

## Stakeholder Comments Template

### Subject: Post-Five Day Price Correction Issue Paper

| Submitted by (name and phone number): | Company or Entity: | Date Submitted:   |
|---------------------------------------|--------------------|-------------------|
| Sadao Milberg, 703-760-4358           | DC Energy LLC      | February 24, 2010 |

DC Energy appreciates the CAISO's effort to revisit its price correction policy as well as the opportunity to submit these comments (albeit beyond the requested comment date).

#### Executive Summary

DC Energy strongly recommends that CAISO amend its Electric Tariff (ISO Tariff) Section 35.3 (and section 8 of the Billing Practice Manual (BPM)) to clarify that a FERC waiver is required for price corrections outside of the window specified in Section 35.2 (the "Window"). This proposed amendment is already implicit in the ISO Tariff. Section 35.3 requires a specific exemption from other sections in the tariff (an "Exemption") for price corrections outside of the allowed window. An improper application of the ISO Tariff in the calculation of prices does not qualify as an "Exemption", as it is not an explicit waiver of Section 35. DC Energy accepts that an improper application of the ISO Tariff may require a recalculation outside of the "Window"; however, in this circumstance, the CAISO is required to obtain a FERC waiver, and DC Energy recommends the ISO Tariff be amended to clarify this requirement to avoid future confusion on the matter.

DC Energy suggests that the tenet of price finality and its link to consumer confidence in competitive, efficient markets trumps other potential reasons for an extension beyond its stated 5-day window.

#### Issue Description and Recommendation

DC Energy believes that the CAISO has identified an improved protocol in reducing the time horizon from 8 days after the Trading Day the price is released to 5 days as reflected in the BPM for Market Operations. DC Energy also applauds CAISO's stated goal to not continue to validate and correct prices after this horizon. However, where DC Energy disagrees with the CAISO is in their interpretation that Section 35.3 allows restatement of prices without FERC waiver outside of the specified price correction Window.

DC Energy hopes CAISO's stated goal is to have prices correct 100% of the time within that 5-

day window but understands that there may be the very rare occasion of an unexpected event that may not be uncovered (or perhaps fully understood) until after the 5-day window. In those extreme instances DC Energy recommends CAISO should file requesting a Tariff waiver from FERC. There is ample FERC precedent that leads DC Energy to the conclusion that this suggested framework is just and reasonable.

For example, in FERC Docket No. ER04-798-000 (ISO-NE -- 2004) the Commission stated: “We find that this language gives ISO-NE an open ended timeframe to confirm if an error has occurred and to publish the corrected results. Although we will allow ISO-NE to correct day-ahead market results in the situations provided for in the proposed revisions, the errors must be identified and corrected and the day-ahead market results re-posted within a specific timeframe to promote price certainty in the market.”<sup>1</sup>

Further in NYISO the discussion of price correction and its specific timeframes has too been the subject of Commission direction. In Docket No. ER06-1014 the Commission stated: “Therefore, we will direct NYISO to revise its Tariffs to provide for its making price corrections within three calendar days.”<sup>2</sup>

In both these instances FERC has been very direct in its desire for price finality and DC Energy recommends CAISO similarly correct its Tariff to comply with this FERC directive. The CAISO February 5, 2010 Issue Paper also appropriately identifies that no other ISO/RTO has (or in the case of PJM will have) discretion to correct prices beyond a specific window.<sup>3</sup> DC Energy adds that PJM and its stakeholders have concluded that its Tariff is vague on price finality and have engaged in stakeholder discussion that will shortly result in PJM also having date-certain price finality.

Lastly, DC Energy agrees, in part, with the WPTF 2/19/10 filing in that we believe there needs to be further information in the Tariff about the process the CAISO will follow when it finds that prices have been calculated in error outside the specific 5-day window. DC Energy further agrees with WPTF that the 5-day window be shortened to 3-days<sup>4</sup> which also conforms to the Commission Order stated above in the NYISO docket as well as the CAISO February 5, 2010 Issue Paper.<sup>5</sup>

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<sup>1</sup> Order at 8.

<sup>2</sup> Order at 10.

<sup>3</sup> CASO Issue Paper, p.7: “Other ISOs and RTOs, with the exception of PJM, do not have authority to make price correction after the expiration of their price correction time horizons without FERC direction.”

<sup>4</sup> Lastly, WPTF understands that the CAISO has proposed not to move to a 3-day price correction window. While WPTF may be supportive of maintaining the current 5-day price correction window, WPTF does not support doing so indefinitely, nor is WPTF supportive of being required to successfully propose a change to a 3-day window through the PRR process. Rather, WPTF encourages the CAISO to propose an extension to the date in which the 5-day price correction window is to move to a 3-day price correction window.

<sup>5</sup> The BPM for Market Operations specifies that the ISO will be moving towards a three day price correction time horizon after one year of experience with the new market design.