

# Memorandum

**To:** ISO Board of Governors  
**From:** Nancy Saracino, Vice President, General Counsel & Chief Administrative Officer  
**Date:** December 7, 2010  
**Re:** **Regulatory Update**

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*This memorandum does not require Board action.*

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

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

- **Generation interconnection process (ER11-1830)**

On October 19, 2010, the ISO filed its generation interconnection process tariff amendment with FERC to harmonize the ISO's small and large interconnection processes. Under this process, the ISO will use a cluster process as the primary study track for all generation projects seeking to interconnect to the ISO grid, regardless of size. The generation interconnection process also provides for an independent study process track, to allow projects of any megawatt size to be studied independently and faster than the cluster cycle timeline. A third study track is a "fast track" for certain projects up to 5 MW in size. The ISO expects that the streamlined generation interconnection process will allow it to clear the backlog of small generation projects by August 2011, and to process large and small projects more efficiently going forward.

On November 24, the ISO filed its answer to party comments on the tariff amendment with FERC, to incorporate ISO's small and large interconnection processing into one process. In general, commenting parties were supportive of the tariff amendment, although various parties argued that FERC should require the ISO to incorporate additional features. CalWEA and SDG&E took opposite positions regarding the criteria to determine whether a project is sufficiently independent to qualify for the independent study track. CalWEA argued that the criteria was too subjective, whereas SDG&E argued that the criteria was too rigid and should allow for greater engineering discretion by the ISO. Two entities that support distributed generation (though not interconnection customers connecting to the ISO grid) requested that the new process not be adopted until the ISO demonstrates that additional steps such as more staff could not resolve the issue of a backlog. The ISO has requested that FERC rule on the generation interconnection process by December 19, 2010.

Responsible attorney: Bill Di Capo

- **Capacity procurement mechanism**

On December 1, 2010, the ISO filed tariff amendments necessary to implement the permanent capacity procurement mechanism. The Board granted Management the authority to make this filing on November 2, 2010. The capacity procurement mechanism is a successor to the interim capacity procurement mechanism, which became effective in tandem with the ISO's new market design on April 1, 2009 and has a two-year sunset date. The interim mechanism provides the ISO with the authority to backstop load serving entities' resource adequacy procurement where a load servicing entity has failed to procure sufficient capacity or a significant event has occurred that requires the ISO to procure capacity above what was procured in the resource adequacy process. The ISO's new capacity procurement mechanism proposal seeks to make permanent most of the relevant characteristics of the interim mechanism, along with a few enhancements. The most noteworthy enhancement is the ability to confer a capacity procurement mechanism designation on a unit that is at risk of retirement, where the unit is not needed for reliability purposes in the year it plans to retire but will be needed in the following year. The ISO has requested an effective date of April 1, 2011 for the capacity procurement mechanism so that there will be no gap in its authority to procure backstop authority in those limited circumstances where doing so may be necessary.

Responsible attorneys: Beth Ann Burns and David Zlotlow

- **Governance and stakeholder responsiveness (ER09-1048)**

In October 2008, FERC issued Order No. 719, which required that each ISO adopt procedures and structural reforms to ensure that its board of directors is responsive to the needs of stakeholders. Management discussed this requirement with the Board in March 2009, and made its compliance filing in April 2009. On October 21, 2010, FERC accepted the ISO's compliance filing. Specifically, FERC found that the ISO's governance and stakeholder processes meets the four responsiveness criteria – i.e., inclusiveness, fairness in balancing diverse interests, representation of minority positions, and ongoing responsiveness. In reaching this conclusion, FERC relied on the ISO's publicly-noticed open meetings at which any stakeholder or other interested party can address the Board directly on individual decisional items before the Board takes action, the practice of summarizing competing views expressed during the stakeholder processes in the written materials submitted to the Board, the quality control measures and efforts to improve the ISO's stakeholder process, and stakeholder participation in the process for selecting governors. A technical conference was held in February 2010, but FERC found that the proposals discussed at the technical conference were not required to satisfy the requirements of Order No. 719.

Responsible Attorney: Dan Shonkwiler and David Zlotlow

- **Integration of variable energy resources (RM10-11-000)**

On November 18, 2010, FERC issued a Notice of Proposed Rulemaking to address the integration of variable energy resources. Earlier this year, FERC solicited comments on this issue through a notice of inquiry. FERC determined that the presence of variable energy resource is not uniform throughout the country and that many industry efforts are significant in scope and have the potential to address issues confronting regions where large concentrations of variable energy resources are located. FERC is proposing only a limited set of reforms to existing operational procedures. These reforms include the

following: (1) amend the *pro forma* open access transmission tariff to require intra-hourly transmission scheduling; (2) amend the *pro forma* large generator interconnection agreement to incorporate provisions requiring interconnection customers whose generating facilities are variable energy resources to provide meteorological and operational data to public utility transmission providers for the purpose of improved power production forecasting; and (3) amend the *pro forma* open access transmission tariff to add a generic ancillary service rate schedule in which public utility transmission providers will offer to provide regulation service for transmission customers using transmission service to deliver energy from a generator located within a public utility transmission provider's balancing authority area. Comments in response to FERC's Notice of Proposed Rulemaking are due within 60 days that the notice is published in the Federal Register.

