

Memorandum

To: ISO Board of Governors
From: Nancy Saracino, Vice President, General Counsel and Corporate Secretary
Date: July 10, 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

Tariff amendment filings and orders

- **Standard capacity product and ancillary services must offer obligation (ER09-1064)**

On June 26, 2009, FERC issued an order approving the ISO's resource adequacy standard capacity product and ancillary services must offer obligation proposals, subject to some modifications. FERC found that the ISO justified the need for the ancillary services must offer obligation and that it will support the primary goal of the resource adequacy program, which is to ensure that sufficient capacity is available to the ISO to meet system demand and the operating requirements of the transmission grid. FERC approved the standard capacity product on the grounds that having this product will: (1) enable market participants to efficiently and flexibly buy, sell, and trade resource adequacy capacity without the burden of negotiating the availability requirements of each transaction, and (2) establish uniform metrics and provide market participants with a readily-available means to satisfy their resource adequacy requirements, which will enhance reliability. In addition to ordering certain clarifying tariff language changes that the ISO had agreed to make, FERC ordered the following three modifications to the standard capacity product: (1) FERC changed the cut-off date for grandfathering existing contracts from January 1, 2009 to June 28, 2009, *i.e.*, 60 days after the date on which the proposal was filed with FERC; (2) FERC rejected the proposal to use 50 percent availability as the threshold for subjecting a resource's entire resource adequacy capacity to the non-availability charge and instead directed the ISO to use a graduated approach that establishes incremental non-availability charges throughout the entire dispatchable range of resource adequacy capacity; and (3) FERC directed the ISO to submit a revised availability standard for non-resource specific system resources. FERC approved a January 1, 2010 effective date for the proposals and directed the ISO to submit a compliance filing containing the modifications identified above within 45 days of the date of the order.

Responsible Attorneys: Anthony Ivancovich, Judi Sanders and Beth Ann Burns

- **Payment Acceleration (ER09-1247)**

On June 1, 2009, the ISO submitted its payment acceleration proposal to FERC for approval. The proposed tariff changes will shorten the payment calendar and thereby mitigate the credit risk to market participation by reducing the amount and length of time that market charges and payments are outstanding from the trading day to the invoice date. The changes will shorten the timeframe for the ISO's release of its initial settlement statement for each trading day from 38 to 7 business days and decrease the payment timeline which, in combination, will decrease the average cash clearing schedule from approximately 80 to 25 calendar days. The proposal also permits scheduling coordinators to submit estimated meter data and applies interest to deviations through a certain time. In addition, the proposal will increase certainty in final payments by implementing a sunset provision that permits adjustments to be made through settlement statements for up to 36 months after the trading day, and thereafter only by direction of the Board or FERC order.

Responsible Attorney: Beth Ann Burns

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

On June 17, 2009, the ISO requested leave to file and filed an answer to protests of the ISO's May 12, 2009 compliance filing. The ISO's answer focused on three issues: (1) the applicable locational marginal price ("LMP") under a market efficiency enhancement agreement; (2) the ISO's procedures that are necessary to verify the location and operation of resources identified in a market efficiency enhancement agreement in order to apply an LMP to interchange transactions subject to the agreement; and (3) the ISO's information requirements that are necessary to verify the location and operation of resources identified in a market efficiency enhancement agreement when those resources are used to implement interchange transactions between the integrated balancing authority area and the ISO balancing authority area.

Responsible Attorneys: Anna McKenna, Andrew Ulmer

- **Reference Bus Tariff Amendment (ER09-240)**

On June 5, 2009, the ISO filed a tariff amendment regarding designation of the reference bus in day-ahead price calculations. Specifically, the ISO proposed to modify its tariff to permit it to use a distributed generation reference bus to calculate the system marginal energy cost component of locational marginal prices in those circumstances in which the integrated forward market cannot clear using a distributed load reference bus.

Responsible Attorney: Anna McKenna

Regulatory contracts filings and orders

- **Southern California Edison/Green Borders (ER07-1034)**

On June 22, 2009, the ISO submitted a supplemental brief in response to the ALJ's request for further briefing as to whether the ISO tariff definition for participating transmission owner (PTO) interconnection facilities should determine whether cost responsibility for the telecommunications

facility in dispute should be assigned to the generator or the PTO. The ISO argued that the telecommunication facilities at issue constituted interconnection facilities and the costs should be allocated accordingly.

