orders found that the CPUC's advanced metering infrastructure proceedings already covered these issues and that further implementation details will be covered in subsequent workshops. The final order also mandated that the workshops consider how retail customers can be provided with timely wholesale price data.

Responsible Attorney: David Zlotlow

Long-term resource adequacy rulemaking (R.05-12-13)

On December 2, the ISO filed comments on the CPUC proposed decision in the long-term resource adequacy proceeding. The ISO's comments agreed with the proposed decision's recommendation to adopt a multiyear forward commitment of resource adequacy capacity resources in order to support long-term resource adequacy by fostering investment in new generation and competition between new investment and existing resources to provide resource adequacy capacity. The ISO disagreed with the proposed decision's conclusion that the current bilateral contracting approach for procuring resource adequacy capacity should be maintained. The ISO advocated adoption of a central capacity market instead.

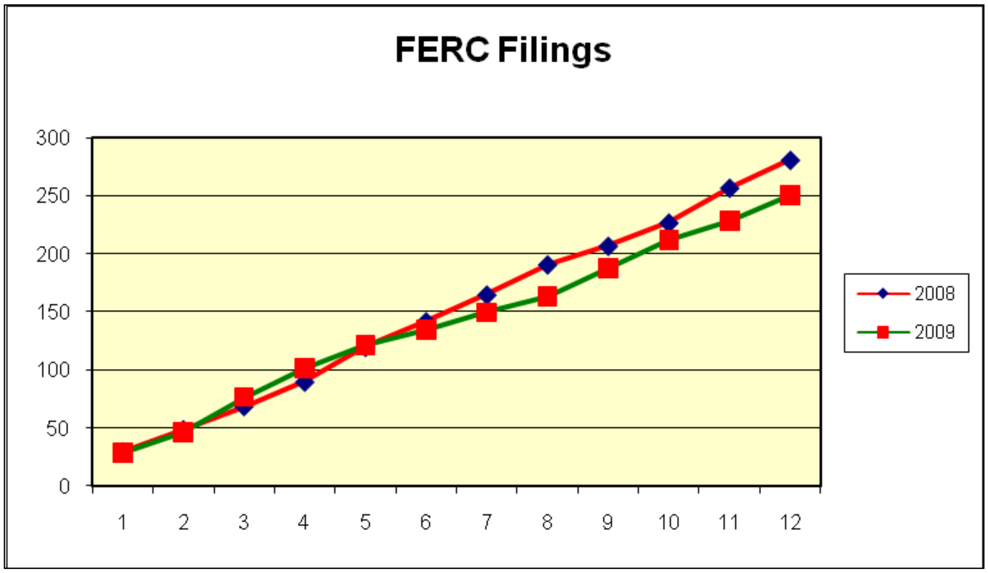
Responsible Attorney: Beth Ann Burns

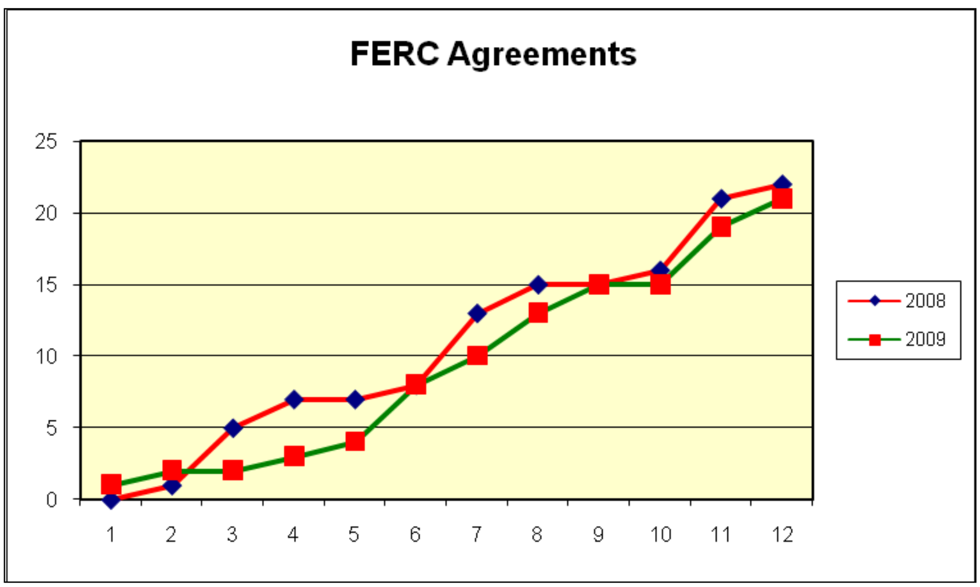
Fire safety rulemaking (Rulemaking 08-11-005)

