

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

Independent Energy Producers Association	)	
Complainant	)	
v.	)	Docket No. EL05-146-000
California Independent System Operator Corporation	)	
Respondent	)	

**MOTION TO FILE SUPPLEMENTAL REPLY COMMENTS  
AND SUPPLEMENTAL REPLY COMMENTS OF THE CALIFORNIA  
INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 212 and 602 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.602 (2005), the California Independent System Operator Corporation (“CAISO”) requests permission to file these Supplemental Reply Comments regarding the Offer of Settlement filed on March 31, 2006 (“Settlement”).

**I. Motion to File Supplemental Comments**

The CAISO requests that it be permitted to file these Supplemental Reply Comments in response to Reply Comments filed by the Northern California Power Agency (“NCPA”) and the California Municipal Utilities Association (“CMUA”) on May 1, 2006. CMUA and NCPA previously filed Comments on the Settlement on April 20, 2006 and filed comments in response to Joint Reply Comments filed by the Settling Parties on April 28, 2006. It appears that NCPA’s comments may be based on a misunderstanding of how the RCST designation process for 2007 works under the Settlement. Although the Commission’s procedural rules generally do not provide for comments in response to reply comments, 18 C.F.R. § 385.602(f)(2), the Commission

may, for good cause, waive a rule. 18 C.F.R. § 385(101)(e). The CAISO respectfully submits that good cause exists to grant this motion, as the CAISO's response will assist the Commission in resolving the issues presented, providing for a more complete record. The Supplemental Comments will clarify the record and, in particular, clear up some apparent confusion on an important issue. This will help the Commission in making its decision in this matter.

## **II. Supplemental Comments**

NCPA and CMUA, in separate pleadings, applaud the removal of Local RCST Designations for 2006 described in the Joint Reply comments of the Settling Parties. CMUA at 2-3; NCPA at 2. However, NCPA urges the Commission to dismiss the Settlement and direct all of the parties to engage in settlement negotiations to "get it right for 2007." NCPA Comments at 2. In support of its position that there needs to be additional process with respect to RCST for 2007, NCPA states there are issues associated with the CAISO's 2007 local capacity requirements ("LCR") study that need to be fully vetted and that significant savings could be achieved. NCPA Reply Comments at 2. NCPA attaches a letter that it sent to the CAISO raising issues with the 2007 LCR Study. CMUA also suggests that removal of the 2006 Local RCST Designation process somehow provides an opening for additional settlement discussions regarding the rest of the Settlement. CMUA at 3.

NCPA's Reply Comments do not provide any basis for the Commission to reject the Settlement or order additional settlement discussions to determine the features of a 2007 local RCST product. NCPA's concerns are misplaced because, under the Settlement, the 2007 LCR Study will not serve as the basis for establishing deficiencies

that could give rise to RCST designations for 2007. Stated differently, under the Settlement, local RCST designations in 2007 are not based on the 2007 LCR Study.<sup>1</sup>

Rather, under the Settlement, Local RCST Designation for 2007 will be based on local requirements, if any, established (1) by the California Public Utilities Commission (“CPUC”) for entities subject to their jurisdiction, and (2) by Local Regulatory Authorities (“LRAs”) for municipal utilities subject to their jurisdiction. The CAISO can make local RCST designations in 2007 only if an entity (or entities) is deficient in meeting the local capacity requirements, if any, established for it by either the CPUC or a LRA, whichever is applicable.<sup>2</sup> Thus, for 2007, a municipal utility would potentially be subject to local RCST costs **only** if its respective LRA sets specific local capacity requirements for 2007 **and** the municipal utility is deficient in meeting such local capacity requirements established by the LRA. Further, although the CAISO hopes that the CPUC and LRAs will establish appropriate, and preferably consistent, local capacity requirements for the entities subject to their jurisdiction, under the Settlement, there is no obligation for an LRA even to set any local requirements for 2007. To the extent a particular LRA sets no local capacity requirement, there will not be -- and cannot be -- any deficiency for the entity subject to its jurisdiction.

