

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator)
Corporation)

Docket No. ER08-1113-007

**MOTION OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION FOR LEAVE TO FILE ANSWER AND ANSWER TO PROTESTS
AND COMMENTS**

I. INTRODUCTION

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,¹ the California Independent System Operator Corporation (ISO)² respectfully submits this motion for leave to file answer and answer to comments and protests addressing the ISO's filing made on April 28, 2010 in compliance with the Commission's April 1, 2010 order in the above-captioned docket.³ In that order, the Commission accepted, subject to modification, the ISO's January 19, 2010 compliance filing to modify tariff provisions related to market efficiency enhancement agreements (MEEAs), which allow market participants to obtain an alternative to default pricing for interchange transactions based on the location and operation of resources within the Sacramento Municipal Utility District and Turlock Irrigation District integrated balancing authority area (IBAA).

¹ 18 C.F.R. §§ 385.212, 385.213 (2009).

² The ISO is also sometimes referred to as the CAISO. Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

³ *California Indep. Sys. Operator Corp.*, 131 FERC ¶ 61,001 (2010) (*April 2010 Order*).

Previously, various entities opposed the verification procedures proposed by the ISO to determine if resources located within the IBAA operated to support interchange transactions for purposes of applying alternative pricing to those transactions. In particular, they asserted that the ISO was seeking to exclude quantities from receiving favorable pricing under a MEEA. These entities sought the flexibility to self-certify that they operated resources located within the IBAA to support interchange transactions with the ISO. The Commission determined that the ISO's proposed procedures would impermissibly net eligible quantities under a MEEA and authorized MEEA signatories to self-certify that their resources operated to support an interchange transaction.⁴ Now, Western Area Power Administration (Western) and a collection of IBAA entities⁵ ask the ISO to modify its tariff to provide MEEA signatories with the right to net or modify quantities eligible for MEEA pricing after a MEEA signatory has itself self-certified that resources identified in a MEEA operated to support those interchange quantities. The ISO believes that the ISO and a MEEA signatory can address any need for this operational flexibility in the self-certification process as part of the terms and conditions of a negotiated MEEA. The ISO requests that the Commission approve the proposed tariff language submitted on April 28, 2010.

⁴ *California Indep. Sys. Operator Corp.* 129 FERC ¶ 61,241 (2009) (*December 2009 Order*) at PP 30 and 50.

⁵ The entities include the Sacramento Municipal Utility District, Transmission Agency of Northern California, Turlock Irrigation District, Modesto Irrigation District and the Cities of Santa Clara, Redding and Palo Alto (collectively, IBAA entities).

II. Motion to Answer

The ISO respectfully files this motion for leave to file an answer to the protests filed by Western and the IBAA entities.⁶ The ISO is requesting leave to file this answer within fifteen days of the date of the IBAA entities' comments and protest. Answers to protests are generally not permitted.⁷ However, the ISO respectfully requests waiver of the Commission's Rules of Practice and Procedure prohibiting answers to protests pursuant to 18 C.F.R. § 385.101(e).⁸ The ISO's answer will assist the Commission evaluate the arguments raised in response to the ISO's April 28, 2010 compliance filing. Accordingly, the Commission should permit the ISO to file this answer.

III. ANSWER

A. The ISO's proposed tariff language complies with the directives of the *April 2010 Order* and is not ambiguous.

In its *April 2010 Order*, the Commission determined that the last sentence of ISO tariff section 27.5.3.2.2 submitted on compliance "appears to refer to the CAISO's previously rejected verification requirements."⁹ That sentence read as follows:

For any portion of an interchange transaction for which the CAISO cannot verify that the resources that were dispatched and operated to implement the interchange transaction are the resources identified in the MEEA, the default IBAA price

⁶ Western filed comments in response to the ISO's compliance filing. The IBAA entities also filed comments and a protest in response to the ISO's compliance filing.

⁷ See 18 C.F.R. § 385.213(a)(2).

⁸ The Commission has accepted answers that are otherwise prohibited if such answers clarify the issues in dispute, *Southwest Power Pool, Inc.*, 89 FERC ¶ 61,284 at 61,888 (1999); *Eagan Hub Partners, L.P.*, 73 FERC ¶ 61,334 at 61,929 (1995), or assist the Commission, *El Paso Electric Co.*, 72 FERC ¶ 61,292 at 62,256 (1995). This answer does both, and therefore the ISO respectfully requests that the Commission accept this answer.

⁹ *April 2010 Order* at P 33.

specified in Appendix C, Section G.1.1 will apply for the corresponding volume and time period.

The Commission reiterated the directive of its *December 2009 Order*: “the MEEA signatory should be allowed to self-certify that a MEEA resource supported an interchange transaction and should be able to support its certification with information in the event its certification is audited or challenged.”¹⁰ The Commission directed the ISO to revise the last sentence of tariff section 27.5.3.2.2 *consistent with* language proposed by the IBAA entities that clarified that for any portion of an interchange transaction for which the MEEA signatory has not self-certified that MEEA resources operated IBAA default pricing would apply.¹¹

In its April 28, 2010 compliance filing, the ISO modified the last sentence of tariff section 27.5.3.2.2 to read:

If a MEEA signatory does not self-certify that resources identified in the MEEA were used to support the interchange transaction, the default IBAA price specified in Appendix C, Section G.1.1 will apply to the interchange transaction.