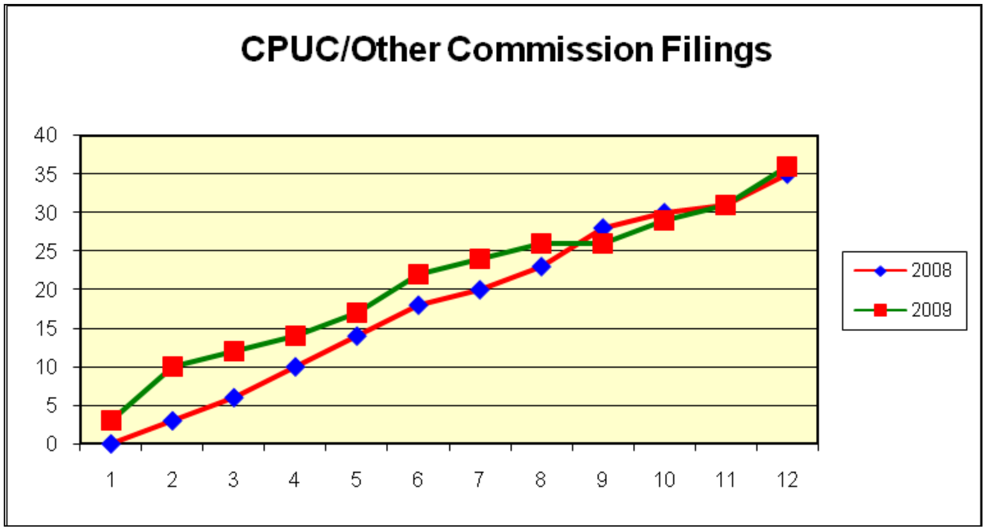
The CPUC is holding a series of workshops to address proposed rules relating to the safety of electric utility and communications infrastructure provider facilities. Among other issues under consideration is whether the CPUC should extend inspection and maintenance rules for distribution facilities to transmission facilities under the ISO's operational control. The ISO is participating in these workshops.

