

# Memorandum

**To:** ISO Board of Governors  
**From:** Nancy Saracino, General Counsel  
**Date:** March 18, 2008  
**Re:** **Regulatory Update**

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**This is an update of key regulatory activities and requires no Board action.**

## **FERC Matters and Related Decisions of the Court of Appeals**

### **Market Redesign and Technology Upgrade (MRTU)**

- **Replacement MRTU Tariff (ER06-615, ER07-1257, ER08-367)**

On February 19, 2008, the CAISO submitted an answer to comments on its December 21, 2007 filing of a replacement MRTU tariff. The replacement MRTU tariff incorporates changes made to the currently-effective tariff that will roll over into MRTU, updates terminology in compliance with prior FERC orders, and aligns existing tariff provisions to be consistent with MRTU and new tariff amendments approved by the Board of Governors at the December 13 meeting.

Responsible Attorneys: Mike Dozier, Anna McKenna and Sidney Davies

- **First Annual Demand Response Report (ER06-615)**

On January 25, 2008, the CAISO filed its First Annual Report Evaluating Demand Response Participation in the CAISO. This report is an informational filing in accordance with an annual DR filing requirement that FERC included in its June 25, 2007 MRTU Order. The Report outlined participation of the California State Water Project (SWP) pumping load as Participating Load in the CAISO's Ancillary Services and the Imbalance Energy Market.

Responsible Attorney: Bill Di Capo

- **Quarterly Seams Report for the Fourth Quarter of 2007 (ER06-615)**

On January 30, 2008, the CAISO submitted its Quarterly Seams Report for the Fourth Quarter of 2007. The report includes seams-related discussion between the CAISO and Western Area Power Administration, the Los Angeles Department of Water and Power and the Bonneville Power Administration. The report also included a summary of seams-related activities facilitated by the Western Electricity Coordinating Council as required by the April 20, 2007 MRTU Order. Finally, the report included an update on other seam-related requirements in the MRTU orders including updates to WECC concerning MRTU readiness and progress on west-wide data exchange.

Responsible Attorneys: Anna McKenna

### **Congestion Revenue Right Contingency Plan (ER08-519)**

On January 31, 2008, the CAISO filed its tariff amendments to implement the Congestion Revenue Right Contingency Plan. The delay of the MRTU implementation date requires tariff revisions to unwind Congestion Revenue Rights (CRRs) that would have been effective as of April 1, 2008 and to ensure that Firm Congestion Rights (FTRs) would be available until such time as MRTU is implemented. The CRR Contingency Plan provides for the orderly unwinding of auctioned CRRs as well as the creation of new FTRs, including a new FTR auction, for the time period between April 1, 2008 and the implementation of MRTU. On March 3, 2008, the CAISO filed its answer to limited comments and protests of parties and revised its proposal concerning the payment and collection of interest associated with CRRs and FTRs that must be unwound.

Responsible Attorneys: Anna McKenna and Sidney Davies

### **Startrans Asset Transfer Filing and Transmission Revenue Requirements (TRR) and Transmission Owner (TO) Tariff Filing (EC08-33, ER08-413)**

On February 1, 2008, the CAISO submitted comments on the January 4, 2008, filings by Startrans IO, L.L.C. (Startrans) of applications for: (1) transfer of assets from the City of Vernon; and (2) approval of its proposed TRR and TO Tariff to operate the transferred assets as a new Participating TO with the CAISO. The CAISO's comments advised that the CAISO has concerns regarding the outstanding issue with Vernon about over-recovery of Vernon's TRR for these assets, which concerns the CAISO expects to be resolved by an agreement by Startrans to assume Vernon's refund obligations. The CAISO's comments also pointed out that: (1) FERC approval of Startrans' applications should take into account the need for CAISO consent to the transfer; (2) Startrans' recovery of its TRR must be conditioned on Vernon's offsetting reduction in its own TRR for these same assets; (3) the effective date of Startrans' TRR must be conditioned on Startrans' assumption of ownership of the Vernon assets; (4) clarifying changes will need to be made to the provisions of Startrans' TO Tariff; (5) Startrans' TRR and TO Tariff must be conditioned on and made effective simultaneous with an amendment to the Transmission Control Agreement adding Startrans as a new Participating TO; and (6) the CAISO does not propose to take a position on the appropriate determination of the amount of Startrans' TRR.

