

# Memorandum

**To:** ISO Board of Governors

**From:** Roger Collanton, Vice President, General Counsel, Chief Compliance Officer,  
and Corporate Secretary

**Date:** January 25, 2023

**Re:** Regulatory update since last report dated December 7, 2022

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***This memorandum does not require ISO Board of Governors action.***

## Highlights

- *Willie Phillips named Acting FERC Chair*
- *FERC issues a Notice of Proposed Rulemaking (NOPR) regarding applications for permits to site interstate transmission facilities*
- *CPUC opens rulemaking to consider extending operations of Diablo Canyon nuclear power plant*

## Federal Energy Regulatory Commission

- **Order No. 2222 - Distributed Energy Resource Aggregations (ER21-2455)**

On January 10, 2023, at the recommendation of FERC Staff, the ISO filed an amendment to its August 15, 2022 compliance filing, to make several minor tariff revisions.

- **NOPR: Applications for Permits to Site Interstate Transmission Facilities (RM22-7)**

On December 15, 2022, FERC issued a NOPR to revise its existing regulations governing the exercise of its “backstop” authority to site electric transmission facilities in Department of Energy-designated corridors if a state has denied an application to site the facilities. The changes are intended to align with recent amendments to Section 216 of the Federal Power Act and current FERC policies.

- **Rules of Conduct - Distribution of Proceeds (ER22-2730)**

On December 15, 2022, FERC granted the ISO’s August 24, 2022, petition for approval to distribute proceeds of penalties collected for violations of the ISO’s rules of conduct and non-refundable study deposits for projects interconnecting to Southern California Edison’s

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distribution system for calendar year 2021.

- **Tariff Clarifications Amendment (ER23-609)**

On December 12, 2022, the ISO filed a set of tariff amendments to clarify several areas of the ISO tariff, including ancillary services procurement, validation of bids, and proxy transition costs. These revisions are intended solely to correct typographical errors, realign or remove erroneous cross-references, clarify the meaning of ambiguous tariff provisions, and ensure consistency throughout the tariff.

- **NERC: Cold Weather Reliability Standards (RD23-1)**

On December 8, 2022, the ISO joined the ISO/RTO Council (IRC) comments on NERC's October 28, 2022, petition for approval of draft reliability standards EOP-011-3 and EOP-012-1. Although the IRC supports the approval of EOP-011-3 as drafted, the IRC requests that revisions be made to EOP-012-1 (generator winterization standard) regarding the definitions of extreme cold weather temperature and related reliability events and the implementation plan for the standard.

On December 23, 2022, the ISO joined the IRC reply comments, which reiterated comments made in opening comments.

- **WEIM: State of Washington/Greenhouse Gas Compliance (ER23-474)**

On December 19, 2022, the ISO filed an answer to the protest filed by the Utah Division of Public Utilities (UDPU) to the ISO's November 21, 2022, tariff amendment. The tariff amendment proposed to incorporate the cost to comply with Washington's cap-and-invest program into generating units' variable costs associated with their default energy bids and commitment costs. The ISO argued that UDPU's arguments essentially were an attack on the Washington program itself. The ISO stressed it was only proposing to reflect greenhouse gas (GHG) emissions costs incurred by generators, something that FERC has already permitted the ISO to do with respect GHG costs generators have incurred to comply with California's GHG program.

- **NOPR: Improvements to Generator Interconnection Procedures & Agreements (RM22-14)**

On December 14, 2022, the ISO joined the ISO/RTO Council (IRC) reply comments on the June 16, 2022, NOPR. The comments reiterated the IRC's opposition to the proposal to eliminate the reasonable efforts standard and replace it with automatic penalties for delays in completing interconnection studies. The IRC stated that automatic monetary penalties on transmission providers do not address the underlying causes of study delays, and the process of collecting and paying the proposed penalties is not clearly defined. The IRC urged FERC to engage further with stakeholders on these issues before issuing a final rule.

### **Non-Conforming Regulatory Agreements**

- **Applicant Participating Transmission Owner Agreement – TransWest Express LLC (ER23-838)**

On January 13, 2023, the ISO filed an Applicant Participating Transmission Owner Agreement with TransWest Express LLC that sets forth the terms and conditions that will govern TransWest's responsibilities and relationship with the ISO before the ISO assumes operational control over the TransWest Express Transmission Project, an interregional high-voltage transmission project proposed to be energized in 2027.

- **Oakland Power Company LLC – Reliability Must Run (RMR) (ER23-574)**

On December 28, 2022, the ISO filed a protest seeking to reject Oakland's proposed amendment to the RMR agreement with the ISO. The amendment would add a new mechanism for recovering certain costs associated with purchasing carbon dioxide emissions allowances to facilitate compliance with the emission limits set by the California Air Resources Board. The ISO argued that Oakland failed to demonstrate that the costs it seeks to recover through the proposed mechanism are not already recovered through the agreement's existing rate structure.