Responsible Attorney: Andrew Ulmer

Regulatory Filings
Through December 2009



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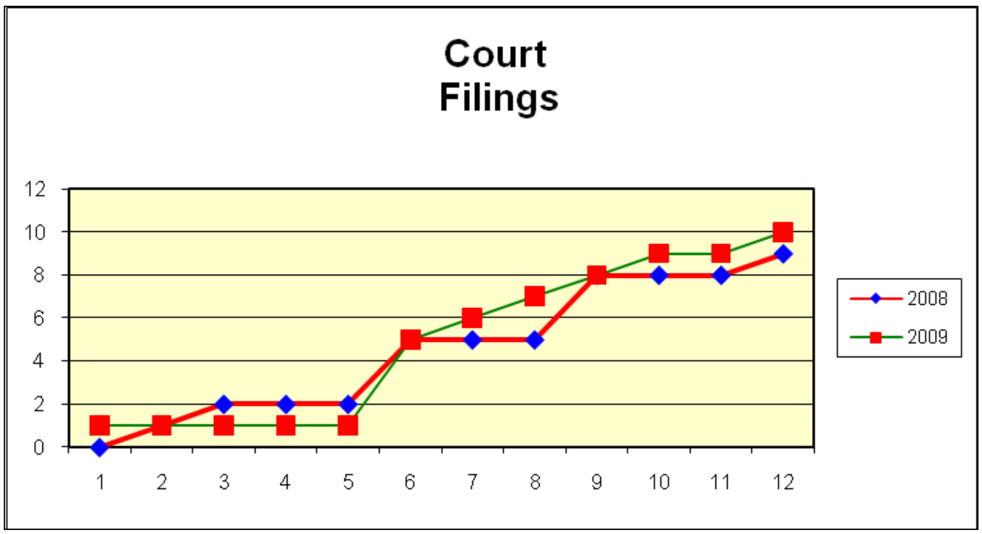
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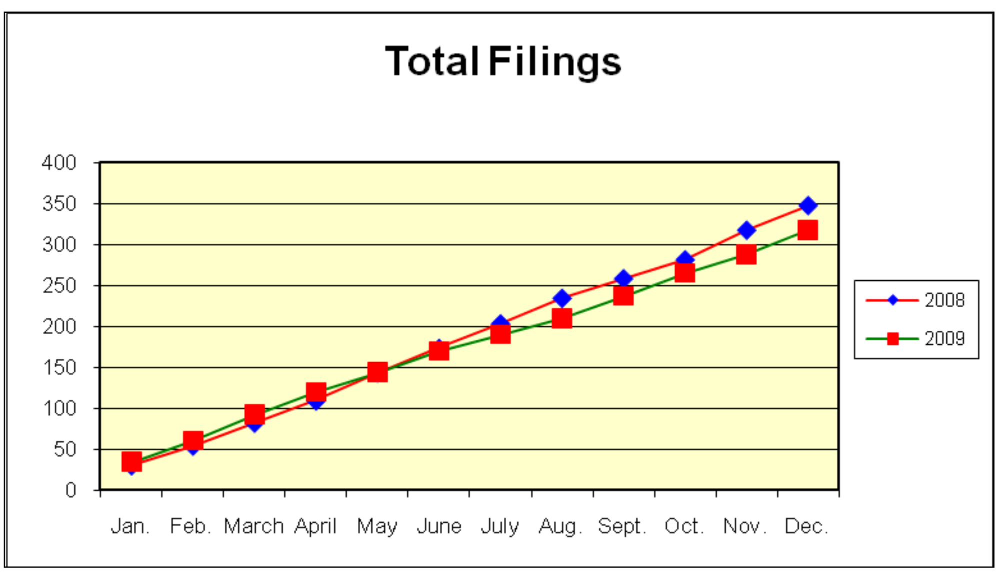