Responsible Attorneys: Dan Shonkwiler and Mike Dozier

## **Interconnected Balancing Authority Area Operating Agreement with Western Area Power Administration (ER08-617)**

On February 29, 2008 the CAISO filed an amended and restated Interconnected Balancing Authority Area Operating Agreement with the Western Area Power Administration, Desert Southwest Region (WALC). The purpose of the Agreement is to assist the CAISO and WALC in coordinating the operation and maintenance of their interconnected Balancing Authority Areas, in a manner consistent with the CAISO Tariff under MRTU, NERC criteria, WECC Minimum Operating Reliability Criteria, and Good Utility Practice. If approved by FERC as requested, the Agreement will go into effect April 30, 2008.

Responsible Attorney: John Anders

## **Settlements Charge for Excessive Declines on the Interties Tariff Amendment (ER08-628)**

On February 29, 2008, the CAISO filed a tariff amendment to establish a new settlement charge that would be imposed on Market Participants based on excessive declines of pre-dispatched bids for import or export energy. The Board approved this amendment in December. In the interim, the CAISO had reviewed the tariff language with stakeholders and clarified it based on their comments. The CAISO requested a May 1 effective date for the charge.

Responsible Attorney: Dan Shonkwiler

## **Reliability Capacity Services Tariff (EL05-146 et al.)**

On February 4, 2008, FERC issued an "Order on Clarification" in which it granted the CAISO's December 28, 2008 "Motion for Clarification" and provided guidance regarding certain of the processes and standards that should apply during the period in which the Reliability Capacity Services Tariff (RCST) is in effect during 2008. In particular, FERC clarified that the CAISO should use the 2008 Local Capacity Technical Study and the compliance provisions of Section 40.7 of the CAISO Tariff to determine whether Local or Significant Event RCST designations are appropriate. FERC also recognized that tariff provisions relating to the use of the 2008 Local Capacity Technical Study may not be workable unless they are modified to incorporate new processes, timelines and criteria that would apply for 2008. Finally, FERC clarified that any RCST designations will terminate on the earlier of the date of MRTU implementation or the date that the CAISO files an alternative backstop capacity procurement mechanism. FERC directed the CAISO to file appropriate tariff sheets reflecting these clarifications in a compliance filing within 30 days of the date of FERC's order. The CAISO made its compliance filing on March 5, 2008.

Responsible Attorney: Anthony Ivancovich

## **Interim Capacity Procurement Mechanism (ER08-556 et al.)**

On January 31, 2008, the CAISO filed a tariff amendment with FERC to implement an Interim Capacity Procurement Mechanism (ICPM). The purpose of the ICPM is to allow the CAISO to supplement or "backstop" Load Serving Entity-based Resource Adequacy capacity procurement via a tariff-based mechanism to ensure that there is sufficient generation capacity available to CAISO operators to maintain reliable grid operations. The CAISO proposed that ICPM be implemented simultaneously with MRTU and automatically sunset on December 31, 2010.

Responsible Attorney: Anthony Ivancovich

### **Interconnection Queuing Practices (AD08-2-000)**

On December 11, 2007, the Federal Energy Regulatory Commission held a technical conference in recognition of obstacles to the efficient implementation of Large Generator Interconnection Procedures (LGIP) in many areas of the country arising, in large part, from the proliferation of requests to interconnect renewable resources. The CAISO participated in the technical conference. On January 10, 2008, the CAISO filed post-technical conference comments. In its comments, the CAISO stated that it had commenced a stakeholder process to develop LGIP reforms that must not only identify reforms applicable to future interconnection requests, but also reforms that resolve the current backlog in the interconnection queue. A going forward solution is necessarily contingent upon clearing up the current queue and any effort that ignores this interdependence will not be successful.