Responsible attorneys: Anna McKenna

- **Convergence bidding (ER10-1559)**

On October 15, 2010, FERC issued an order accepting the ISO's convergence bidding tariff amendment subject to limited compliance directives. Specifically, FERC accepted the ISO's proposed: (1) uplift cost allocation to convergence bidding entities; (2) information release policy; (3) position limits (12 months and 18 months for internal Pnodes and interties, respectively); (4) rules to preempt implicit convergence bidding at inter-tie locations; (5) congestion revenue rights (CRR) settlement rule (prevents entities that are both CRR holders and convergence bidding entities from using virtual bidding to increase CRR revenues); (6) authority to reduce volume of bids at particular locations in order to ensure an AC solution; and (7) the dynamic credit check for virtual bids. The only substantive change required by FERC involved the ISO's proposed suspension authority. Although FERC accepted the ISO's proposals to suspend virtual bidding for reliability concerns, FERC directed the ISO and the Department of Market Monitoring to develop objective behavioral criteria for triggering suspensions or to rely on DMM's existing authority to make referrals to FERC. The ISO submitted its compliance filing on November 15, 2010, in which the ISO proposed to rely on DMM's existing referral authority rather than developing objective suspension criteria.

Responsible attorney: Sidney Davies

- **Transmission planning process reform (ER-10-1401)**

On July 26, 2010, FERC conditionally accepted but suspended the ISO's proposed tariff modifications that would implement a revised transmission planning process intended to facilitate the grid planning necessary to achieve the state's 33% renewable portfolio standard by 2020. FERC staff convened a technical conference on August 24, which ISO staff participated in. In accordance with the schedule established at the conference, the ISO submitted initial comments on September 8 and reply comments on September 17. The ISO also filed a clarifying response to statements made by an independent transmission provider in reply comments. The revised transmission planning process has been suspended until January 3, 2011 unless FERC issues a ruling establishing an earlier effective date.

Responsible attorneys: Judi Sanders and Anthony Ivancovich

- **Multi-stage generating resource modeling (ER10-1360 and ER10-2056)**

On May 28, 2010, the ISO filed tariff amendments seeking to implement multi-stage generating resource modeling. The Board authorized Management to pursue this modeling approach in May 2009. The implementation of this modeling will allow the ISO's market system to more accurately reflect the unique operational and economic parameters of combined cycle generating units and other resources that have multiple operating or regulating ranges that limit the resource to operate in only one of those ranges at any particular point in time. The core of the ISO's proposal involves modeling the distinct operating modes, or configurations, of generating units with multiple configurations as if each configuration were a distinct generating unit. The modeling approach may be extended in the future to other types of resources, such as pumped storage hydro and other storage facilities.

The ISO initially planned to implement this new functionality on October 1, 2010. On November 12, 2010, the ISO filed tariff amendments with FERC to delay implementation of the multi-stage generating resource functionality to December 7, 2010. This followed a prior request from the ISO to delay the implementation from October 1, 2010 to November 15, 2010. The recent three-week delay (from November 15 to December 7) is necessary to ensure adequate time for the ISO to complete testing of the new functionality and to grant market participants additional time to participate in market simulations.

Responsible attorneys: Anna McKenna and David Zlotlow

- **Station power netting (ER05-849 and EL04-130)**

On August 30, 2010, FERC issued an order declaring that treatment of station power for retail purposes can be different from treatment of station power for wholesale purposes and otherwise affirming its prior orders regarding the ISO's station power tariff provisions. FERC issued this order in response to an opinion issued on May 4, 2010 by the United States Court of Appeals for the District of Columbia Circuit in response to Southern California Edison's appeal of a series of FERC orders requiring the ISO to revise its tariff provisions concerning station power netting intervals. The court vacated FERC's orders, finding that FERC had failed to explain why it has authority to set the netting interval for station power as it relates to retail energy transactions. In its order, FERC stated that if the ISO or any stakeholder believes that ISO tariff provisions need to be modified as a result of the order, then the ISO should undertake a new stakeholder process. On September 30, 2010, representatives of numerous generators filed requests for rehearing with FERC, asserting among other things, that the FERC order will subject them to costs pursuant to retail tariffs that they will not be able to recover.

Responsible attorney: Mike Dozier

- **Congestion revenue rights credit policy amendments (ER10-2297)**

On August 23, 2010, the ISO filed the second of two tariff amendments to eliminate unnecessary credit requirements for participating in the ISO's congestion revenue rights auctions. In this filing, the ISO is proposed to reduce excessive pre-auction credit requirements while ensuring that the credit requirements are sufficient to cover the maximum credit exposure of an auction participant. In addition, the ISO is proposing to eliminate the existing requirement of an auction participant to

dedicate a portion of its available credit for use in the auction. In an order dated October 29, 2010, FERC accepted the ISO's credit policy tariff amendments.

