August 29, 2012

COMMENTS ON BEHALF OF THE CITIES OF ANAHEIM, AZUSA, BANNING, COLTON, PASADENA, AND RIVERSIDE, CALIFORNIA REGARDING THE FINAL PROPOSAL AND DRAFT TARIFF LANGUAGE: CENTRAL COUNTERPARTY EXCEPTION FOR SELF-SUPPLY FROM GENERATION FINANCED BY TAX-EXEMPT DEBT

In response to the ISO's request, the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, the "Six Cities") submit the following comments regarding the August 23, 2012 Final Proposal and Draft Tariff Language: Central Counterparty Exception for Self-Supply from Generation Financed by Tax-Exempt Debt (the "Proposal").

The Six Cities fully support implementation of the Proposal as presented by the ISO. As demonstrated in the description of the Proposal, it is narrowly crafted to address a concern of compelling importance to entities, like the Six Cities, that have relied upon tax-exempt debt to fund generation resources used to meet the needs of their customers. As the Proposal notes, facilities funded with tax-exempt debt generally must be used to meet public needs, and "private use" as defined in the Tax Code is restricted. The Cities previously have identified concerns that the ISO's Central Counterparty tariff revisions, filed on May 25, 2012 in FERC Docket No. ER12-1856-000, may be construed in a manner that could give rise to claimed violations of the private use restrictions. The focused exception to the Central Counterparty policy will make clear that Bids, as defined in the ISO Tariff, for Supply from generating resources funded by tax-exempt debt that are matched with contemporaneous metered Demand for the entities that hold the entitlements to such resources constitute self-supply consistent with the public use requirement.

The Six Cities very much appreciate the ISO's willingness to work constructively to address the Cities' concerns regarding the private use restrictions. The exception as presented in the Proposal reasonably accommodates the Cities' use of their resources for public purposes and mitigates risk of non-compliance with Tax Code restrictions. Such risks, if left unmitigated, could impose catastrophic financial burdens on issuers of tax-exempt debt, and such burdens could apply on a retroactive basis. This not only would have adverse consequences for the Six Cities and other current participants in the ISO that fund resources with tax-exempt debt, but it also could discourage and create a significant barrier to any new participation in the ISO's markets by entities that have funded resources with tax-exempt debt and/or may be eligible to do so going forward. Thus, permitting the exception set forth in the Proposal will advance the goals of enhancing participation in the ISO markets. Further, as discussed in the Proposal, it will not impose any additional administrative or operational burdens on the ISO or other market participants, and it is consistent with (although narrower than) an exception to the Midwest Independent Transmission System Operator's central counterparty tariff provisions recently approved by the FERC.

For all of the foregoing reasons, the Six Cities support implementation of the Proposal as promptly as possible. To that end, the Cities request that the ISO consider requesting a waiver of the generally-applicable sixty-day advance notice provision when it files the tariff language in the Proposal with the FERC.

Submitted by

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