

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

<b>California Independent System Operator Corporation</b>	)	<b>Docket Nos. ER09-1048-___ ER06-615-___ ER06-615-___</b>
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**MOTION FOR LEAVE TO ANSWER AND ANSWER OF THE  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, the California Independent System Operator Corporation (“ISO”) hereby moves for leave to answer an answer and provides its answer to the Answer in Opposition (“SWP Answer”) filed in this docket by the California Department of Water Resources – State Water Project (“SWP”) on January 7, 2010. The SWP Answer opposes the ISO’s pending Motion for Clarification or, in the Alternative, Request for Rehearing of the Commission’s November 19, 2009 order in this proceeding (“Motion”).<sup>1</sup> In addition to opposing the ISO’s request for rehearing, SWP asks that the Commission require the ISO to implement its Participating Load Refinements by a date certain and no later than April 2010. For the reasons discussed below, the ISO requests that, in addition to granting its rehearing request, the Commission disregard, as an improper answer, SWP’s request that the Commission direct implementation of the ISO’s Participating Load Refinements by April 2010 or, in the alternative, deny that request.

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<sup>1</sup> *Cal. Indep. Sys. Operator Corp.*, 129 FERC ¶ 61,157 (2009) (“November 19 Order”).

## I. BACKGROUND

The full background of this proceeding is discussed in the ISO's Motion. Relevant for the purposes of this answer, in Order No. 719,<sup>2</sup> the Commission directed:

All RTOs and ISOs must incorporate new parameters into their ancillary services bidding rules that allow demand response resources to specify a maximum duration in hours that the demand response resource may be dispatched, a maximum number of times that the demand response resource may be dispatched during a day, and a maximum amount of electric energy reduction that the demand response resource may be required to provide either daily or weekly.<sup>3</sup>

The ISO submitted the applicable compliance filing in this proceeding on April 28, 2009. In its compliance filing, the ISO acknowledged that Order No. 719 directed ISOs to allow demand response resources to identify the maximum number of times that they could be "dispatched" during a day, but explained that its Participating Load Refinements under development could not accommodate such a requirement, literally read. The ISO also noted that Generators did not have this ability.

The November 19 Order largely accepted the ISO's compliance filing, but it rejected the ISO's initial explanation of how it will comply with the new bidding parameter requirements of Order No. 719.<sup>4</sup> The November 19 Order stated that, "[t]he 'comparable' treatment of demand resources, in this case, dictates recognition of the inherent characteristics of demand response resources in determining bidding parameter rules, not necessarily identical treatment as

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<sup>2</sup> *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, 73 Fed. Reg. 61,400 (Oct. 28, 2008), FERC Stats. & Regs. ¶ 31,281 (2008) (Order No. 719), *order on reh'g*, Order No. 719-A, 74 Fed. Reg. 37,776 (July 29, 2009), 128 FERC ¶ 61,059 (2009).

<sup>3</sup> Order No. 719 at P 81.

<sup>4</sup> November 19 Order at PP 35-37.

afforded to generation.”<sup>5</sup> The Commission stated that “we will require the CAISO to allow demand response resources the ability to specify the maximum number of times that they may be dispatched to a different output level during a day.”<sup>6</sup>

In the Motion, the ISO asked that the Commission clarify that the ISO can comply with the Commission’s directive by providing demand response resources with the ability to specify the maximum number of dispatch periods for those resources during a day. To the extent that the November 19 Order was intended to require the ISO to allow demand response resources to specify a maximum number of times during the day when the ISO can issue dispatch instructions to change the megawatt levels of those resources, the ISO requested rehearing as this directive would require the ISO to expend substantial resources on an operational constraint that would actually limit the ability of demand response resources to participate in the ISO’s ancillary service markets.

On January 7, 2010, SWP filed the SWP Answer, including a request for file one day out-of-time. SWP asked that the Commission (1) order the CAISO to provide demand resources the ability to specify the maximum number of times that they are dispatched from one output level to another, not simply the number of start-ups in a given day, and (2) require the CAISO to institute the Participating Load Refinements by a date certain and no later than April 2010.

