

Memorandum

To: ISO Board of Governors
From: Nancy Saracino, Vice President, General Counsel and Corporate Secretary
Date: March 18, 2009
Re: **Regulatory Update**

This memorandum does not require Board action.

Federal Energy Regulatory Commission (FERC) matters and related decisions of the Court of Appeals

Market redesign and technology upgrade (MRTU)

- **Order addressing MRTU readiness certificate**

On March 13, 2009, FERC accepted the California Independent System Operator Corporation's (the ISO) MRTU readiness certification based on the ISO's commitments to achieve the milestones and satisfactorily resolve the issues identified in the readiness filing. FERC stated that the ISO is in the best position to evaluate its systems and assess the concerns of its customers and market participants in making the decision to launch MRTU. In accepting the filing, FERC permits the ISO to proceed with MRTU on March 31 but leaves the ISO with the flexibility to seek a new date if necessary.

Responsible Attorneys: Sidney Davies and Anna McKenna

- **Order conditionally accepting May 19, 2008 MRTU compliance filing (ER06-615)**

On March 9, 2009, FERC issued an order conditionally accepting the ISO's May 19, 2008 compliance filing. This compliance filing included the final set of tariff revisions stemming from the Business Practices Manual technical conference proceedings. FERC directed the ISO to file additional tariff language to provide greater transparency concerning the ISO's authority to remove bids and self-schedules to in the event of or to prevent a market disruption.

Responsible Attorneys: Anna McKenna and Sidney Davies

- **Integrated Balancing Authority Area (IBAA) tariff amendment (ER08-113)**

On March 6, 2009, FERC issued an order on compliance addressing the ISO's proposed tariff language to implement the Sacramento Municipal Utility District-Turlock Irrigation District Integrated Balancing

Authority Area proposal. FERC approved many aspects of the ISO's proposed tariff language, which will permit IBAA implementation simultaneous with MRTU *go-live*. Of importance, the order approves the ISO's methodology for developing default pricing for interchange transactions between the IBAA and the ISO. The order also requires further changes to the ISO's proposed structure for Market Efficiency Enhancement Agreements (MEEAs) under which a signatory may obtain alternative pricing for interchange transactions between the ISO and IBAA. These changes include clarifying MEEA pricing provisions for interchange transactions and removing proposed limitations on scheduled quantities that may receive alternative pricing under an MEEA. The order requires a further compliance filing by May 5, 2009.

Responsible Attorneys: Anna McKenna, Andrew Ulmer

- **Order on proposal for mitigation and compensation for exceptional dispatches (ER08-1178)**

On February 20, 2009, FERC issued an order conditionally accepting the ISO's proposal for compensating resources subject to exceptional dispatches. Under the proposal, the resource may elect to accept a designation to provide capacity for a 30-day period and be compensated under the interim capacity payment mechanism tariff provisions or elect to receive supplemental revenues. FERC found, however, that the ISO did not provide sufficient factual evidence that more than two categories of exceptional dispatches would be subject to bid mitigation: dispatches to address non-competitive constraints and to comply with "Delta Dispatch" environmental requirements. FERC recognized that resources subject to such exceptional dispatches generally could, theoretically, exercise market power, but FERC was not inclined to expand the scope of mitigation beyond these two categories absent actual empirical evidence. FERC indicated that once MRTU was implemented, the ISO could apply to FERC to expand the scope of mitigation based on empirical (rather than theoretical) evidence. In addition, pursuant to its authority under Section 206 of the Federal Power Act and in recognition that the first four months of MRTU that the ISO would need to rely on its exceptional dispatch authority, FERC established a four-month period effectively imposing bid mitigation for all categories exceptional dispatch proposed by the ISO.

Responsible Attorney: Sidney Davies

- **Order on parameter tuning tariff amendment (ER09-240)**

On February 19, 2009, FERC issued its order conditionally accepting the ISO's proposal to modify tariff provisions to eliminate the requirement that the MRTU software must exhaust all economic bids before adjusting self-schedules. The compliance directives require the ISO to add an effectiveness threshold to indicate when economic bids would not be utilized.