Responsible Attorney: Bill Di Capo

- **IOU Demand Response Pilot Programs (ER09-1361; ER-09-1362 and ER09-1363)**

On June 26, 2009, the ISO filed three FERC participating load pilot agreements to implement participating load pilot programs with PG&E, SCE and SDG&E. Notably, the pilot programs are intended to explore the feasibility of aggregating end use customer loads so that they may provide ancillary services, specifically non-spinning reserves, to the ISO in the form of economically bid demand response resources. These pilot programs are part of the IOU applications to the CPUC for approval and funding of for the 2009-2011 program cycle mentioned below.

Responsible Attorney: Bill Di Capo

Report filings

- **Exceptional Dispatch tariff amendment proceeding (ER08-1178)**

On May 15, 2009, the ISO filed its first exceptional dispatch report. This report provided information on exceptional dispatches for the first 15 days of the new market. The ISO filed its second exceptional dispatch report on June 15, 2009. This report provided information on exceptional dispatches between April 16 and May 15. The ISO will continue to file these reports on the 15th day of each month. Several parties filed comments in response to the May 15 exceptional dispatch report. In its June 23 answer, the ISO included an explanation of its efforts to enhance its data collection and reporting abilities. On June 22, 2009, the ISO filed a report indicating the status of its efforts regarding possible development of a voltage support product and a 30-minute operating reserve product. The report indicated that data to date on exceptional dispatches was insufficient to draw any conclusions regarding the need for these products. The June 22 report also described the status of discussions with the California Department of Water Resources-State Water Project concerning exceptional dispatch procedures for participating load.

Responsible Attorney: Sidney Davies

Other FERC proceedings

- **Default Loss Rule Complaint (EL09-62)**

On June 30, 2009, certain sellers of electricity in the ISO markets filed a complaint requesting that FERC find that Section 11.29.17.1 of the ISO tariff -- the default loss rule -- is unjust and unreasonable. The default loss rule allocates losses from defaults on payments due the ISO to sellers. The complainants request that FERC adopt a rule which allocates the default risk among all market participants that benefit from the ISO's markets.

Responsible Attorney: Sidney Davies

- **Order No. 890 Compliance -- Transmission Planning (OA08-62)**

On May 21, 2009, FERC issued an *Order Denying Rehearing and On Compliance*. FERC denied all requests for rehearing of its June 19, 2008 order which accepted the ISO's December 21, 2007 filing to comply with the transmission planning elements of Order No. 890. The Commission also accepted the ISO's November 3, 2008 compliance filing, subject to a further compliance filing. The compliance filing contained, *inter alia*, a revised transmission planning process timeline and steps. FERC found that the revised process, subject to certain modifications, complied with the June 19, 2008 order and the nine planning principles adopted in Order No. 890. FERC stated that the ISO improved its transmission planning process by more clearly defining the role of participating transmission owners, articulating how and when stakeholders can participate in the planning process, requiring all studies and projects to enter the transmission planning process through the request window, allowing interested parties to propose studies as well as reliability and economic projects for inclusion in the transmission plan, and explaining how the separate track for large projects will be transparent and how such projects will be assimilated into the transmission plan.

Responsible Attorney: Judi Sanders

California Public Utilities Commission (CPUC) matters

- **Resource Adequacy Phase 2 Proceeding (Rulemaking 08-01-025)**

On June 18, 2009, the CPUC issued a *Decision Adopting Local Procurement Obligations for 2010 and Further Refining the Resource Adequacy Program*. The CPUC adopted the Joint Proposal of the ISO, Southern California Edison Company ("SCE") and San Diego Gas & Electric Company ("SDG&E") to use an exceedance methodology for counting intermittent resources. The CPUC adopted the use of a 70% exceedance factor as proposed by the ISO, SCE and SDG&E and ruled that any changes to that level would need to be made in a future resource adequacy proceeding. The CPUC adopted the following two modifications to the joint proposal: (1) incorporating a locational diversity benefit by aggregating intermittent resources on a statewide basis (the joint proposal's diversity benefit was by region); and (2) aggregating the diversity benefits of solar and wind generation to recognize the complementary benefits of these resources. The June 18 order retained the use of maximum cumulative capacity buckets which ensure that load serving entities do not over-rely on resources with limited availability to the point that the ISO would not be able to operate the grid reliably with resource adequacy resources. The ISO supported the retention of the of maximum cumulative capacity buckets. The CPUC adopted the qualifying facility double counting proposal proposed by the ISO, SCE, SDG&E and PG&E, and expanded it to apply to all resources whose net qualifying capacity is calculated using a rolling average, not just qualifying facilities. The CPUC also adopted the ISO's 2010 LCR study as the basis for establishing local procurement obligations for CPUC-jurisdictional load serving entities for 2010 and found that the Option 2/Category C local area reliability standard approach should be continued for setting local procurement obligations for 2010.