Responsible Attorney: Grant Rosenblum

### **Order No. 890 Transmission Planning Elements (OA08-62-000)**

On December 21, 2007, the CAISO submitted to FERC its filing in compliance with the transmission planning principles and requirements of Order No. 890. Several parties submitted comments and protests to the CAISO's Order No. 890 compliance filing and, therefore, on February 14, 2008, the CAISO submitted an answer in response. The answer responded to a number of narrow technical issues raised in comments and protests. In addition, the CAISO used its answer to refine the transmission planning proposal in acknowledgment of the constructive nature of more substantive comments and protests.

In addition, the State Water Project (SWP) submitted a late protest asserting that the CAISO's transmission planning process did not provide non-discriminatory access to the grid based on its contention that wholesale load was unable to initiate a planning study with the CAISO to receive new firm use subject to the same reliability standards applicable to existing CAISO transmission customers. On February 21, 2008, the CAISO responded to SWP's protest by noting the mechanisms within the transmission planning process that ensure that all load within the CAISO Balancing Authority Area receives equal quality of transmission service based on NERC/WECC reliability standards applied uniformly. The CAISO also clarified the procedures by which SWP could initiate such mechanisms.

Responsible Attorney: Grant Rosenblum

## **Mandatory Reliability Standards for Critical Infrastructure Protection (Order No. 706, RM06-22)**

On January 18, 2008, the Federal Energy Regulatory Commission (FERC) issued an Order approving eight Critical Infrastructure Protection (CIP) Reliability Standards. The CIP Reliability Standards require certain users, owners and operators of the bulk electric system to comply with specific requirements to protect critical cyber assets. As used in this context, "Cyber Assets" are programmable electronic devices and communications networks including hardware, software and data. In a related filing, the NERC had submitted 162 Violation Risk Factors corresponding to the requirements of the CIP Reliability Standards. In CIP Order 706, the FERC approved eight Standards subject to certain modifications to be developed pursuant to the NERC standards development process. Additionally, FERC approved the implementation timeframe and the milestones proposed by NERC, although the NERC was directed to file a modified implementation framework if required by the modifications ordered by FERC. Finally, certain Violation Risk Factors are to be revised by NERC as directed in the Order.

Responsible Attorney: Judith Sanders

## **Notice of Proposed Rulemaking (Docket No. RM07-19)**

On February 22, 2008, FERC issued its Notice of Proposed Rulemaking about wholesale competition in organized electric markets such as Independent System Operators. The Commission continued to focus on areas in which it believes it can make specific improvements to enhance the functioning of ISOs. Proposed rules that could affect the CAISO include:

- Responsiveness to stakeholders - the Commission proposes to establish new criteria intended to ensure that an ISO is responsive to its customers and stakeholders.
- Demand response – the Commission proposes to require ISOs to: (1) accept bids from demand response resources in their markets for ancillary services on a basis comparable to any other resource; (2) permit aggregators to submit bids for demand response on behalf of retail customers; and (3) adopt "scarcity pricing" to raise bid caps during periods of operating reserve shortage.
- Market monitoring – the Commission proposes that ISO market monitors be removed from tariff administration (e.g., mitigation and similar activities), and proposes that ISOs must adopt ethical standards for market monitoring staff that it will include in its tariff.
- Long-term contracting – the Commission proposes to require ISOs to provide a bulletin board for market participants to post offers to buy or sell electricity in long-term contracts.

The CAISO's comments on these and other related proposals are due on April 21, 2008.

Responsible Attorney: Dan Shonkwiler

## CPUC Matters

### **Order Instituting Rulemaking to Consider Refinements and Further Development of the Commission's Resource Adequacy Requirements Program (R.08-01-025)**

On January 31, 2008, the California Public Utilities Commission commenced a rulemaking proceeding to consider its annual adoption of Local Capacity Requirements, as well as potential refinements to the Local Capacity Requirement study process and other aspects of the Commission's resource adequacy program. The order instituting rulemaking (OIR) proposed to divide the proceeding into two phases. The first phase would focus on evaluating the CAISO's annual Local Capacity Area Technical Study, which forms the basis of the Local Capacity Requirements adopted by the Commission for its jurisdictional Load Serving Entities (LSEs). The second part would address other programmatic improvements. The OIR requested comments to assist in finalizing the scope of the proceeding.