Responsible attorneys: Sidney Davies and Grace Arupo

- **Interconnection requirements for asynchronous generating facilities (ER10-1706)**

As authorized by the Board in May 2010, the ISO filed a tariff amendment on July 2, 2010 to revise the interconnection requirements for large asynchronous generating facilities seeking to interconnect to the ISO grid. These resources are primarily variable energy resources such as wind and solar photovoltaic generating facilities. The tariff amendments specify requirements for low voltage and frequency ride through capabilities, power factor and reactive power capability design, voltage regulation, and power plant management. On August 31, 2010, FERC issued an order accepting in part and rejecting in part the ISO's tariff amendments. FERC accepted the ISO's amendments relating to low-voltage ride through requirements and made them effective July 3, 2010. FERC, however, rejected other requirements relating to reactive power capabilities, voltage regulation and generator power management on the grounds that the ISO may demonstrate the need for these requirements for specific projects as part of the interconnection study process on a case-by-case basis and that the ISO did not adequately explain how it would use these capabilities if they were made broadly applicable. The ISO filed a request for rehearing of FERC's order on September 30, 2010. The requirements proposed by the ISO are necessary in light of the large amount of new variable energy resources seeking to interconnect to the ISO grid, which will displace conventional generation resources that provide comparable capabilities.

Responsible attorneys: Andrew Ulmer and Grant Rosenblum

- **Scarcity pricing (ER10-500; ER10-2293)**

The ISO submitted proposed tariff language to FERC on December 24, 2009 to implement the reserve scarcity pricing design approved by the Board in December 2009. In response to FERC's directive that the ISO refine its scarcity pricing design within one year of starting its new market, the ISO requested authority to implement scarcity pricing by April 1, 2010. FERC issued an order largely accepting the ISO's scarcity pricing design on June 29, but suspended the effective date of scarcity pricing until November 29, 2010. FERC directed the ISO to justify proposed differences between the scarcity values proposed for the ISO system region and the ISO's ancillary services sub-regions or make those values consistent. The ISO filed a motion for clarification of FERC's order explaining that it will make these values consistent but requesting clarification that it is not necessary to add the values together to calculate ancillary service marginal prices, when there is a shortage in both the ISO system region and an ancillary service sub-region. The ISO also submitted a compliance filing consistent with the relief it requested in its motion for clarification. FERC has accepted the ISO's compliance filing in its entirety and has authorized the ISO to implement scarcity pricing on December 14, 2010.

Responsible attorney: Andrew Ulmer

## **Regulatory contracts filings and orders**

- **Manzana Wind interconnection agreement (ER11-2139)**

The ISO, Southern California Edison Company, and Manzana Wind have entered into an interconnection agreement for the Manzana Wind project that does not conform to the ISO's pro forma large generator interconnection agreement. The non-conforming provisions relate primarily to conditions pertaining to SCE's up-front funding of the network upgrades for the interconnection of these projects, including the provision that SCE must receive FERC approval to recover any costs of "abandoned plant" from transmission ratepayers as a condition of its up-front funding. On November 10, 2010, SCE filed this agreement in Docket No. ER11-2067 and requested an effective date of January 10, 2011. On November 17, 2010, as supplemented on November 22, 2010, the ISO filed this agreement in Docket No. ER11-2139 and requested the same effective date. SCE and the ISO submitted separate filings of this agreement due to the need of each to establish its own baseline service agreement in FERC's new eTariff software system.

Responsible attorneys: John Anders and Bill DiCapo

- **Collinsville interconnection agreement (ER10-3045)**

On August 9, 2010, Pacific Gas and Electric Company filed an unexecuted interconnection agreement for its Collinsville wind project that included provisions applicable to utility-owned generating facilities that do not conform to the ISO's pro forma large generator interconnection agreement. On September 17, 2010, FERC accepted PG&E's filing effective as of October 9, 2010, subject to revisions to address comments by the ISO. PG&E submitted its compliance filing that same day. On September 27, 2010, the ISO submitted a separate filing of this agreement due to the need to establish its own baseline service agreement in FERC's new eTariff software system. On November 3, 2010, FERC issued letter orders in Dockets No. ER10-2168 and ER10-3045 accepting PG&E's and the ISO's filings of this interconnection agreement effective as of October 9, 2010.

Responsible Attorneys: Mike Dozier and Bill Di Capo

- **Mirant reliability must-run contract (ER11-2218)**

On November 30, 2010, Mirant filed revisions to its reliability must run agreement for the Potrero power plant for the 2011 contract year. The agreement includes a new section that allows the ISO to provide notice of early termination. If the ISO provides notice of termination by January 15, 2011, the agreement will terminate effective February 28, 2011. If the ISO does not provide notice prior to January 15, 2011, then the ISO must provide 60 days advance notice of when the Potrero facility is no longer needed for reliability and the agreement will terminate at the end of the month following the 60 day notice period unless the 60 days falls on the last day of the month in which case the agreement will terminate on that day. All of the terms and conditions were negotiated and agreed to among the affected entities, which include Pacific Gas and Electric Company and the CPUC in addition to Mirant and the ISO.