## **II. MOTION FOR LEAVE TO ANSWER**

The ISO recognizes that Rule 213 of the Commission’s Rules of Practice and Procedure precludes an answer to an answer unless authorized by the

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<sup>5</sup> *Id.* at P 37

<sup>6</sup> *Id.*

Commission. The Commission has, however, accepted answers that are otherwise prohibited if such answers clarify the issues in dispute<sup>7</sup> or assist the Commission.<sup>8</sup>

The ISO does not seek to respond to SWP's opposition to the Motion; the issues raised are fully discussed in the Motion itself. SWP's request regarding the implementation of the Participating Load enhancement, in contrast, raises an entirely new issue – an issue that the ISO has had no opportunity to address. If the Commission is to be able to respond to this issue, it must have information regarding the basis for the ISO's current schedule and the feasibility of compliance with SWP's request. This answer will therefore assist the Commission in its deliberations and the Commission should accept it.

### **III. DISCUSSION**

#### **A. The Commission Should Disregard SWP's Request Regarding the Implementation Date of the Participating Load Enhancements As Beyond the Scope of the Motion.**

Under Commission precedent, an answer must respond to the issues raised in the document to which it responds.<sup>9</sup> The implementation date of the ISO's Participating Load Refinements was not an issue in the Motion. SWP's request that the Commission direct the ISO to institute the Participating Load Refinements no later than April 2010 is thus beyond the scope of the Motion to which the SWP Answer responds. The Commission should therefore disregard that portion of the SWP Answer.

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<sup>7</sup> *Southwest Power Pool, Inc.*, 89 FERC ¶61,284, at 61,888 (2000); *Eagan Hub Partners, L.P.*, 73 FERC ¶ 61,334, at 61,929 (1995).

<sup>8</sup> *El Paso Electric Co.*, 72 FERC ¶ 61,292, at 62,256 (1995).

<sup>9</sup> See, e.g., *Niagara Mohawk Power Corp.*, 76 FERC ¶ 61285 (1996); *Jersey Central Power & Light*, 73 FERC ¶ 61092 (1995); *Montaup Elec. Co.*, 73 FERC P 61067 (1995).

**B. If the Commission Entertains SWP's Request Regarding the Implementation Date of the Participating Load Enhancements, It Should Deny It.**

The Participating Load Refinements project is a major ISO undertaking. Because of the significant number of business requirements and rules, affected systems and processes, and other implementation impacts, the project schedule is 15 months, from requirements through deployment.

As the Commission is aware, the ISO must avoid implementation of market enhancements during the high demand summer months. The potential for serious market disruption if the new market design enhancements have unexpected consequences is much higher during the summer. At this point, the ISO cannot implement the Participating Load Refinements prior to summer 2010, but plans implementation well before summer 2011.

The ISO cannot reasonably advance this schedule. There are a number of ongoing ISO projects that the Commission has mandated, or that for other reasons, should be implemented prior to the Participating Load Refinements. These include the Proxy Demand Resource product, scarcity pricing, and convergence bidding. The ISO staff and its primary vendors are fully occupied by these efforts. The Participating Load Refinements project is highly complex, requiring experienced subject matter experts that have time constraints because of the other projects underway. These experts cannot simply be replaced by experienced personnel.

During deployment of its Market Redesign and Technology Update, the ISO learned the importance of providing realistic schedules and not over-

committing itself by establishing earlier milestones than are achievable. This requires a prioritization of initiatives.

In particular, because the Participating Load Refinements and the Proxy Demand Resource product have interdependencies and involve many of the same personnel, the ISO cannot simultaneously develop and implement both. ISO stakeholders engaged in the design of these products have expressed a strong preference that the ISO implement the Proxy Demand Resource product first because it satisfies critical needs expressed by its stakeholders.

Stakeholders provided input and written comments that the ISO's existing participating load program did not provide the flexibility needed to incorporate price-responsive retail demand response programs into the ISO markets. The Proxy Demand Resource product responds to these needs by allowing demand response providers to bid demand response directly into the ISO's energy and ancillary services markets (and to participate separately from the load-serving entity) as required by Order No. 719; allows retail demand response programs that are embedded as part of a utility's load to participate in the ISO's markets through a market bid; and simplifies forecasting and scheduling requirements for load-serving entities to more easily enable end-use customer participation.

For these reasons, the ISO gave scheduling priority to the Proxy Demand Resource product over the Participating Load Refinements project. In light of that priority, it is simply not possible for the ISO to implement the Participating Load Refinements by April 2010, as requested by SWP.

**VI. Conclusion**

For the reasons described above, the ISO respectfully requests that the Commission disregard or deny SWP's request that it require the ISO to implement its Participating Load Refinements by a date certain no later than April 2010.

Respectfully submitted,

/s/ Michael E. Ward

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Dated: January 22, 2010

## CERTIFICATE OF SERVICE

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

Dated at Washington, D.C. this 22<sup>nd</sup> day of January, 2010.

/s/ Michael E. Ward

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