UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	)	**Docket Nos. ER12-1856-000 and ER13-219-000**

ANSWER OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
IN OPPOSITION TO
PACIFICORP'S MOTION FOR TECHNICAL CONFERENCE

The California Independent System Operator Corporation (ISO) hereby submits this answer in opposition to the Motion for Technical Conference of PacifiCorp (Motion) filed in these proceedings on December 3, 2012. PacifiCorp seeks a Technical Conference to address the impact of California's forthcoming greenhouse gas emissions program on the energy markets in the WECC region. The requested technical conference is beyond the scope of these proceedings and would serve no useful purpose at this time, if at all. The Commission should therefore deny the motion.

I. BACKGROUND REGARDING THESE TWO DOCKETS

Through Order No. 741,[1] issued on October 21, 2010, the Commission sought to improve the management of risk and the use of credit in organized markets operated by independent system operators and regional transmission organizations. In response to Order No. 741, on May 25, 2012, the ISO made a

[1] *Credit Reforms in Organized Wholesale Electric Markets*, Order No. 741, 133 FERC ¶ 61,060 (2010), *on reh'g* Order No. 741-A, 134 FERC ¶ 61,126, *reh'g denied,* Order No. 741-B, 135 FERC ¶ 61,242 (2011).

compliance filing in Docket No. ER12-1856 establishing the ISO as the contracting counterparty to each scheduling coordinator, congestion revenue rights holder, black start generator, or participating transmission owner for any purchase or sale of any product or service, or for any other transaction, that is financially settled by the ISO under the ISO tariff.[2] As part of the filing, the ISO proposed revisions to address the potential that, as central counterparty, the ISO might be deemed the "purchasing/selling entity," and the resulting consequences for California's state regulation of greenhouse gas emissions. The filing explained:

> [T]he ISO and its stakeholders have been concerned that the revision of section 11.29 could be misinterpreted to mean that the ISO is to be a purchasing/selling entity listed on an E-Tag, which could result in the ISO becoming the entity responsible for procuring emissions permits.[3] The general consensus of the stakeholders and the Air Resources Board is that the ISO should not be the entity with this responsibility. From the stakeholders' perspective, this is not desirable because the ISO would have to pass on additional costs to market participants. Moreover, ISO responsibility for procuring emissions permits would undermine the purpose of the greenhouse gas regulation because the ISO is not in a position to respond to the incentives by selecting a generation source with lower emissions. Consequently, for clarity, section 4.5.3.2.2 has been revised to add the following:
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> > For purposes of E-Tags, the CAISO is not, and shall not be listed as, the "Purchasing Selling Entity"; title to Energy shall

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[2] The one exception was sales into Mexico.

[3] Under the final rule of the California Air Resources Board, posted on December 14, 2011, Final Regulation Order for the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms, title 17, California Code of Regulations, section 95800 to 96023, liability for procuring the emissions permits associated with electricity imported into California rests with the party that brings the energy into the ISO grid. Specifically, section 95802 states that "[f]or electricity delivered between balancing authority areas, the electricity importer" – that is, the entity obligated to purchase emissions permits – "is identified on the NERC E-tag as the purchasing selling entity (PSE) on the last segment of the tag's physical path with the point of receipt located outside the state of California and the point of delivery located inside the state of California."

> pass directly from the entity that holds title when the Energy enters the CAISO Controlled Grid to the entity that removes the Energy from the CAISO Controlled Grid, in each case in accordance with the terms of this CAISO Tariff.[4]

The ISO also, among other matters, revised section 11.29 of the ISO tariff to provide that transactions that are financially settled by the ISO under the ISO tariff are deemed to occur within California. In an August 31, 2012 order, the Commission adopted the proposed amendments with modifications.[5] The modifications are not relevant to the issues raised in PacifiCorp's motion.[6]

On October 29, 2012, the ISO submitted another tariff amendment in Docket No. ER13-219. This amendment provided for the inclusion of greenhouse gas compliance costs in the calculations set forth in the ISO tariff for determining resource commitment costs (start-up and minimum load costs), default energy bids (bids used in the automated local market power mitigation process), and generated bids (bids generated on behalf of resource adequacy resources and as otherwise specified in the ISO tariff). The ISO explained that the filing provides for cost recovery of an additional cost that resources with a California Air Resources Board compliance obligation will incur as of January 1, 2013.

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[4] California Independent System Operator Corp., Revisions to the ISO Tariff in Compliance with Order No. 741, Docket No. ER12-1856-00 at p. 6 (May 25, 2012 filing).

[5] *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,169 (2012).

[6] On October 22, 2012, PacifiCorp and Portland General Electric moved to intervene in the proceeding out-of-time and moved for reconsideration of the August 31 Order. The ISO has filed an answer opposing the motion. The motion remains pending.

II. ANSWER

A. PacifiCorp's Motion Is Beyond the Scope of These Proceedings.

The ISO made its May 25, 2012 filing in response to Order No. 741. This filing had no effect on the implementation of California's cap and trade program. Rather, the implementation of California's cap and trade program was an existing circumstance that the ISO needed to account for in its Order No. 741 compliance. With regard to responsibility for the cost of greenhouse gas emissions, the ISO's May 25, 2012 filing merely preserved the status quo. Prior to the filing, the ISO did not meet the criteria in NERC's functional model to serve as a purchasing/selling entity.[7] While certain scheduling coordinators have in the past identified the ISO as a purchasing/selling entity on E-tags to facilitate interchange transactions, the ISO initiated system changes in 2011 to eliminate this practice. The ISO communicated these changes to affected parties starting in December 2011, a couple of months before the ISO published for stakeholder review the tariff provisions that it ultimately filed on May 25, 2012. The provisions in that filing concerning E-tags and the location of the transaction ensure that, by becoming the central counterparty, the ISO did not unwittingly transform itself into a purchasing/selling entity under the NERC functional model and impose obligations on itself that would be inconsistent with the purpose of the cap and trade program and with the ISO's mission. Consequently, the ISO's May 25, 2012

[7] NERC Reliability Functional Model Version 5 at 53, available at http://www.nerc.com/files/Functional_Model_V5_Final_2009Dec1.pdf

filing is unrelated to the impact of the cap and trade regulations on prices in the WECC region.