Responsible attorney: Sidney Davies

## Report filings

- **Monthly convergence bidding status report (ER10-300)**

On October 29 and November 30, the ISO filed reports on the status of convergence bidding. FERC directed the ISO to file monthly status reports to track progress toward the ISO's implementation of convergence bidding by February 2011. The target date for convergence bidding implementation is February 1, 2011, and the initiative is currently on track to meet this target.

Responsible attorney: Sidney Davies

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

A market disruption is an action or event that causes a failure of an ISO market, related to system operation issues or system emergencies. The ISO reports these market disruptions to FERC in connection with the implementation of its new market design. On November 15, 2010, the ISO submitted its monthly market disruption reports that occurred from September 16, 2010 through October 15, 2010. 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.

Responsible attorney: Anna McKenna

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

The ISO submits two monthly exceptional dispatch reports to FERC in connection with exceptional dispatches under its new market design. On November 15, 2010, the ISO submitted transactional data including incremental and decremental MW volume, duration and location for exceptional dispatches occurring during the months of September. On October 30, and November 30, the ISO submitted MW hour data and cost data for exceptional dispatches occurring during the months of July and August 2010, respectively.

Responsible attorney: Sidney Davies

## Rulemakings and policy statements

- **Credit policy rulemaking (RM10-13)**

On October 21, 2010, FERC issued its final rule on credit reforms to reduce risk of participating in organized electricity markets. The final rule requires organized wholesale power markets to: (1) reduce the billing cycle to no more than seven days; (2) limit unsecured credit to \$50 million per market participant, and no more than \$100 million per corporate family; (3) eliminate unsecured credit in congestion revenue rights markets; (4) establish minimum criteria for market participation following a stakeholder process; (5) clarify tariff provisions that would trigger demand for additional collateral from a market participant; and (6) reduce the time period from three days to two days for complying with collateral calls. In addition, FERC is requiring ISOs and RTOs to take some further action to minimize the risk to market participants in the event of a bankruptcy. The ISO must submit its compliance filing by June 30, 2011 with tariff revisions to go into effect on October 1, 2011. The ISO

intends to initiate a stakeholder process commencing in January 2011 and will likely go to the Board for various approvals prior to the June 30, 2011 compliance filing.

Responsible attorneys: Sidney Davies and Grace Arupo

- **Transmission planning and cost allocation rulemaking (RM10-23)**

On November 12, 2010, the ISO filed reply comments in response to the initial comments filed by certain parties in response to FERC's Notice of Proposed Rulemaking on Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities. The ISO demonstrated that there was a broad consensus among transmission planners that FERC should not adopt the NOPR's proposal to require transmission planners to evaluate an unlimited number of transmission project proposals that are unrelated to previously identified system needs. The ISO argued that such a proposal, coupled with the NOPR's proposal to grant project developers with a "first-come, first-served" priority right to build and own facilities comprising a project proposal, will discourage input and participation by stakeholders seeking to develop superior solutions, encourage a flood of potentially questionable projects simply so that sponsors can stake a claim to a project, raise significant implementation issues, and work against the goals of efficient and effective transmission development. Next, the ISO argued that commenters failed to demonstrate a valid basis on which to conclude that FERC has the legal authority to dictate which entities will build transmission facilities. The ISO noted that elimination of the "right of first refusal" would disproportionately harm transmission members that are members of ISOs and RTOs, thereby serving as a disincentive for utilities to continue their membership in ISOs and RTOs. The ISO argued that, to the extent FERC eliminates the "right of first refusal" for regional projects, it must establish clear principles that would distinguish between regional projects that would provide opportunities for non-incumbent developers to build and own the facilities, versus local projects for which existing transmission owner construction rights and responsibilities would remain in effect. With respect to commenters claims that there should be an increased emphasis on cost containment in the planning process, the ISO noted that there are other selection criteria -- in particular reliability -- that are at least as important as cost, and that system planners have little or no ability to ensure that the cost of a transmission project does not exceed the estimated cost at the time it is approved. The ISO stressed that the only effective cost containment measure is a voluntary and binding agreement to cap costs on a proposed project. On November 12, the ISO/RTO Council (IRC) also filed reply comments. With respect to the consideration of public policies in the transmission planning process, the IRC urged FERC to limit the potentially eligible public policies that might be considered to those developed by state or federal legislative, executive and regulatory bodies. The IRC argued that ISOs and RTOs should not be required to consider public policy goals adopted by an individual stakeholder's board of directors rather than specific state or federal laws, regulations or executive orders. The IRC argued that such an approach would not be workable, could result in the potential for a cacophony of stakeholders requesting the ISO or RTO to consider their own list of adopted public policy goals, and could require the ISO or RTO to sort through a myriad of conflicting policy goals and implementation plans of individual stakeholders. The IRC also requested that FERC not require the use of an "independent evaluator" to oversee the evaluation and selection of projects in the transmission planning process. The IRC noted that FERC had previously rejected a similar request in Order No. 890 and commenters had not provided any specific evidence why FERC should abandon its prior decision