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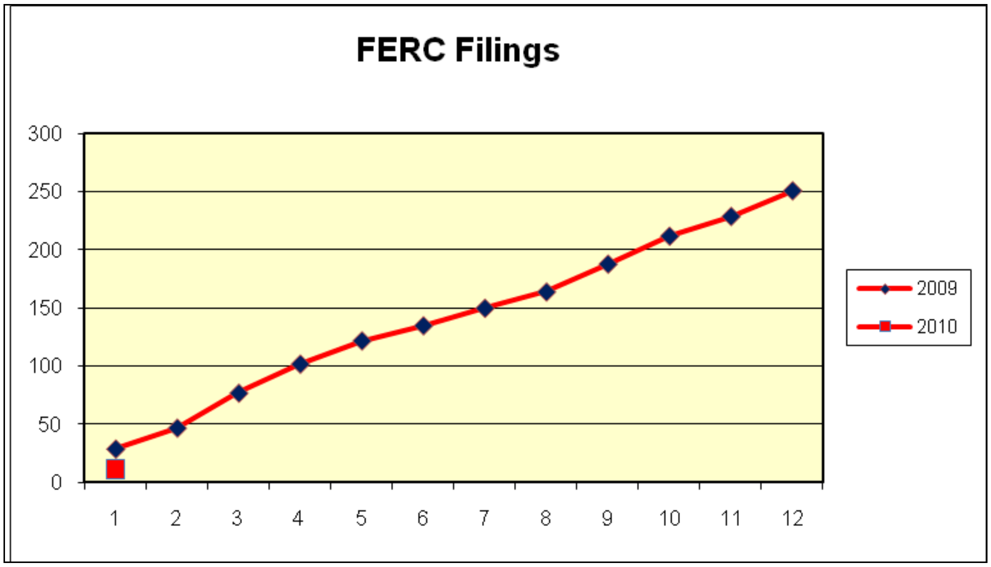
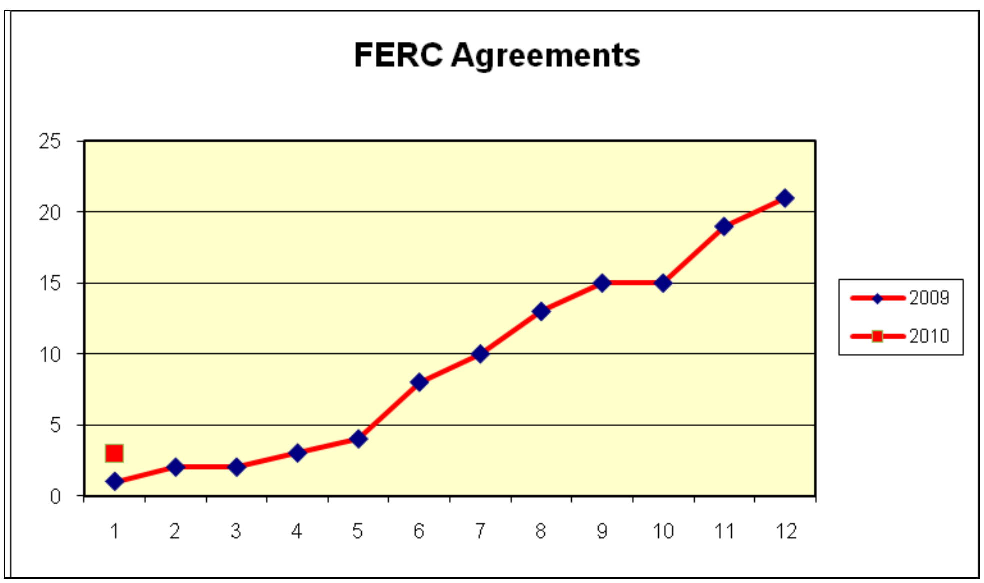
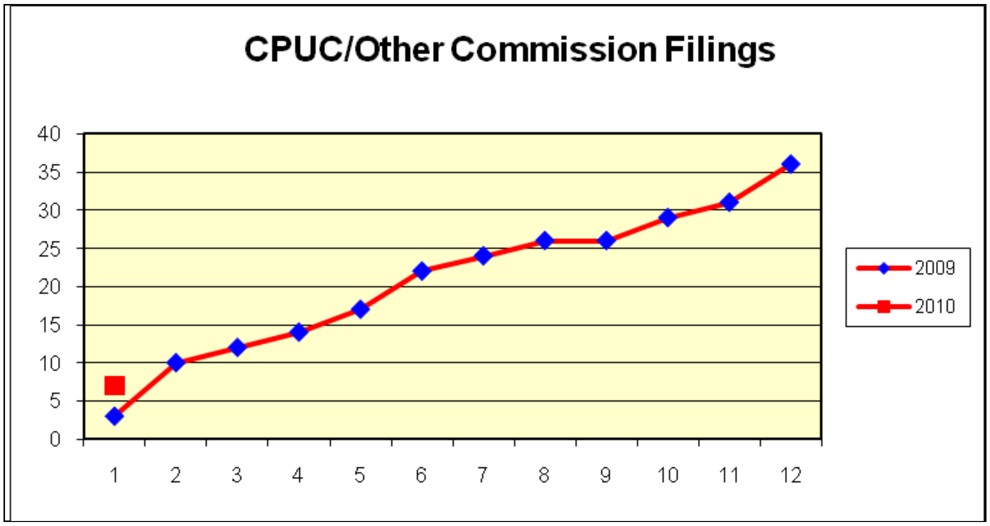
Regulatory Filings
For January 2010



