

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

California Independent System Operator Corporation)	Docket No: ER06-615-012
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**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
TO WESTERN POWER TRADING FORUM'S
ANSWER TO STATUS REPORT AND MOTION TO COMPEL TIMELY SUBMITTAL OF
CONVERGENCE BIDDING PROPOSAL**

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213, the California Independent System Operator Corporation ("CAISO") hereby files its Answer to the Western Power Trading Forum's September 26, 2007, pleading captioned Answer to the CAISO's Status Report and Motion to Compel Timely Submittal of Convergence Bidding Proposal ("Motion"). For the reasons stated below, the CAISO respectfully requests that the Commission accept the CAISO's answer, reject the Motion as an untimely request for rehearing, and decline to order the relief sought by the Western Power Trading Forum ("WPTF").

I. ANSWER

WPTF's Motion is, in fact, a prohibited request for rehearing of the Commission's September 21, 2006, and April 20, 2007, orders in the above-captioned proceeding. In those orders, the Commission directed the CAISO to implement convergence bidding one year after implementation of the CAISO's Market Redesign and Technology Upgrade ("MRTU") and to

file tariff language implementing convergence bidding.¹ Specifically, in the April 20 Order, the Commission directed that “within 60 days prior to the one-year anniversary of Day 1 of MRTU operation, the CAISO must file tariff sheets implementing convergence bidding with a proposed effective date of that first anniversary.”² Neither of the Commission’s orders directed the CAISO to submit a conceptual filing to the Commission prior to development of the final tariff language and submittal of that language to the Commission for approval under Section 205 of the Federal Power Act. *See* September 21 Order at P 452; April 20 Order at P 117. WPTF now seeks to impose new filing obligations on the CAISO directly related to the subject matter and outcome of the Commission’s September 21 and April 20 Orders, a request which should have been made in a request for rehearing of those orders. WPTF’s filing requests that, in addition to the obligation to file at the Commission tariff language implementing convergence bidding, that the Commission order the CAISO Board of Directors to approve, and for the CAISO to file “for Commission consideration and action” by January 31, 2008, the conceptual design for the convergence bidding features to be implemented in the CAISO market, more than a year before the Commission directed the CAISO to file tariff language.

A year after issuance of the Commission’s September 21 Order and five months after issuance of the April 20 Order, WPTF’s Motion is well beyond the statutory deadline for rehearing requests. Pursuant to Section 313(a) of the Federal Power Act, 16 U.S.C. § 825l(a), any request for rehearing must be filed within 30 days of issuance of the order for which rehearing is sought. Because the 30-day rehearing deadline is imposed by statute, it cannot be extended. *Puget Sound Energy, Inc*, 114 FERC ¶ 61,231 (2006); *Wisconsin Valley Improvement*

¹ *California Independent System Operator Corporation*, 116 FERC ¶ 61,274 (2006) (“September 21 Order”); *California Independent System Operator Corporation*, 119 FERC ¶ 61,076 at P 117 (2007) (“April 20 Order”).

² April 20 Order at P 117.

Co., 80 FERC ¶ 61,257 (1997). Because WPTF's filing is an untimely request for rehearing, its Motion must be denied.

WPTF's failure to seek timely rehearing of these orders is not corrected by re-characterizing its untimely request for rehearing as an answer to a status report or as a motion to compel submission of a new filing at the Commission. The Commission rejects untimely requests for rehearing that are re-packaged as requests for reconsideration or other names. *Midwest Independent Transmission System Operator, Inc.*, 112 FERC ¶ 61,211 at PP 5, 10 (2005); *San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator Corp. and California Power Exchange*, 104 FERC ¶ 61,186 at P 1 (2003); *Houston Lighting & Power Co.*, 84 FERC ¶ 61,183 (1998). The Commission in its discretion may treat "a late-filed petition for rehearing as a request for reconsideration when it raised matters requiring clarification by the Commission." *Midwest CAISO*, 112 FERC ¶ 61,211 at P 10 n.8. WPTF's request, however, does not ask the Commission to clarify its orders, but rather to impose entirely new filing obligations on the CAISO.

WPTF's filing is not only untimely, its approval would be outside the bounds of the requirements imposed on the CAISO by the Federal Power Act. The Federal Power Act simply does not require filing of conceptual proposals. The Act requires the filing of

rates and charges for any transmission or sale subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

16 USC § 824d(c). Yet, if approved, WPTF's proposal would obligate the CAISO to seek approval of the concepts underlying the forthcoming convergence bidding filing long before any

of the elements or language that require Commission approval have even been developed, far exceeding the CAISO's obligations under the Federal Power Act.

In the past, the CAISO voluntarily has submitted conceptual filings for Commission review, including with respect to some elements of the design of MRTU. It has done so, however, in response to specific Commission requests and when the CAISO concluded that such conceptual filings would be helpful to stakeholders or the CAISO itself in developing proposed rates, terms and conditions. For the reasons discussed below, however, the CAISO believes that a requirement to file a conceptual proposal on convergence bidding would be counter-productive to an on-going stakeholder process in the instant case.