The functioning of the 2007 local RCST is comparable to the functioning of System RCST designations under the Settlement. Specifically, a municipal utility can be subject to System RCST costs in 2006 or 2007 only if a municipal utility’s LRA sets a

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<sup>1</sup> The CAISO does not believe that there are LCR Study deficiencies and is prepared to address NCPA’s issues in the forum taking place on review of the LCR study results.-

<sup>2</sup> In addition, there are other limitations on the CAISO’s ability to make local RCST designations in 2007.

system capacity requirement, and the municipal utility is deficient in meeting such requirement. Thus, it is completely within a municipal utility's control whether they will be subject to any 2007 Local RCST or 2006/2007 System RCST costs.

The Settlement expressly reserves the issue of the allocation of costs associated with Local RCST designations for 2007. The CAISO will need to make a tariff filing to implement an allocation methodology for 2007. Once the CPUC and LRAs establish local capacity requirements, if any, for 2007, the CAISO intends to conduct an open stakeholder process to determine how the costs of any local RCST designations should be allocated to load serving entities that are deficient in meeting the local capacity requirements established for them by their applicable regulatory authority. Given that LRAs will be determining the local requirements, if any, for LSEs subject to their jurisdiction for 2007, given that, under the Settlement 2007 deficiencies and RCST designations are not based on the CAISO's 2007 LCR Study, and given that the CAISO will need to conduct a stakeholder process to establish the 2007 local RCST allocation methodology, there is no need for the Commission to establish a new settlement process for determining the requirements of the 2007 local RCST mechanism. Indeed, the process for local RCST designations in 2007 (as well as System RCST designations for 2006 and 2007) is entirely consistent with NCPA's stated positions that (1) the CAISO should not be charging LSEs that meet their needs with RCST Costs because other LSEs are short, and (2) the CAISO should not be overriding the resource adequacy decisions of LRAs and the CPUC. *See* NCPA Comments at 28-30.

The Settlement thus provides load-serving entities with certainty regarding 2007 requirements that will facilitate their planning. For municipal utilities it is a certainty that

the determination of their requirements and potential deficiencies will be in the hands of their own local authorities. This supports the local control and certainty that the publicly owned electric utilities desire, and is yet another example of how the Settlement included features that benefit municipal utilities.

Moreover, the fact that there will not be any 2006 Local RCST Designations should not be used as a basis to scuttle the Settlement's provision of a backstop authority for System capacity deficiencies and its reasonable resolution of numerous other issues effective June 1, 2006 (*i.e.*, the effective date sought by IEP in its Section 206 complaint). Provisions such as the Capacity Payment for Must-Offer Generators, the Frequently Mitigated Unit incremental payment, and the authority for Significant Event Designations (for zonal and local needs) are all significant matters that will increase the likelihood that Generation will be available to meet reliability needs. Neither NCPA nor CMUA raised any substantive objections to these specific aspects of the Settlement; there is no reason for the Commission to reject them simply because there will not be any Local RCST Designations in 2006.

Load-serving entities have apparently successfully assured the CAISO that it will have sufficient capacity to meet anticipated local reliability needs in 2006. The Commission should not allow this fortunate news to be used to prevent implementation of a carefully crafted Settlement that delicately balances the interests of all parties and enhances Control Area reliability at a just and reasonable cost.

### III. Conclusion

For the reasons stated above, the CAISO respectfully requests that the Commission grant its motion to file these Supplemental Reply Comments and accept the Settlement with only the condition specified in the Joint Reply Comments of the Settling Parties.

Respectfully submitted,

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Date: May 4, 2006

**Certificate of Service**

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-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 this 4<sup>th</sup> day of May, 2006 at Folsom in the State of California.

*/s/ Charity Wilson*  
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