- **Hosted Advanced Network Application Services Agreement: El Paso Electric Company (ER23-670)**

On December 19, 2022, the ISO filed a Hosted Advanced Network Application (HANA) Services Agreement with El Paso Electric Company, to be effective March 1, 2023. Under the Agreement, El Paso will pay the ISO an annual service fee for HANA services during the initial three year term of the Agreement.

- **Dynegy Oakland LLC – Reliability Must Run (ER21-292)**

On December 5, 2022, the ISO filed an answer to the CPUC's late intervention, requesting that FERC deny the intervention because the CPUC failed to demonstrate that late intervention was warranted, and allowing intervention at this late date would disrupt proceedings.

### **California Energy Commission**

- **Supply Side Demand Response (21-DR-01)**

On December 20, 2022, the ISO filed comments on the CEC's December 6, 2022, qualifying capacity of supply-side working group draft report. The ISO supported the recommendation that the CPUC eliminate components of the planning reserve margin (PRM) adder associated with operating reserves and load forecast error. Also, the ISO opposed CEC recommendations that the ISO (1) implement and administer its

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proposed capacity shortfall penalty for demand response resources in the ISO market and (2) assess performance-based penalties to demand response resources based on individual resource adequacy contract prices. The ISO also noted that the CEC's penalty-based quantifying capacity (QC) framework needs additional vetting so stakeholders can better understand and evaluate how the proposed incentive mechanisms would work in practice.

### **California Public Utilities Commission**

- **Order Instituting Rulemaking: Diablo Canyon Nuclear Power Plant (R.23-01-007)**

On January 12, 2023, the CPUC opened a rulemaking docket to consider extending the operations of the Diablo Canyon nuclear power plant. This rulemaking stems from legislation approved in September 2022 (SB 846) requiring the CPUC to issue a decision establishing new retirement dates for the two units of the nuclear plant.

- **Advanced Demand Flexibility through Electric Rates (R.22-07-005)**

On January 4, 2023, the ISO filed reply comments on the assigned commissioner's phase 1 scoping memo and ruling. The ISO provided several corrections to the record regarding transmission access charges comments.

- **Distributed Energy Resource Program (R.22-11-003)**

On January 3, 2023, the ISO filed comments on the proposed preliminary scope and schedule of the order instituting rulemaking. The ISO supported focusing on data use and access to support electric grid planning, operations, procurement, and investment as well as distributed energy resources onto the grid. In addition, the ISO recommended a scope that includes considering data requirements to support short and long-term demand forecasting. The ISO also supported creating a data working group with the CEC and California Air Resources Board staff to focus on track 2 issues, including short and long-term forecasting activities.

- **Resource Adequacy Program (R.21-10-002)**

On December 12, 2022, the ISO filed reply comments on the slice-of-day working group report. The ISO reiterated the CPUC should not grant the Energy Division broad discretion to adjust the planning reserve margin in a way that decreases system reliability. Also, the ISO stated that energy-only resources should not be relied on to charge storage resources across the transmission system.

