



U.S. COMMODITY FUTURES TRADING COMMISSION

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Division of Clearing and Risk

Ananda Radhakrishnan
Director

April 29, 2013

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On March 28, 2013, the Commission approved a final order pursuant to 4(c)(6) of the Commodity Exchange Act (“CEA”) (the “Final Order”) in response to a consolidated petition from certain Independent System Operators and Regional Transmission Organizations (collectively, the “Requesting Parties”) to exempt specified transactions from the provisions of the CEA, and Commission regulations.¹ The Final Order was issued pursuant to certain conditions, in particular, paragraph 6(a)(1) of the Final Order conditions the exemption set forth therein upon the

submission and acceptance of a legal opinion or memorandum of outside counsel that is satisfactory to the Commission, in the Commission’s sole discretion, and that provides the Commission with assurance that the netting arrangements contained in the approach selected by that Requesting Party to satisfy the obligations those contained in FERC regulation 35.47(d) will, in fact, provide the Requesting Party with enforceable rights of set off against any of its market participants under title 11 of the United States Code in the event of the bankruptcy of the market participant.²

Pursuant to paragraph 7 of the Final Order, the Commission delegated the authority to accept or reject any legal memorandum required by paragraph 6(a)(1).³

On March 29, 2013, the Division of Clearing and Risk, the Division of Swap Dealer and Intermediary Oversight, and the Division of Market Oversight (collectively, the “Divisions”), issued a limited extension of no-action relief to the Requesting Parties and their market

¹ Final Order in Response to a Petition from Certain Independent System Operators and Regional Transmission Organizations to Exempt Specified Transactions Authorized by a Tariff or Protocol Approved by the Federal Energy Regulatory Commission or the Public Utility Commission of Texas from Certain Provisions of the Commodity Exchange Act Pursuant to the Authority Provided in the Act, 78 FR 19880 (April 2, 2013).

² 77 FR 19914.

³ Id.

participants (the “No-Action Extension”).⁴ In order to give the Requesting Parties time to take steps necessary to satisfy the conditions of the Final Order, the No-Action Extension provides the Requesting Parties until April 30, 2013 to comply with paragraph 6(a)(1) of the Final Order.

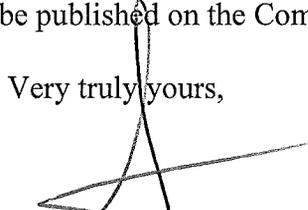
The Commission received the submission of the California Independent Service Operator Corporation (“CAISO”) pursuant to paragraph 6(a)(1) of the Final Order, which included

Memorandum of Outside Counsel entitled “Enforceability of the Net Billing and Setoff Provisions in the CAISO’s Tariff in the Event of a CAISO Participant Bankruptcy,” signed by Keith J. Cunningham of Pierce Atwood LLP dated April 26, 2013, Exhibit B of which is an Officer’s Certificate, signed by Nancy Saracino, President, General Counsel and Chief Administrative Officer, and dated April 26, 2013.

CAISO’s submission has been reviewed and found satisfactory, in that it provides adequate assurances with respect to CAISO’s set off rights in the event of the bankruptcy of one of CAISO’s market participants. Thus, the memorandum is accepted and CAISO has complied with the condition set forth in paragraph 6(a)(1) of the Final Order.

As discussed with Commission staff, the Memorandum of Outside Counsel, including the Officer’s Certificate, referred to above, will be published on the Commission’s website.

Very truly yours,



Ananda Radhakrishnan
Director, DCR

⁴ CFTC Letter No. 13-05 (March 29, 2013) (extension of relief provided pursuant to CFTC Letter No. 12-11 (October 11, 2012)).