Responsible Attorney: Anna McKenna

- **Order accepting congestion revenue rights (CRR) compliance filing (ER08-1059)**

In this order, issued on February 19, 2009, FERC accepted the ISO's CRR-related compliance filing. This filing included tariff language relating to: 24 hour (rather than calendar day) exemption to the 30-day requirement for reporting transmission outages that could affect CRRs; a process for developing comprehensive list of 200 kV issues; CRR credit policy issues; a requirement that the ISO justify requests for additional security to cover the risk of CRRs; and affiliate disclosure requirements.

Responsible Attorneys: Anna McKenna and Sidney Davies

- **Order accepting June 2008 compliance filing (ER06-615)**

In its third order issued on February 19, 2009, FERC conditionally accepted the ISO's June 20, 2008 compliance filing which addressed issues including market power mitigation, Residual Unit Commitment, Full Network Model, Congestion Revenue Rights and Existing Transmission Contracts. The ISO submitted its further compliance filing on March 16, 2009.

Responsible Attorneys: Anna McKenna, Mike Dozier and Sidney Davies

- **Division of responsibility between Folsom and Alhambra Control Centers (No. ER09-710)**

On February 12, 2009, the ISO requested authority to amend its tariff to: (1) provide that the primary ISO control center located in Folsom, California has operational control over all transmission lines on the ISO grid; and (2) provide that the ISO may delegate responsibilities to the back-up control center located in Alhambra, California, in which case the primary ISO control center would serve as back-up facility for those responsibilities. The ISO has requested an effective date of April 15, 2009.

Responsible Attorney: Andrew Ulmer

- **Metered Subsystem agreement filings (ER09-188, 259, 292, 321, 332)**

On February 11, 2009, FERC issued a letter order accepting as filed the revisions to the ISO's Metered Subsystem (MSS) agreement with NCPA effective as of the implementation date of MRTU. On March 6, 2009, FERC issued an order accepting the ISO's unilaterally executed revised MSS agreement with Santa Clara (Silicon Valley Power) effective as of the implementation date of MRTU, denying Silicon Valley Power's three requests for revisions to the agreement. FERC has now accepted all of the ISO's revised MSS agreements intended to be effective for MRTU.

Responsible attorneys: Mike Dozier and Anna McKenna

- **Rehearing order on calculation of caps for start up and minimum load costs (ER08-73)**

On February 24, FERC issued an order on the ISO's pending rehearing/clarification and compliance filing regarding the methodology for calculating caps for generating resources' start up and minimum load costs. The ISO had originally proposed to use the Henry Hub gas futures price due to its liquidity and transparency. FERC rejected this proposal in its original order last summer and directed the ISO to use a more geographically appropriate price. In its clarification and rehearing request, the ISO indicated that there was no western regional gas futures price analogous to Henry Hub and, therefore, requested clarification that the Henry Hub price be used. As an alternative, the ISO indicated how a more regionally appropriate gas price could be calculated using other available information. The FERC rejected our preferred approach of using the Henry Hub price and told us to consult with stakeholders on the alternative approach and to file it within 30 days.

Responsible Attorney: Sidney Davies

- **Order on rehearing re allocation of tier two bids costs (ER06-615)**

On February 5, 2009, FERC granted the ISO's request for rehearing with regard to the allocation of tier 2 IFM uplift costs to Metered Subsystems. In addition, FERC denied Southern California Edison's argument that the Residual Unit Commitment zones should be identified in the tariff. Third, FERC granted the State Water Project's rehearing request that Participating Load should not be subject to Residual Unit Commitment tier 1 Uplift charges to the extent they are following our instruction.

Responsible attorney: Anna McKenna

- **Order Price cap tariff amendment (ER09-241)**

On January 30, 2009, FERC accepted the ISO's proposal adopting a price cap and price floor of \$2,500/MWh and negative \$2,500/MWh, respectively, on MRTU market clearing prices to be effective at MRTU *go-live*. FERC also accepted the ISO's proposal to modify the price validation and correction process to ensure prices are correct prior to posting. In addition, FERC directed the ISO to include a sunset date of 12 months after go live for the price cap and floor. On March 2, 2009, the ISO submitted its compliance filing in response to these directives.