The CAISO submitted initial comments on February 7, 2008 and reply comments on February 14, 2008. In both comments, the CAISO supported the phased approach adopted by the OIR and its practical recognition of the need to narrowly focus Phase 1 on issues related to local capacity procurement in order to meet a June 2008 procurement schedule and to defer other potential programmatic revisions to a subsequent Phase 2. The CAISO also supported including in Phase 2 a review of potential refinements to rules relating to qualifying capacity counting protocols, coordination of outage counting rules and CAISO Tariff provisions, the schedule for the RA compliance year, and other filing and reporting procedures to reduce the administrative burden on CAISO staff. The CAISO's reply comments rebutted efforts to alter fundamental elements of the Local Capacity Requirements imposed on LSEs.

On February 22, 2008, the Commission issued an order defining the scope of Phase 1. In addition to matters associated with Local Capacity Requirements, Phase 1 was expanded to include a review of various resource counting protocols, such as how to count intermittent resources, address load migration, and the effect of extending QF contracts. The Commission has scheduled workshops for March 24-26, 2008 with an anticipated proposed decision on May 27, 2008.

Responsible Attorney: Grant Rosenblum

### **Order Instituting Rulemaking to Consider Refinements and Further Development of the Commission's Resource Adequacy Requirements Program (R.05-12-013)**

On February 29, 2008, the CAISO filed comments in this proceeding on the future development of the resource adequacy (RA) program that recommended that the Commission: 1) facilitate open and efficient competition to produce the optimal, cost-effective mix of infrastructure investments sufficient to meet end-use demand at stable and reasonable prices and provide for the operating requirements of the CAISO Balancing Authority Area; 2) establish an annual or biennial, multi-year forward assessment of RA capacity needs, to be performed as a collaborative effort by the CPUC, CEC, and CAISO; 3) adopt a Centralized Capacity Market (CCM), including a primary auction to be conducted approximately four years prior to each delivery year followed by periodic reconfiguration auctions leading up to each delivery year; and 4) make the key threshold decisions necessary at this time necessary to establish a long-term RA framework based on a multi-year forward comprehensive assessment of resource needs and a multi-year forward CCM, but refrain from specifying many of the details of the CCM design. The CAISO commented that the specifics of the market design should be determined through further analysis and deliberation with stakeholders so that alternative approaches on key issues can be considered and the market structure can be developed as a comprehensive and integrated package.

Responsible Attorney: Beth Ann Burns

## **Order Instituting Rulemaking to Integrate Procurement Policies and Consider Long Term Procurement Plans (LTPP) (R08-02-007)**

On February 20, 2008, the CPUC issued a new Order Instituting Rulemaking (OIR) which opened another Long Term Procurement Plan proceeding. The results of the proceeding will be utilized in the 2010 LTPP cycle, which will cover the 2011- 2020 planning period. Among other issues, the rules are intended to deal with uncertainties of integrating Greenhouse Gas (GHG) and Renewable Portfolio Standards (RPS) requirements into the plans. The Commission states that Phase I issues will include:

- Interim standards and practices to evaluate the uncertain cost of future GHG regulations during AB 32 implementation and in anticipation of possible federal legislation; and
- Methodologies to estimate firm capacity from demand-side resources for long-term planning and procurement purposes;

In addition, the CPUC notes that one of the issues related to RPS compliance is the cost of non-renewable generation needed to be available to support intermittent renewables and that these costs include “those of additional ... CAISO ramping requirements and utility quick start and quick ramping fossil generation that are required to work around wind (in particular) and solar facilities.”