Responsible Attorneys: Anthony Ivancovich, Beth Ann Burns, Judi Sanders

- **PG&E, SCE and SDG&E Applications for Approval and Funding of Demand Response Programs for 2009-0211**

On June 30, 2009, the Administrative Law Judge issued a Proposed Decision approving the majority of IOU demand response programs, as well as budget applications for the current program cycle, 2009-2011. The Proposed Decision reaffirmed a prior decision which authorized IOU pilot programs to test the use of demand response to provide participating load to the ISO. Significantly, the Proposed Decision caps the megawatt size of emergency-triggered demand response programs pending a determination of the appropriate statewide levels in another demand response proceeding, *i.e.*, Docket No. R.07-01-041.

Responsible Attorney: Bill Di Capo

- **Advice letter filings of qualifying facility standard contract (PG&E Advice Letter 3197-E-B, SCE Advice Letter 2200-E-B, SDG&E Advice Letter 1958-E-B)**

On May 5, 2009, CPUC staff issued draft Resolution E-4242 proposing to approve, with modifications, the proposed new form of standard contract for qualifying facilities filed by PG&E, SCE, and SDG&E in response to CPUC Decision 07-09-040. On May 26, 2009, the ISO submitted comments generally supporting the draft resolution but requesting that it be revised to align its provisions regarding the interconnection process for qualifying facilities with the ISO's tariff interconnection process. On June 11, 2009, the ISO submitted reply comments countering comments submitted by others that the ISO tariff imposes unacceptable burdens on qualifying facilities and advocating the application of the ISO tariff's metering and interconnection provisions to qualifying facilities.

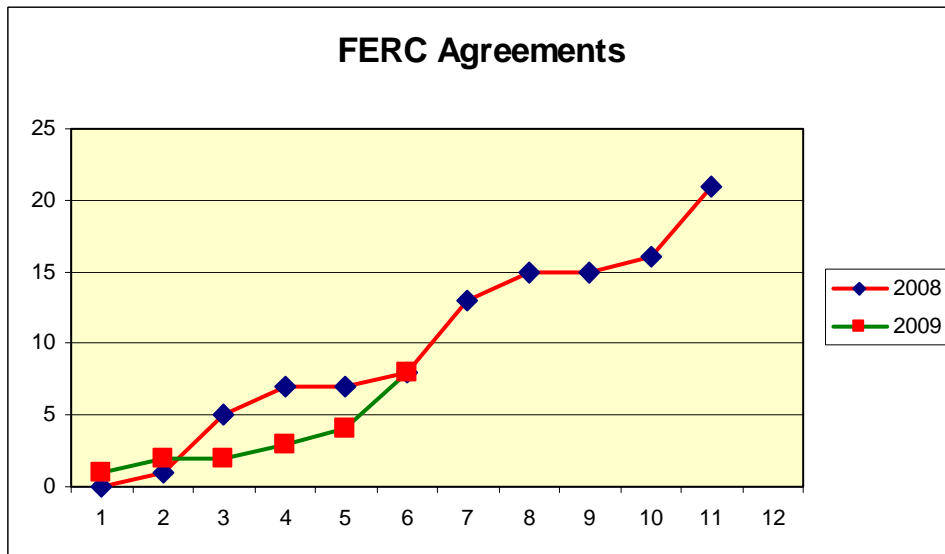
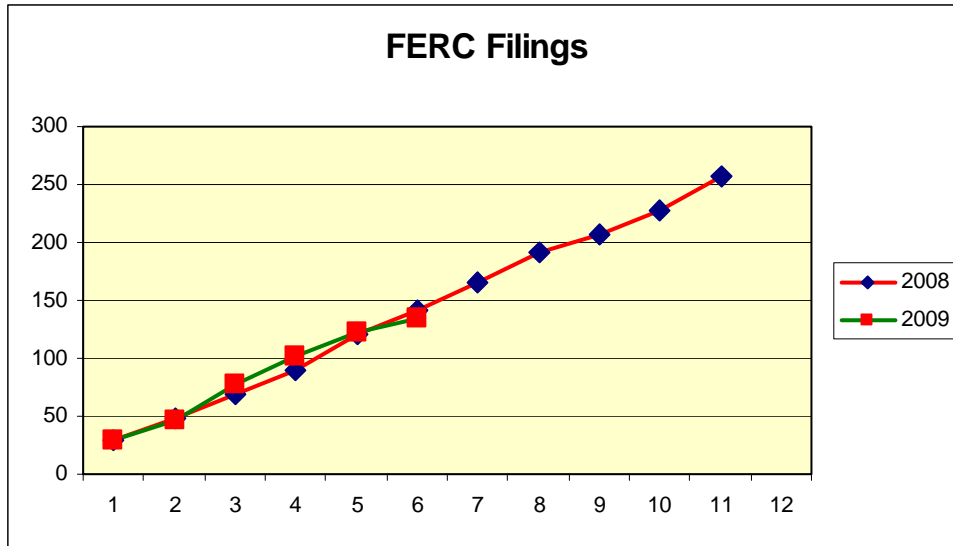
Responsible Attorneys: Mike Dozier and Sidney Davies