Responsible Attorney: Anna McKenna

- **Grid Management Charge (GMC) under MRTU (ER08-585)**

On January 21, 2009, the ISO submitted a compliance filing to respond to FERC's directive to clarify whether both physical and financial inter-scheduling coordinator trades would be netted against energy for purposes of calculating the market usage charge. In that filing, the ISO explained that only physical inter-SC trades would be netted. In comments regarding the ISO compliance filing, NCPA questioned the policy basis for netting only physical trades in the calculation. In its February 26, 2009 answer to NCPA, the ISO agreed that it should treat both types of inter-SC trades the same way and proposed to accommodate this change in a future compliance filing.

Responsible Attorney: Judi Sanders

- **Credit Policy tariff amendment (ER09-589)**

The ISO filed tariff amendments on January 29, 2009 to implement revisions to the ISO credit policies approved by the Board at its December 17, 2008 meeting. Those credit policies include lowering the unsecured credit limit and a reduction in the number of days from five to three for a market participant to post additional security in response to a request by the ISO. As noted in the Board memorandum, Management will file a future tariff amendment to implement penalties for violations of the ISO's credit policies once charge codes can be developed after MRTU implementation. On March 6, 2009, the ISO filed its answer to comments and protest.

Responsible Attorney: Sidney Davies

- **Miscellaneous tariff clarifications for MRTU (ER09-556)**

On January 15, 2009, the ISO filed tariff clarifications in a number of areas of the MRTU Tariff. The clarifications derived from internal review and independent expert review to ensure tariff, software and business practices for MRTU are aligned. In addition, the ISO corrected errors and clarified potentially confusing tariff provisions. The ISO filed its answer to parties' comments and limited protests on February 23, 2009. On March 6, 2009, the ISO filed a motion to defer the effective date of tariff revisions that would have "simplified" tariff revisions concerning how resources' ramp rates are considered by the MRTU software.

Responsible Attorneys: Anna McKenna, Sidney Davis and Mike Dozier

- **December 4, 2008 order on December 21, 2007 MRTU tariff filing (ER08-367 and ER06-615)**

On February 5, 2009, the ISO filed an answer to comments filed in response to the ISO's January 5, 2009 filing in compliance with FERC's December 4 order. In its answer, the ISO defended its use of an English language description of the rate for wheeling service rather than a mathematical formula and defended the tariff language relating to access by entities to non public operating procedures as complying with the December 4 order and consistent with long established ISO practice.

Responsible Attorneys: Mike Dozier and Sidney Davies

Generator Interconnection Process Reform (GIPR) (ER08-1317)

On February 27, the ISO submitted its first quarterly report for the fourth quarter of 2008 on the status of ISO's processing of generation interconnection requests. FERC imposed the quarterly reporting requirement in its September 26, 2008 order conditionally approving the GIPR tariff amendments. The report notes that the ISO has 75 projects in the serial study group, which is governed by the prior interconnection rules, and 108 projects in the transition cluster (after 122 projects withdrew based on failure to meet milestones). The ISO also reported that the Phase I interconnection studies for the transition cluster are expected to be completed by July 31, 2009.

Responsible Attorney: Bill Di Capo

Small Generator Interconnection Procedures (SGIP)/Small Generator Interconnection Agreement (SGIA) (ER06-629, 630)

On March 3, 2009, FERC issued an order accepting the ISO's December 13 and 17, 2007 compliance filings of revisions to the SGIP and SGIA and granting a portion of the requests for rehearing of PG&E, SCE, and SDG&E. The order directs the submittal of additional SGIP and SGIA compliance filings by April 2, 2009.

Responsible attorney: Mike Dozier

Nevada Hydro Company Large Generator Interconnection Agreement (LGIA) (ER08-654)

On January 29, 2009, FERC issued an order accepting the ISO's and San Diego Gas and Electric Company's (SDG&E) June 9, 2008 compliance filing of revisions to the unexecuted large generator interconnection agreement with Nevada Hydro for its proposed Lake Elsinore Pumped Storage (LEAPS) project and its associated proposed transmission interconnection between the SDG&E's and Southern California Edison Company's Systems, except for certain of the milestones in the LGIA for the construction schedule. On February 27, 2009, the ISO and submitted a compliance filing revising the milestones for the construction schedule.