Responsible attorneys: Anthony Ivancovich and Judi Sanders



- **Demand response compensation proposed rulemaking (RM10-17)**

On October 13, 2010, the ISO filed supplemental comments in this rulemaking proceeding on demand response compensation in organized markets. FERC initiated the rulemaking in March 2010 to consider its proposal that all demand response resources that successfully bid into wholesale electricity markets for energy should be compensated at the full locational marginal price. In its supplemental comments, the ISO reiterated its support for payment of the locational marginal price, but commented that FERC should not attempt to prohibit local regulatory authorities from determining how load serving entities should be compensated for the cost of procuring the energy that is being offered as demand response. The ISO also noted that the ISO's proxy demand response (PDR) product, which was developed through a robust stakeholder process, allows the load serving entity and the demand response provider to determine how PDR compensation should be shared outside of the ISO's market mechanisms, under rules that would be developed by the local regulatory authority, if applicable.

Responsible attorney: Bill Di Capo

- **Version One Regional Reliability Standard for Resource and Demand Balancing (RM09-15-000)**

October 21, 2010, FERC issued a Final Rule (Order 740) remanding to NERC a revised WECC regional reliability standard (BAL-002-WECC-1 – Contingency Reserves). FERC directed that WECC modify the revised standard consistent with its order. WECC's revised standard requires each reserve sharing group or balancing authority to maintain minimum contingency reserves and maintain at least half as spinning reserve. FERC remanded the standard on the grounds that WECC did not provide sufficient technical support to demonstrate that extending the current reserve restoration period from 60 to 90 minutes. NERC has developed a continent-wide standard that allows a reserve restoration period of 90 minutes. But FERC determined this proposal presents an unreasonable risk in the Western Interconnection that another contingency could occur before reserves are restored after an initial contingency. FERC's order distinguishes WECC by the number of transmission paths that are voltage or frequency limited in contrast to other regions of the bulk power system. FERC concluded that disturbances on these paths require shorter response times. FERC's order also found that WECC's revised reliability standard does not provide that demand side management that is technically qualified may be used as a resource to provide contingency reserves. The order directs WECC to develop modifications that provide that demand side management that is technically capable may be used as a resource to provide both spinning and non-spinning contingency reserve.

Responsible attorney: Andrew Ulmer

### **Other FERC matters**

- **Default loss allocation complaint proceeding (ER09-62)**

On October 1, 2010, the ISO filed a settlement agreement that would, if approved, modify the tariff provisions relating to how a loss is allocated to the market in the event of a payment default. The settlement proposed a two step process whereby net sellers are initially allocated the loss as part of the

market clearing process but then the loss is reallocated across the entire market using an allocation methodology that combines three different approaches: net creditor status for 20%; the absolute value of net invoices for 30% and a methodology that measures, in MWhs, the market participant's participation in the ISO market.

Responsible attorney: Sidney Davies

- **Southern California Edison Pisgah-Lugo transmission project and Red Bluff substation incentive rate filing (EL10-81)**

On August 4, 2010, SCE submitted a filing requesting recovery of any costs of abandoned plant and other rate incentives for the proposed Pisgah-Lugo transmission project and Red Bluff substation. On September 3, 2010, the ISO submitted comments proposing that FERC condition approval of any recovery by SCE of costs of abandoned plant on the incorporation of those facilities as network upgrades for generator interconnection projects in interconnection agreements executed by the ISO. On October 29, 2010, FERC issued an order finding that SCE failed to satisfy the standards set forth in FERC's Order No. 679 for transmission rate incentives in that SCE did not demonstrate that the proposed facilities would improve reliability or reduce the cost of delivered power by reducing transmission congestion, nor did SCE show that the projects have been reviewed through the ISO transmission planning process or approved by an appropriate state commission or state siting authority. However, similar to the order on the Eldorado-Ivanpah project in EL10-1, the order found that public policy considerations justify the granting of SCE's requests for recovery of abandoned plant costs and construction work in progress (but not SCE's request for adders to its return on equity).

Responsible Attorney: Mike Dozier

- **Waiver of economic project submission process (ER10-2191-000)**

An important element of the ISO's proposed revised transmission planning process is the elimination of the request window submission process for economic projects. Instead, under the new process the ISO will determine the need for both economic and policy-driven transmission elements and conduct a competitive solicitation for project developers to bid on financing, constructing and owning the needed facilities. With FERC's suspension of the revised planning process, the ISO was faced with conducting its 2010/2011 transmission planning cycle in accordance with the current tariff, including the request window submission process. On August 10, 2010, the ISO filed a petition for waiver of this tariff requirement for the 2010/2011 planning cycle, arguing that submitting economic projects would require an expenditure of resources by both potential project developers and ISO staff that likely will be rendered moot when the revised transmission planning process goes into effect. FERC granted an interim waiver of the tariff requirement on October 8, 2010, agreeing with the ISO that the requested waiver would promote efficiency and eliminate uncertainty with respect to the current cycle. The request window for the 2010/2011 cycle is currently open for all projects described in the tariff except for economic projects.