The ISO filed this language in response to the Commission’s *December 2009 Order* to eliminate any concern that the ISO is seeking to retain “the verification requirement removed from other portions of the tariff.”¹² As explained in the ISO’s April 28, 2010 compliance filing, this language compliments other provisions of tariff section 27.5.3.2.2 that permit a MEEA signatory to use a Resource ID(s) to self-certify that MEEA resources supported an interchange transaction and use another Resource ID(s)

¹⁰ *April 2010 Order* at P 33, *citing December 2009 Order* P 33.

¹¹ *April 2010 Order* at PP 32-33.

¹² *April 2010 Order* at P 31.

for other interchange transactions that are not support by MEEA resources.¹³ The ISO explained, however, that its existing tariff language did not permit a MEEA signatory to self-certify that it dispatched MEEA resources to support a portion of a schedule.¹⁴ The last sentence of section 27.5.3.2.2 clarifies that for transactions scheduled by MEEA signatories with a non-MEEA Resource ID, the ISO will apply default pricing to those quantities. This language squarely complies with the Commission's directives to remove any vestige of the ISO's prior verification requirements.

In their comments and protest, Western and the IBAA entities argue that the ISO's proposed tariff language in Section 27.5.3.2.2 is ambiguous. Western's comments attempt to read various chimeras into the ISO's tariff language.¹⁵ For example, Western asserts that the ISO's language could mean that the ISO will settle an interchange transaction scheduled with a MEEA Resource ID at a default price in the event a MEEA signatory schedules another interchange transaction with a non-MEEA Resource ID. This reading is unsupportable in light of other language of Section 27.5.3.2.2, which states in part:

The CAISO will establish Resource IDs that are to be used only to submit Bids, including Self-Schedules, for the purpose of obtaining MEEA-specific pricing. MEEA signatories may obtain and use other Resource IDs to submit Bids, including Self-Schedules, that are not covered by an MEEA.

The ISO's tariff language clearly permits a MEEA signatory to obtain MEEA pricing by using a Resource ID designated for that purpose. The language also permits

¹³ ISO's April 28, 2010 compliance filing at 2, fn 6.

¹⁴ *Id.*

¹⁵ Comments of Western at 6-10.

a MEEA signatory to obtain and use other Resource IDs to submit bids, including Self-Schedules, to the ISO market for which the MEEA signatory is not requesting MEEA pricing.

Western asks whether separate schedules are considered separate interchange transactions or whether the ISO considers all schedules to amount to one interchange transaction. Western then answers its own question by referring to the ISO's tariff language in section 27.5.3.2.2 quoted above.¹⁶ The tariff explicitly allows a MEEA signatory to enter into multiple interchange transactions with either Resource IDs that self-certify that MEEA resources support those transactions or Resource IDs that are not supported by MEEA resources.

The IBAA entities also assert the ISO's proposed revision to the last sentence of Section 27.5.3.2.2 is ambiguous.¹⁷ The IBAA entities, however, do not explain this assertion but instead provide a procedural overview of pleadings addressing the last sentence of Section 27.5.3.2.2. As explained above, the ISO's proposed language fully complies with the Commission's *April 2010 Order* and does not create any ambiguity – if a MEEA signatory submits a Bid, including a Self-Schedule, with a non-MEEA Resource ID and that Bid clears in the ISO's market, then the ISO will apply IBAA default pricing to that interchange transaction. The Commission should reject the comments of Western and the IBAA entities and accept the ISO's proposed tariff changes as compliant with the Commission's *December 2009 Order*.

¹⁶ Comments of Western at 7.

¹⁷ Comments and Protest of IBAA entities at 4-6.

B. The ISO's tariff language does not prevent a MEEA signatory from adjusting its self-certification to address unanticipated changes in the quantities of MEEA resources dispatched to support an interchange transaction.

Western and the IBAA entities identify a concern that a MEEA signatory may need to adjust its self-certification after it submits a Bid with a MEEA Resource ID to reflect that an unanticipated constraint prevented MEEA resources from supporting the entire schedule.¹⁸ This concern, of course, was addressed by the ISO's after-the fact verification procedures, which unambiguously identified whether sufficient resources identified in a MEEA operated to support an interchange transaction. Western and the IBAA entities contested these procedures but now find that they may also need to net-out scheduled quantities that are not supported by MEEA resources. The ISO understands the concern and is willing to work with Western and the IBAA entities in the context of MEEA negotiations to address the need to revise a self-certification downward, if a MEEA signatory learns of discrepancies between the scheduled and real-time dispatch of resources supporting an interchange transaction.