Responsible attorney: Mike Dozier

Green Borders (ER07-1034)

On February 26, 2009 the parties submitted a joint statement of issues and their initial closing briefs in this FERC "paper hearing." The purpose of the hearing is to determine whether the generator or the participating transmission owner, in this case Southern California Edison (SCE), should bear the cost responsibility for certain telecommunications facilities that are part of interconnection of the Green Borders generating station. FERC staff supports the position of the ISO and SCE that the costs in question should be assigned to the generator whereas the generator argues the costs are for transmission network facilities and, therefore, should be recovered through transmission rates.

Responsible Attorney: Bill Di Capo

California Public Utilities Commission (CPUC) matters

Resource Adequacy Phase 2 (R.08-01-025)

On February 17 and 27, 2009, the ISO filed comments and reply comments addressing, *inter alia*, the following issues being discussed in the Phase 2 Resource Adequacy proceeding: (1) a revised counting rule for intermittent resources; (2) a counting rule for Qualifying Facilities (QFs); and (3) retention of the existing replacement rule. The ISO argued that the existing intermittent resource counting methodology, which is based on average output, does not accurately reflect the expected output of intermittent resources during peak load conditions when the capacity is needed most to serve load and maintain reliable grid operations. Instead, the ISO proposed an "exceedance" methodology that takes into account the variability in intermittent resource output, thereby resulting in a qualifying capacity that is more closely correlated to the expected output of intermittent resources during peak periods. An exceedance factor approach increases the likelihood that the actual output of intermittent resources during peak hours will meet their qualifying capacity consistent with the adopted exceedance level (80% as proposed by the ISO). The ISO also proposed a modified counting rule for QFs that would ensure that certain QF scheduled outages are not "double-counted" but still require load serving entities (LSEs) to "replace" such capacity. Finally, the ISO argued that implementation of a Standard Capacity Product would not eliminate the need for the existing requirement that LSEs replace capacity that is on a scheduled outage for an extended period, as defined by the CPUC.

Responsible Attorneys: Anthony Ivancovich and Beth Ann Burns

Smart Grid rulemaking (R.08-12-009)

On December 18, 2008, the CPUC initiated a rulemaking to consider how it can best facilitate the implementation of a smart grid system for California. The order instituting rulemaking set out 32 topics for parties to address and set an initial plan for holding workshops to discuss the comments. The ISO filed initial comments on February 9, 2009 and filed reply comments on March 9, 2009. A prehearing conference is scheduled for March 27, 2009 and a joint symposium with the California Energy Commission is scheduled for April 21, 2009. Through this proceeding, the ISO hopes to encourage the CPUC to take steps to: (1) allow the ISO greater visibility over the transmission system; (2) enhance the ability for the ISO and the utilities to exchange information about the real-time operating status of the transmission and distribution systems; and (3) coordinate distribution-level smart grid projects with transmission-level smart grid projects.

Responsible Attorney: David Zlotlow

Sunrise Powerlink Transmission Project (A.06-08-010)

On February 9, 2009, the ISO filed a response to applications for rehearing filed by environmental and consumer advocates of the CPUC's December 18, 2008 decision approving the Sunrise transmission project. In response to the issues raised by environmental advocates, the ISO cited its testimony that Sunrise was the highest environmentally ranked alternative able to facilitate California's 33% RPS targets.

Responsible Attorney: Judi Sanders

Investigation to promote access to renewable energy resources (I. 08-03-009/R.08-03-010)

The ISO filed comments on February 23, 2009 in response to issues raised at the February 26 workshop. To facilitate integration of renewable energy resources, the ISO requested that the CPUC, in conjunction with the California Energy Commission, certify that the areas defined in the ISO Location Constrained Resource Interconnection tariff be accepted as "Energy Resources Areas." The ISO noted that Competitive Renewable Energy Zones have now been identified by the statewide Renewable Energy Transmission Initiative (RETI) and can provide the basis for certification. The ISO also addressed: 1) the use of RETI results in the ISO long-term transmission planning process; 2) whether a rebuttable presumption of need should be afforded to renewable transmission projects studied and approved by the ISO; and 3) how project development costs can be recovered by project proponents.

Responsible Attorney: Judi Sanders

Filings Through February 2009