Responsible attorneys: Anthony Ivancovich and Judi Sanders

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

On October 1, 2009, SCE filed a request for recovery of any costs of abandoned plant and other rate incentives for the proposed Eldorado-Ivanpah transmission project. On December 17, 2009, FERC issued an order granting SCE's petition conditioned on the project's subsequent approval in the ISO transmission planning process. On August 3, 2010, SCE submitted a compliance filing asserting that FERC should either (1) deem the conditions of the December 17, 2009 order satisfied by the incorporation of the proposed project as network upgrades in interconnection agreements executed by the ISO or (2) authorize SCE's rate incentives for the project on independent policy grounds. On August 24, 2010, the ISO submitted comments confirming the ISO's approval of the portions of the project that are network upgrades for generator interconnection projects in interconnection agreements executed by the ISO and describing the incorporation of these network upgrades into the ISO's transmission planning process. On October 29, 2010, FERC issued an order finding that SCE failed to comply with the conditions of the prior order in failing to obtain approval of the project through the ISO transmission planning process. However, the order also found that public policy considerations justify the granting of SCE's requests for recovery of abandoned plant costs and construction work in progress (but not SCE's request for adders to its return on equity). The order imposes an additional condition that approval of the abandoned plant incentive for a portion of the proposed project is conditioned upon either ISO approval of future interconnection agreements triggering the need for such facilities or an order by the CPUC to install these facilities as part of the initial construction of the project.

Responsible Attorney: Mike Dozier

#### **D.C. Circuit Case No. 09-1213 (Appeal Regarding Integrated Balancing Authority Areas)**

On October 21, the United States Court of Appeals for the D.C. Circuit heard oral argument on appeals filed by SMUD and TANC challenging the FERC order that approved the ISO's proposal to address integrated balancing authority areas and identifying proxy hubs for interchange transactions with the Sacramento and Turlock balancing authority areas. The ISO's proposal, which was approved by the Board in May 2008 and filed with FERC the following month, was approved by FERC in September 2008, with rehearing denied in July 2009. On appeal, the ISO, together with Pacific Gas & Electric and Southern California Edison, filed a brief supporting FERC and presented argument at the hearing. While there is no deadline for a decision from the Court of Appeals, the Court typically acts on regulatory appeals within three to six months, which would mean a ruling in the spring. In-house senior counsel Dan Shonkwiler argued the ISO's position before the U.S. Court of Appeals in Washington, D.C.

Responsible Attorneys: Roger Collanton, Dan Shonkwiler and Andrew Ulmer

## **California Public Utilities Commission (CPUC) matters**

- **Smart Grid rulemaking (R.08-12-009)**

In December 2008, the CPUC issued an Order Instituting Rulemaking initiating the smart grid proceeding. In the nearly two years that it has been an active proceeding, the CPUC's smart grid docket has encompassed multiple issues and has gone forward in several stages.

The proceeding is currently focusing on customer privacy and rules governing third-party access to customer consumption information. On September 27, 2010, the Assigned Commissioner (Commissioner Ryan) issued a ruling requesting the state's IOUs to address specific issues regarding what customer usage they generate, how that data is shared with customers and third parties, and what price data is shared with customers. The ruling also requested that other parties address similar issues. On November 8, 2010, the ISO filed comments recommending that the CPUC set price information and customer privacy policies that will enable the continued development of demand response capabilities needed in light of the continued deployment of variable energy resources. An order on these issues is expected before the end of the year.

Responsible attorney: David Zlotlow

- **CPUC Long Term Procurement Plans (LTPP) (Docket No. 10-05-006)**

At workshops that took place on August 24 and 25, 2010, the ISO presented its renewable integration study methodology and modeling details. PG&E also presented information about its renewable integration model at the same workshop. The ISO submitted initial comments on September 21 and reply comments on October 8. Additional workshops were held on October 22 and November 30, 2010 at which the ISO presented additional information about validation and sensitivity modeling associated with renewable integration. The CPUC is considering the use of the ISO and PG&E renewable integration studies to inform long-term procurement decisions in the current two-year long-term procurement cycle.

On November 15, 2010, the ALJ assigned to the long-term procurement proceeding issued a proposed decision that, if adopted, would allow investor-owned utilities (IOUs) to participate in the ISO's convergence bidding market. The proposed decision finds that precluding IOUs from participation in the convergence bidding market would prevent them from achieving potential benefits for ratepayers. The decision grants interim authority to the IOUs, subject to specific uniform bidding strategies and reporting requirements, until a subsequent decision is issued or an annual stop loss limit is reached. The authorized convergence bidding strategies identified by the proposed decision include: (1) generation performance risk and utility load forecast uncertainty hedging; (2) renewable resource schedule and hedging; and (3) defensive bidding against market dynamics. The proposed decision allocates all of the costs and benefits of convergence bidding to ratepayers, subject to a "stop-loss" cap. The proposed decision would extend the Commission's affiliate transaction rules apply to convergence bidding activities undertaken by the IOUs. The ISO previously submitted comments in the long-term procurement proceeding, urging the Commission to allow IOUs to participate in the convergence bidding market.