As WPTF itself has acknowledged in its filing, the CAISO continues to work through an extensive stakeholder process on the design of convergence bidding features for MRTU. Although the CAISO and stakeholders have made significant progress towards designing the convergence bidding features, the design and implementation of this mechanism may have far-reaching impacts on many aspects of the CAISO's market monitoring capabilities, scheduling, credit and settlement systems and performance of its software systems. The CAISO is continuing to air these possible impacts with stakeholders so they can understand and constructively contribute to important details in the design for convergence bidding. The CAISO recognizes that much work remains to be done, and therefore is reluctant to support a motion from one stakeholder group to hastily decide a conceptual design while the CAISO is actively exploring key elements of that conceptual design, and other stakeholders are working in good faith to contribute their input and expertise in this effort. Approval of WPTF's motion at this stage would interfere with a stakeholder process through which the CAISO is seeking to build a consensus, and would force premature litigation of the conceptual design of the convergence

bidding features before the stakeholder process is completed and before key elements of the convergence bidding features are fully developed. In doing so, approval of WPTF's filing would be inconsistent with the April 20 Order which allowed stakeholders to fully review the convergence bidding design for up to a few months before the deadline for its implementation.

Moreover, the CAISO strongly believes it is a mistake to make decisions regarding the conceptual design of the convergence bidding features in the CAISO's new market at this point. MRTU currently is scheduled to be implemented on March 31, 2008. The CAISO believes all stakeholders will benefit from continuing to address details of the convergence bidding rules in the ongoing stakeholder process and from observation and experience with the actual MRTU markets before finalizing many concepts in the convergence bidding features of the CAISO's tariff. To the extent that the CAISO and stakeholders begin litigating the concepts underlying the CAISO's convergence bidding rules early next year, it will divert attention away from developing a sound and workable convergence bidding proposal based, in part, on observations and lessons learned about the operation of the CAISO's restructured market in its early months. Accordingly, the CAISO believes that it is not in the interest of stakeholders or the CAISO itself to divert attention from the development of the tariff language by developing and litigating a conceptual filing throughout much of 2008.³

Finally, although the CAISO opposes WPTF's motion to require it to submit a conceptual filing to the Commission more than a year before the CAISO's deadline for filing tariff language to implement convergence bidding, the CAISO intends to strive towards a full convergence

³ The CAISO is aware that one significant issue that has arisen in the convergence bidding stakeholder process is whether convergence bidding will initially be available on a nodal basis or only at the level of Load Aggregation Points ("LAPs"). One of the issues that WPTF suggests should be addressed in the conceptual filing is "the acceptable bidding points (e.g., 'granularity')." WPTF Motion at p. 6, n.14. The CAISO currently is working with its software vendors to investigate whether it is feasible to develop convergence bidding software that could accommodate either a nodal or LAP approach. To the extent that the CAISO's vendors are able to incorporate such flexibility into its software, it should alleviate some of WPTF's concerns that software limitations could undermine the development of a sound convergence bidding proposal.

bidding tariff filing earlier than the deadline established by the September 21 and April 20 Orders if at all possible.

II. REQUEST FOR LEAVE TO ANSWER

The CAISO is entitled to respond to WPTF's Motion under Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213. The CAISO's notes that WPTF's motion cannot truly be viewed as an answer to the CAISO's August 31 MRTU status report as WPTF's filing raises a new issue (the proposed conceptual filing) which was not addressed in any manner by the CAISO's August 31 status report. Nonetheless, in the unlikely event that the Commission does not view the WPTF filing as one to which the CAISO generally is permitted to respond, pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213, the CAISO hereby requests waiver of Rule 213 to permit it to file this answer and files this answer. Good cause for a waiver exists because this answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case.⁴

III. CONCLUSION

WHEREFORE, the California Independent System Operator Corporation requests that the Commission accept the CAISO's answer, reject WPTF's Motion as an untimely request for

⁴ See, e.g., *Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002); *Duke Energy Corporation*, 100 FERC ¶ 61,251 at 61,886 (2002); and *Delmarva Power & Light Company*, 93 FERC ¶ 61,098 at 61,259 (2000).

rehearing of the September 21 and April 20 Orders, and deny the relief sought by WPTF for the
aforementioned reasons.

Respectfully submitted,

/s/ Sean A. Atkins

Sean A. Atkins
Ronald E. Minsk
Alston & Bird LLP
950 F Street, NW
Washington, DC 20004
Tel: (202) 756-3300
Fax: (202) 756-3333

Counsel for the California Independent
System Operator Corporation

Dated: October 11, 2007

Certificate of Service

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service lists compiled by the Secretary in the above-captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 11th day of October the year 2007 at Folsom, California.

/s/ Charity Wilson _____
Charity Wilson