Similarly, the ISO's October 29, 2012 tariff amendment filing in Docket No. ER13-219 had no effect on the implementation of California's cap and trade program. The amendment takes it as a given that the cap and trade measures will increase the costs of energy delivered to load in California, and only addresses the manner in which the deliverers of energy will recover those costs from load. Thus, this filing is also unrelated to the impact of the cap and trade regulations on prices in the WECC region.

The Commission should therefore deny Pacificorp's motion as outside the scope of the above-captioned proceedings.

B. The Cap and Trade Program Will Have No Direct Impact on the Price of Energy that Has Neither Its Source nor Its Sink in the ISO Balancing Authority Area.

A significant part of PacifiCorp's argument for a technical conference is that the cap and trade regulations will have a direct impact on the price of energy that has neither its source nor sink in California. PacifiCorp states:

> Other transactions [at the ISO's pricing nodes outside California] are purely bilateral transactions with source and sink outside of the [ISO]. The [ISO's locational marginal prices] at these nodes has a profound impact on the prices for these bilateral transactions notwithstanding that these transactions neither originate in nor sink in the [ISO] system. Thus, to the extent the [California Air Resources Board] program increases wholesale energy prices at the [ISO] border nodes, it will likely increase the cost of energy to PacifiCorp purchases at these nodes to serve its customers.[8]

[8] PacifiCorp Motion at 7.

This is incorrect. The cap and trade regulations will not affect the cost of energy for the bilateral transactions that PacifiCorp describes. As the Commission is aware, the locational marginal price comprises three elements: the system marginal energy cost, the marginal cost of losses, and the marginal cost of congestion.[9] A wheel through transaction in the ISO Market, *i.e.,* one with both the source and sink outside the ISO balancing authority area, consists of an import and an export.[10] An import bid is a supply bid and an export bid is a demand bid.[11] Thus, a scheduling coordinator that submits a wheeling through transaction will thus receive the relevant LMP for the import and pay the relevant LMP for the export. Because the system marginal cost of energy is the same for both, it nets out. The scheduling coordinator will only pay the ISO for the difference between the marginal costs of losses and the marginal costs of congestion. The cap and trade program has no effect on losses or congestion, or on the costs associated with losses or congestion; thus, it cannot directly affect the cost of energy for transactions with both the source and sink outside of the ISO balancing authority area.

C. The Proposed Technical Conference Will Serve No Useful Purpose at this Time, if at All.

PacifiCorp seeks a technical conference focused on the impact of the cap and trade regulations on energy prices in the WECC region, not on the ISO tariff revisions addressing issues raised by the cap and trade regulations, or anything else pertinent to these dockets. This raises the question of the purpose served by

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9 ISO Tariff § 27.1.1.

10 ISO Tariff § 30.5.4.

11 ISO Tariff, Appendix A.

such a technical conference. The cap and trade regulations were promulgated by the California Air Resources Board to implement California law. The Commission has no jurisdiction over the California Air Resources Board or the state of California. The Commission has no more authority to address the costs imposed by the cap and trade program than it does to address the many other factors outside its jurisdiction that affect costs, such as federal environmental regulations or property taxes. After a technical conference examining the impact of the cap and trade program on prices, there would be limited actions that the Commission could take in response.

Even if there would be value in a technical conference as PacifiCorp requests, it would be premature to convene such a conference "as soon as possible," when there is no empirical data available regarding the effect of the cap and trade program on California energy prices or regarding any indirect effect on other prices in the WECC region. The ISO's Department of Market Monitoring, the California Air Resources Board, and the California Public Utilities Commission, among others, will undoubtedly devote resources to monitoring all aspects of the implementation of the cap and trade program starting January 1, 2013, including its impact on energy markets. To the extent that the Commission wishes to investigate that impact, the appropriate time to do so would be after various entities have collected empirical data rather than now, when the analysis would necessarily be based on hypotheses and conjecture.

IV. CONCLUSION

For the reasons explained above, the Commission should deny PacifiCorp's motion.

Respectfully submitted,

/s/ Michael E. Ward

Nancy Saracino
General Counsel
Roger Collanton
Deputy General Counsel - Legal
Daniel J. Shonkwiler,
Senior Counsel
California Independent System
Operator Corporation
250 Outcropping Way
Folsom, CA 95630
Tel: (916) 351-4400
Fax: (916) 351-4436
E-mail: dshonkwiler@caiso.com

Michael E. Ward
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004
Tel: (202) 239-3300
Fax: (202) 654-4875
E-mail: michael.ward@alston.com

Counsel for the California Independent System Operator Corp.

Dated: December 13, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each party listed on the official service lists for these proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Executed at Washington, DC, on this 13th day of December, 2012.

/s/ Michael E. Ward

Michael E. Ward
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004
Tel: (202) 239-3300
michael.ward@alston.com