Responsible attorney: Judi Sanders.

- **Sunrise Powerlink Transmission Project Court of Appeal Decision**

On August 17, 2010, the California Court of Appeal denied the Utility Consumer Advocate Network's (UCAN's) petition for review of the CPUC decision granting SDG&E a certificate of public convenience and need (CPCN) for the Sunrise Powerlink transmission project. The ISO was not named as a real party in interest in the appeal but filed a short brief in support of the decision. UCAN argued that the CPUC erred by, among other reasons, failing to evaluate cost effective alternatives to Sunrise as required by Section 1002.3 of the California Public Utilities Code. The Court of Appeal dismissed UCAN's arguments, noting that the CPUC identified over 100 possible alternatives to Sunrise and that the statute does not require the evaluation of "every possible permutation of every alternative" in order to grant a CPCN. In addition, the Court found that the CPUC did consider—and reject—the specific alternatives proposed by UCAN, contrary to the arguments set forth in the petition.

The Sunrise decision was appealed to both the Court of Appeal, for non-environmental issues, and to the California Supreme Court, which has exclusive jurisdiction over environmental challenges. The ISO was named as a real party in interest in the latter appeal. The Supreme Court held its consideration of the appeal in abeyance pending a decision from the Court of Appeal, but has now established a briefing schedule for the environmental appeal with opening briefs due on November 5, 2010 and reply briefs due on December 17, 2010.

Responsible attorney: Judi Sanders

- **Rulemaking proceedings regarding qualifying facility policy (R.04-04-003, etc.)**

On October 8, 2010, PG&E, SCE, SDG&E, the CPUC Division of Ratepayer Advocates, TURN, and representatives of qualifying facilities (QFs) filed a proposed settlement intended to resolve issues among the utilities, QFs, and ratepayer advocates in multiple CPUC proceedings. The settlement includes four proposed versions of standard power purchase agreements between the utilities and QFs, all of which would require QFs to comply with the tariff as advocated by the ISO in these proceedings. In addition, the settlement includes a separate letter agreement between the utilities and the ISO in which the ISO agrees to provide temporary exemptions, which the ISO may grant under its tariff, from its revenue metering and telemetry requirements for QFs that are transitioning from a grandfathered existing power purchase agreement to a new standard power purchase agreement. On October 25, 2010, the ISO filed comments supporting the proposed settlement. On November 16, 2010, the administrative law judge issued a proposed decision that would approve the settlement.

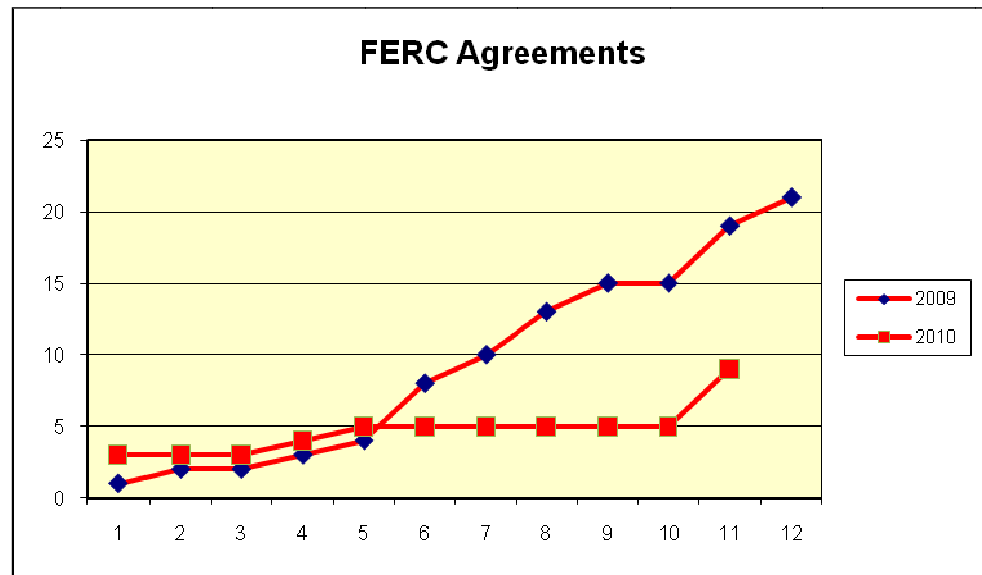
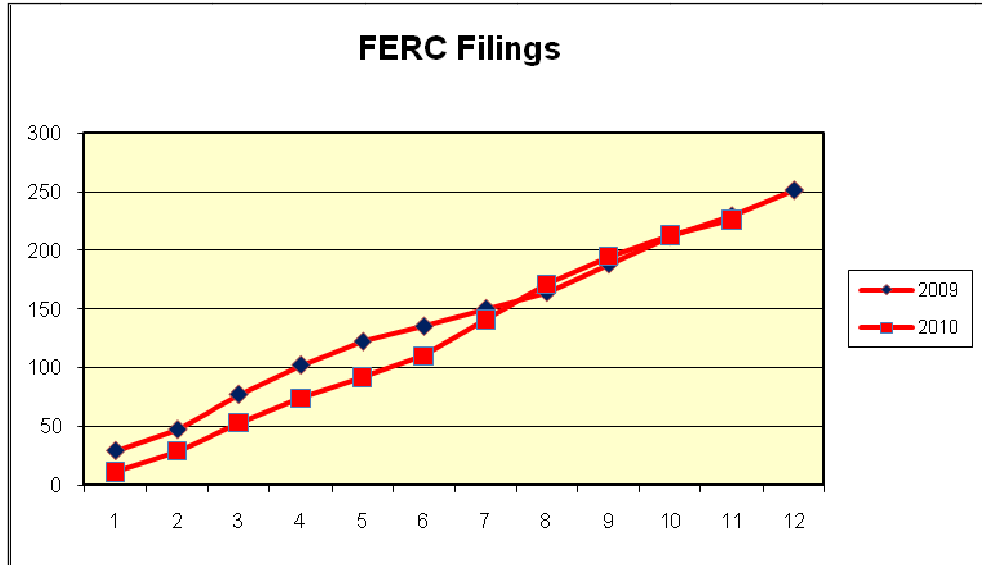
Responsible Attorneys: Mike Dozier and Sidney Davies