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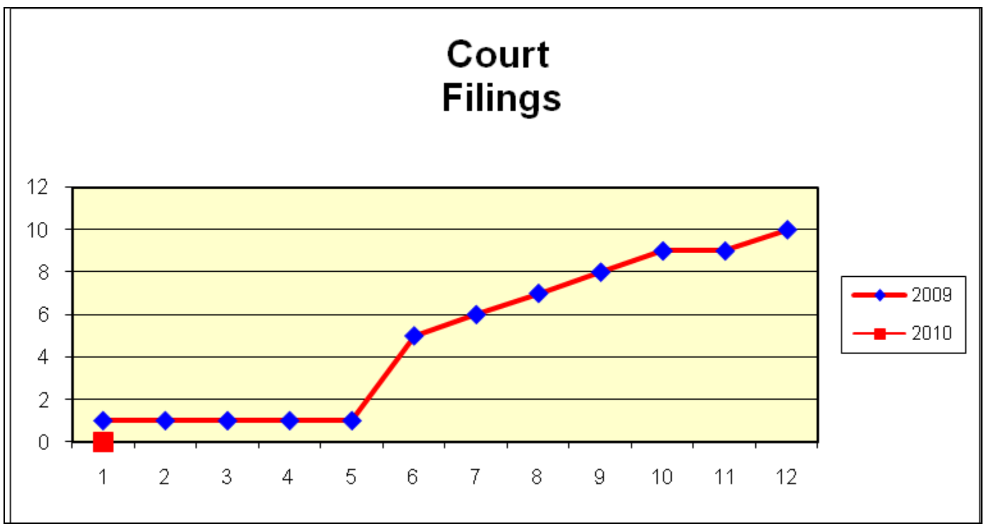
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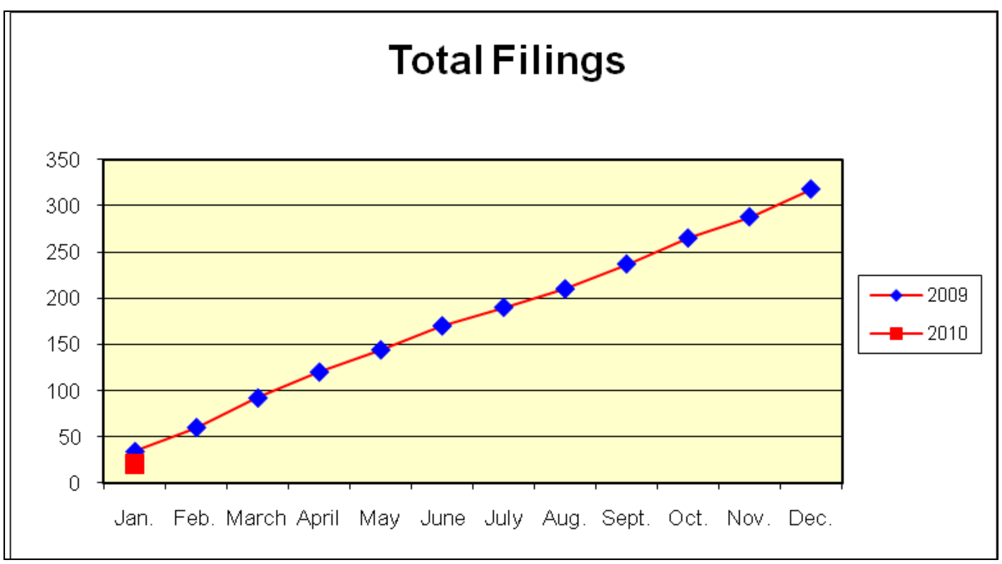
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