- **SCE certificate of public convenience and necessity for Devers-Palo Verde No. 2 transmission project (A.05-04-015)**

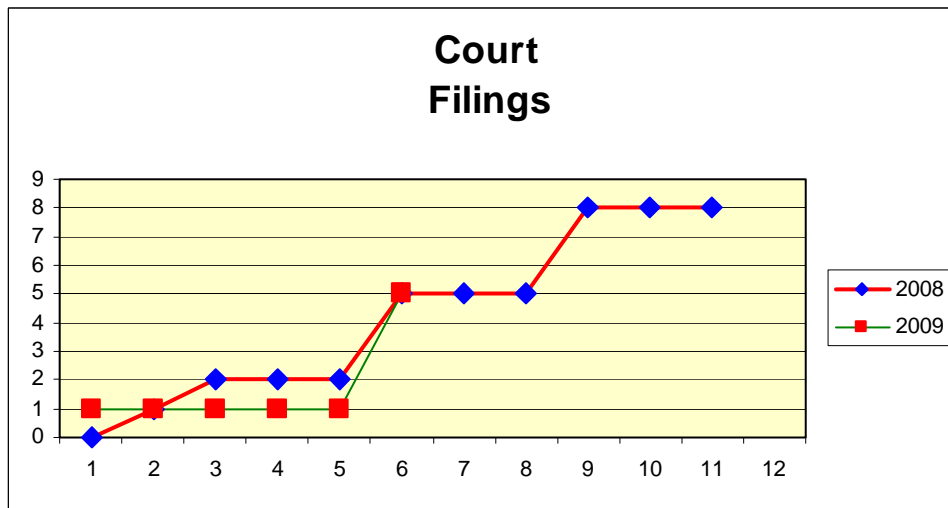
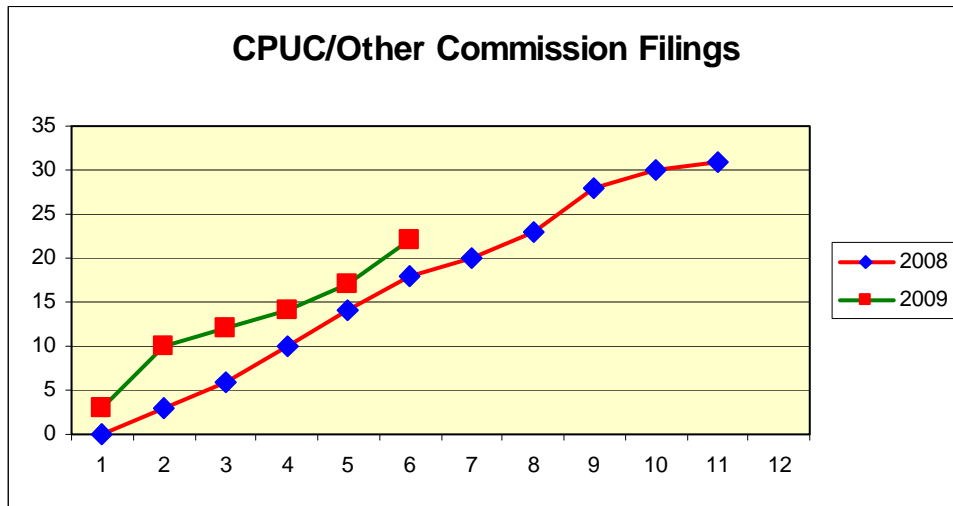
On June 19, 2009, the ISO submitted a letter to the CPUC administrative law judge describing the conditions that would have to be satisfied in order for the ISO to approve the construction of specified components of the California portion of the Devers-Palo-Verde No. 2 transmission project. The ISO's letter was based on the revised description of the project set forth in SCE's amended petition for modification filed on September 2, 2008, as revised pursuant to its letter to the CPUC dated May 15, 2009.

Responsible Attorney: Mike Dozier

Regulatory Filings Through June 2009



Regulatory Filings Through June 2009



Regulatory Filings Through June 2009