- **PG&E applications for approval of new qualifying facility power purchase agreements (A.10-10-004, A.10-10-005)**

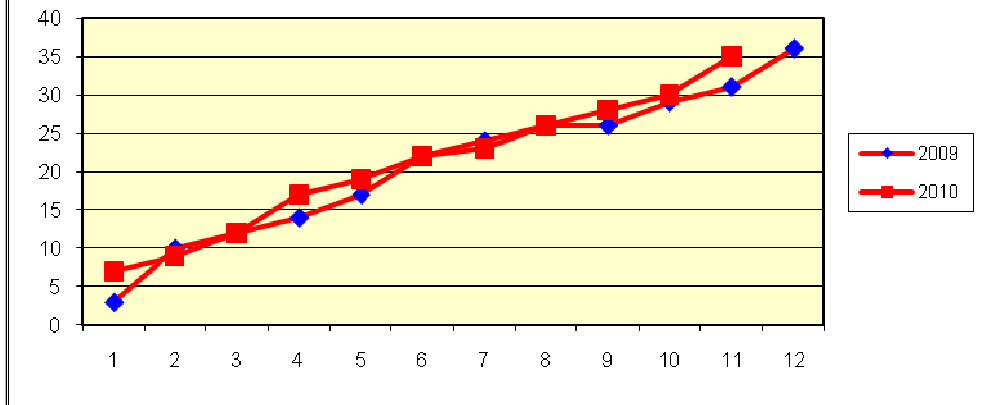
On October 8, 2010, simultaneous with the filing of the settlement described above regarding R.04-04-003, etc, PG&E filed two applications for approval of a total of seven new power purchase agreements with qualifying facilities to replace existing grandfathered agreements. The agreements would require the qualifying facilities to comply with the ISO tariff, consistent with the position advocated by the ISO in the proceedings that are subject to the proposed settlement described above (R.04-04-003, etc.). On November 11, 2010, the ISO filed comments supporting the provisions of these agreements.

Responsible Attorneys: Mike Dozier and Sidney Davies

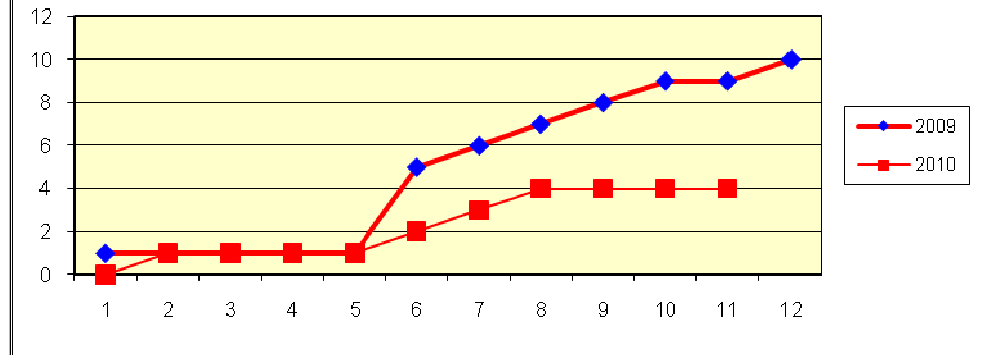
## Regulatory Filings November 2010 Charts



### CPUC/Other Commission Filings



### Court Filings



## Total Filings