The earlier language presented by Western and the IBAA is problematic because the self-certification process proposed by the ISO and accepted by the Commission requires the use of a MEEA Resource ID for those schedules that the MEEA signatory seeks MEEA pricing. The Commission directed the ISO to establish a self-certification mechanism under a MEEA that allows a MEEA signatory to demonstrate that it dispatched MEEA resources to support an interchange transaction. Under the Commission's *December 2009 Order*, MEEA signatories should support their

¹⁸ Comments of Western at 8-10; Comments of IBAA entities at 7-9.

certifications with information demonstrating that a MEEA resource was used to support an interchange transaction.¹⁹ The self-certification process does not allow for a blended use of MEEA resources and non-MEEA resources. Instead, the burden and obligation rests with the MEEA signatory to attest, under oath, that it dispatched resources identified in a MEEA to support its interchange transaction.²⁰ The proposed language presented by Western and the IBAA entities would provide a MEEA signatory with the benefit of knowing the market results as it decides whether to self-certify that MEEA resources operated to support its schedule. The ISO designed the self-certification process based on the actual output of MEEA resources and not to provide MEEA signatories with the option to select the higher of MEEA pricing or IBAA default pricing.

In its comments, Western recommends alternative language that would provide a MEEA signatory the opportunity to adjust its self-certification.²¹ Western proposes that this language replace the last sentence of Section 27.5.3.2.2. The ISO objects to including this language in its tariff. Western's recommendation would frustrate the purpose of including the last sentence of Section 27.5.3.2.2, which is to specify that if a MEEA signatory submits a Bid, including a Self-Schedule, with a non-MEEA Resource ID and that Bid clears in the ISO's market, then the ISO will apply default pricing to that interchange transaction. Western's proposed language also raises other concerns, including the appropriate timeframe for any adjustment to self-certifications, whether adjustments may be made in an upward and downward direction, and what situations

¹⁹ *December 2009 Order at P 50.*

²⁰ *December 2009 Order at P 51.*

²¹ *Comments of Western at 9-10.*

qualify for adjusting a self-certification. For example, the ISO does not agree that a change in economic dispatch conditions for MEEA resources qualifies as a legitimate reason to adjust a self-certification submitted by means of a MEEA Resource ID. Allowing a MEEA signatory the flexibility to decide not to operate its MEEA resource after it is scheduled based solely on commercial considerations is problematic if that decision creates real-time operational impacts on the ISO system.

The issue raised by Western and the IBAA entities exceeds the scope of both the *December 2009* and the *April 2010 Orders* as well as this compliance process. The ISO's tariff language as proposed, however, would allow the ISO and a MEEA signatory to address concerns related to the self-certification process in a manner that is consistent with the Commission's orders in this proceeding. The ISO commits to do so in the context of MEEA negotiations. The Commission will have the ability to address this issue as part of any review and approval of a MEEA. The ISO has no objection to the alternative request of Western and the IBAA entities that the Commission state in an order that the ISO and a MEEA signatory may negotiate terms that allow a MEEA signatory to adjust its self-certification downward where a modification is necessary to address actual operational constraints and continue to receive MEEA pricing for the remaining self-certified quantities.

C. The Commission did not require the ISO to hold a stakeholder process to comply with the April 2010 Order.

In its comments, Western encourages the ISO to seek stakeholder input before making future compliance filings.²² The ISO generally does not hold a stakeholder

²² Comments of Western at 3-4.

process to prepare compliance filings and did not do so in this case. The Commission's *April 2010 Order* included explicit directives and required a compliance filing within 30 days. The Commission did not order the ISO to conduct a stakeholder process to comply with these directives.

Moreover, as the Commission stated in its *December 2009 Order*, parties have been aware of the IBAA for some time and have had the opportunity to engage the ISO in bilateral discussions.²³ Western explains that it did raise concerns with ISO regarding the ISO's compliance filing but that the ISO refused to consider any additional changes to its tariff.²⁴ In fact, the ISO did consider Western's concerns as well as whether additional tariff changes were necessary to address these concerns. For the reasons described above, the ISO informed Western that it did not think Western's suggested language was necessary.

III. CONCLUSION

Western and the IBAA entities' proposed tariff language would allow for abuses of the self-certification process. The ISO's proposed tariff amendments comply with the *April 2010 Order* and provide sufficient flexibility for a MEEA signatory and the ISO to address in the context of MEEA negotiations the potential need of a MEEA signatory to revise its self-certification downward between the time it submits a Bid and real time. Pursuant to the ISO's IBAA tariff provisions, the Commission will review and approve

²³ *December 2009 Order* at P 129.

²⁴ *Id.*

any negotiated MEEAs.²⁵ Accordingly, the Commission should accept the ISO's tariff provisions as presented in its April 28, 2010 compliance filing.

Respectfully submitted,

/s/ Andrew Ulmer

Anthony Ivancovich
Assistant General Counsel -
Regulatory
Anna McKenna
Senior Counsel
Andrew Ulmer
Senior Counsel
The California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 608-7209
Fax: (916) 608-7296
aulmer@caiso.com

Attorneys for the California Independent
System Operator Corporation

Dated: June 3, 2010

²⁵ ISO tariff section 27.5.3.3.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 3rd day of June 2010.

/s/ Jane Ostapovich
Jane Ostapovich