Responsible Attorneys: Judi Sanders and Bill Di Capo

## **CPUC-CEC Joint Greenhouse Gas Proceeding (R06-04-009)**

On February 8, 2008, the CPUC issued the Proposed Decision of President Peevey, laying out a proposed decision on what entities should be the point of regulation for Greenhouse Gas (GHG) emissions under AB 32, and other GHG regulatory issues. The Proposed Decision recommends, consistent with the CAISO’s preferred position, that the Air Resources Board designate “deliverers” of electricity to the California grid as the entities responsible for compliance with the AB 32 requirements. This is a variation of the “first seller” approach.

The Proposed Decision also includes a recommendation to increase the level of Renewable Portfolio Standards requirements beyond the current 20% standard (for investor-owned utilities, Community Choice Aggregators and Energy Services Providers) to a higher level, possibly 33% and further recommends that the California Energy Commission and Air Resources Board impose energy efficiency and RPS standards equally upon the Publicly Owned Utilities so that these entities have direct environmental requirements equivalent to the CPUC jurisdictional entities.

Responsible attorney: Bill Di Capo

## **Advice Letter Filings of Qualifying Facility Standard Offer Contracts (PG&E Advice Letter 3197-E, SCE Advice Letter 2200-E, SDG&E Advice Letter 1958-E)**

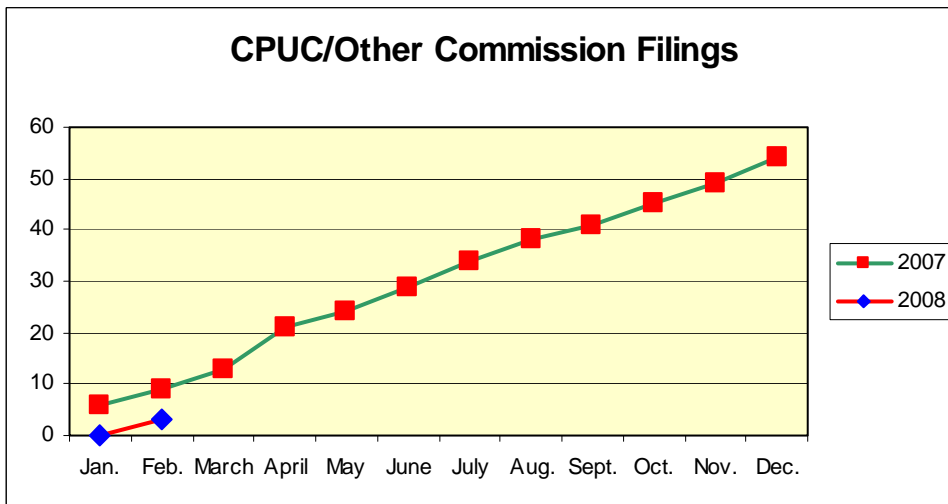
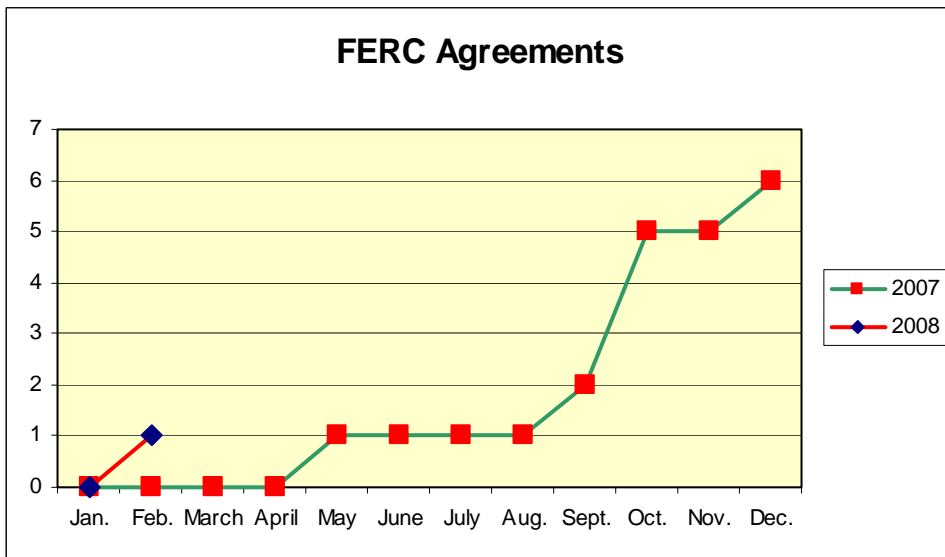
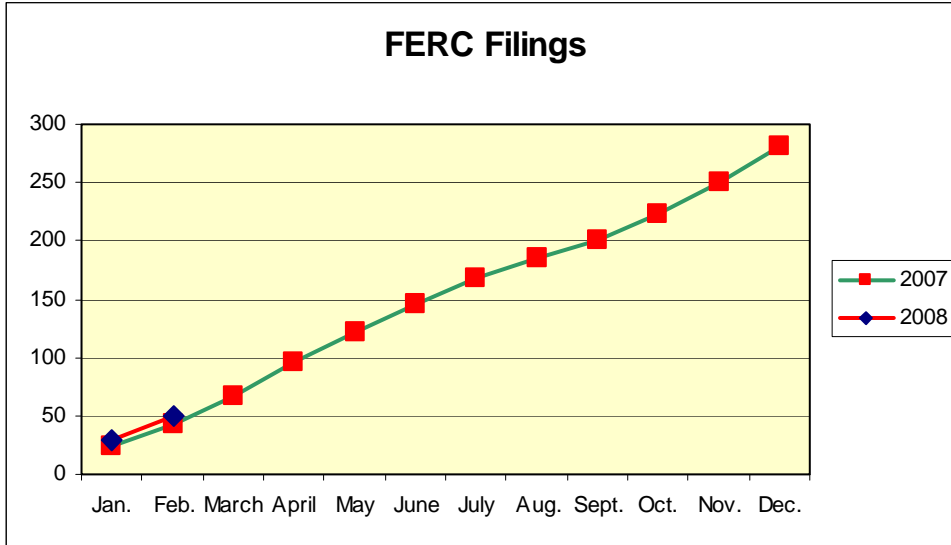
These proceedings pertain to requests by PG&E, SCE, and SDG&E (the IOUs) for CPUC approval of proposed new forms of Standard Offer Contracts under the Public Utility Regulatory Policy Act for qualifying facilities (QFs). The IOUs submitted their filings on January 14, 2008 in response to CPUC D.07-09-040, the CPUC’s decision on QF policies. The CAISO and QF representatives submitted comments on the proposed Standard Offer Contracts on February 19, 2008. In its comments, the CAISO supported provisions of the proposed contracts that would

implement the CPUC's requirement in D.07-09-040 that QFs must comply with the ISO Tariff, including entering into a QF Participating Generator Agreement (PGA) or regular PGA and a Meter Service Agreement. On March 4, 2008, the CAISO submitted additional comments opposing the position in the February 19 comments of certain QF representatives that QFs are not required by the CPUC decision to enter into a QF PGA or PGA and a Meter Service Agreement and are not required to follow the ISO Tariff's generator interconnection process.

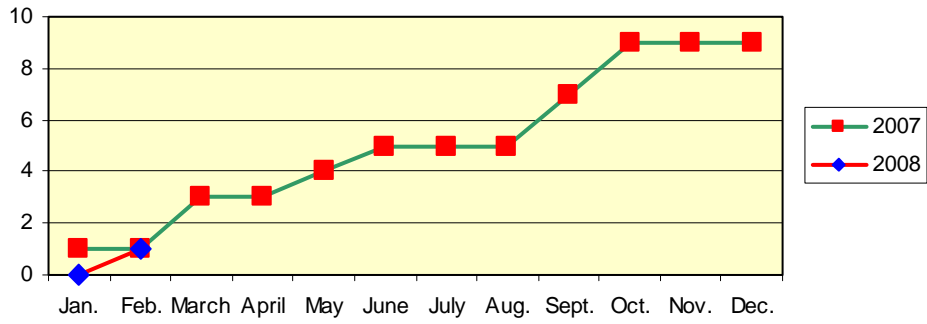
Responsible Attorneys: Sidney Davies and Mike Dozier



# FILINGS



## Court Filings



## Total Filings