- **Integrated Resource Planning (R.20-05-003)**

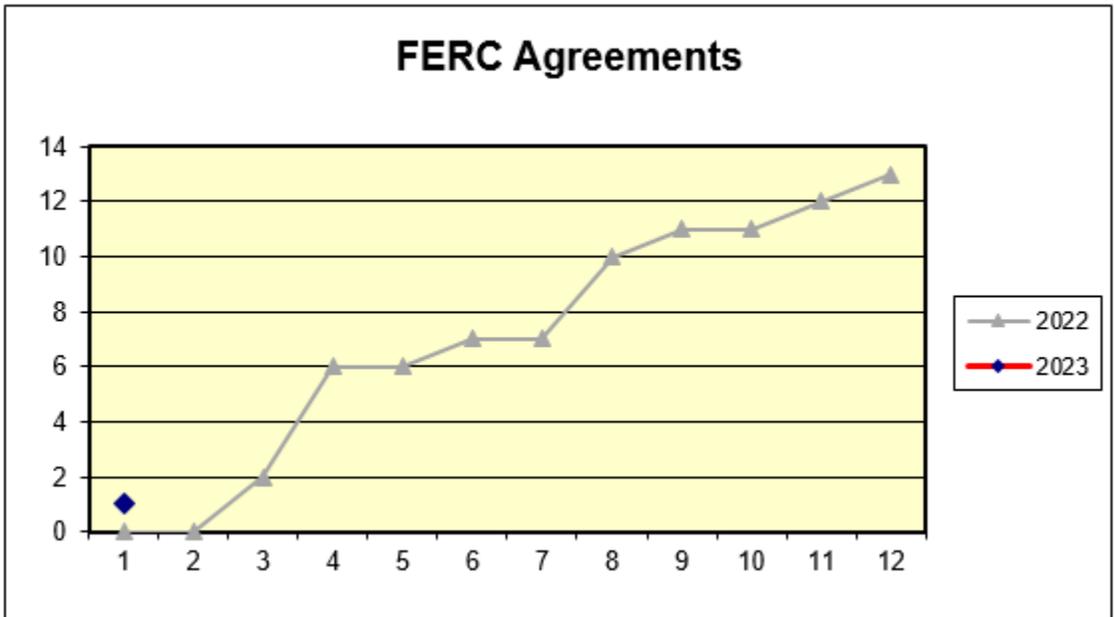
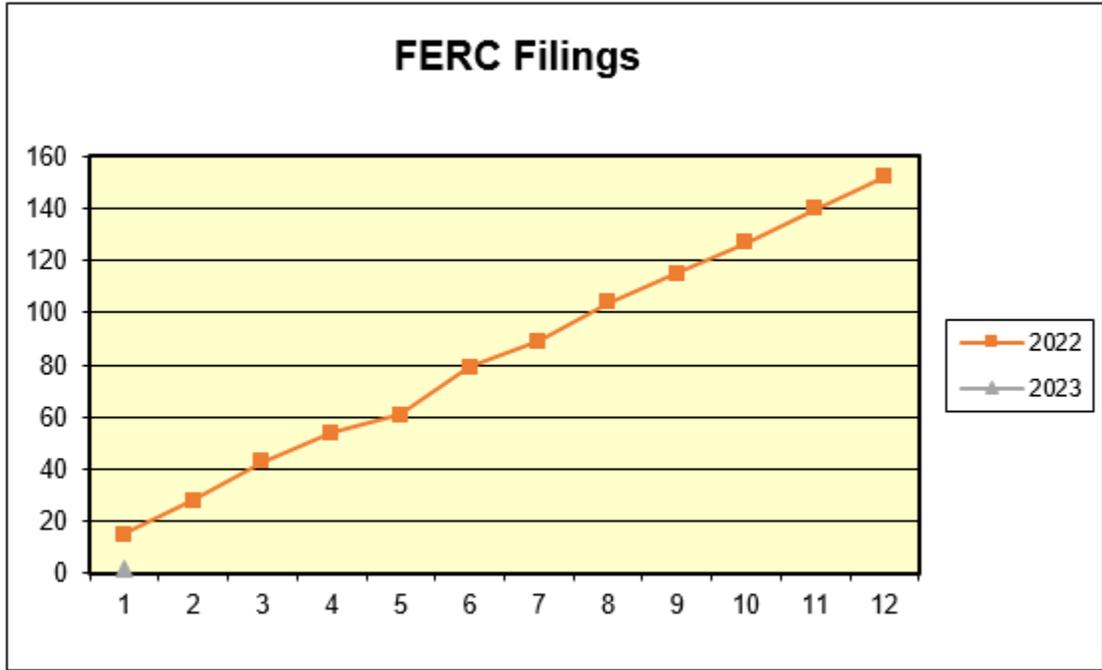
On December 12, 2022, the ISO filed comments on the Administrative Law Judge's September 8, 2022, ruling seeking comments on the CPUC staff paper regarding the

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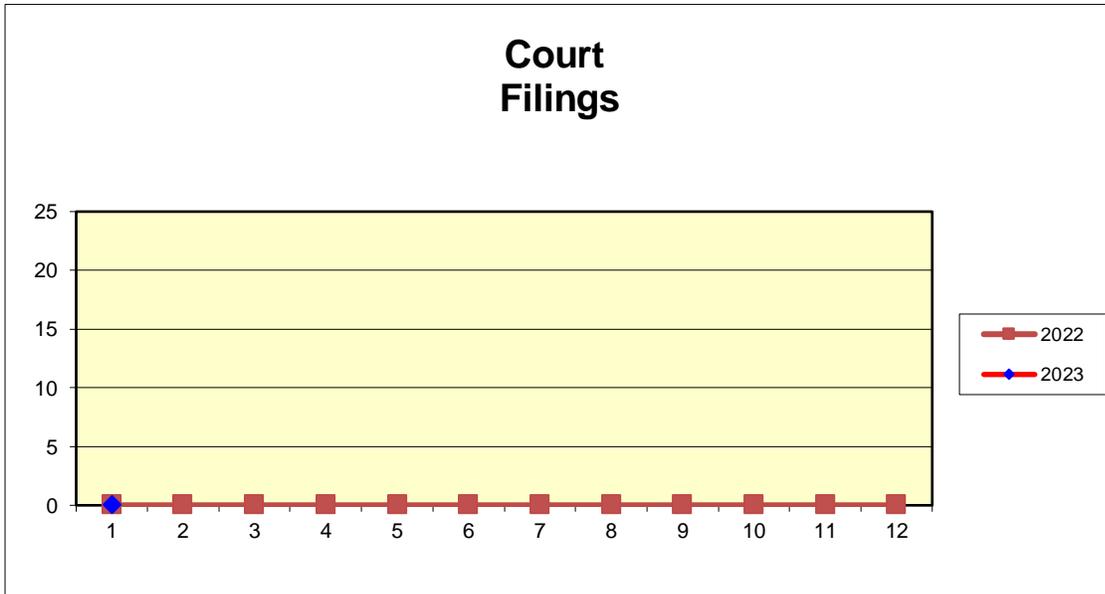
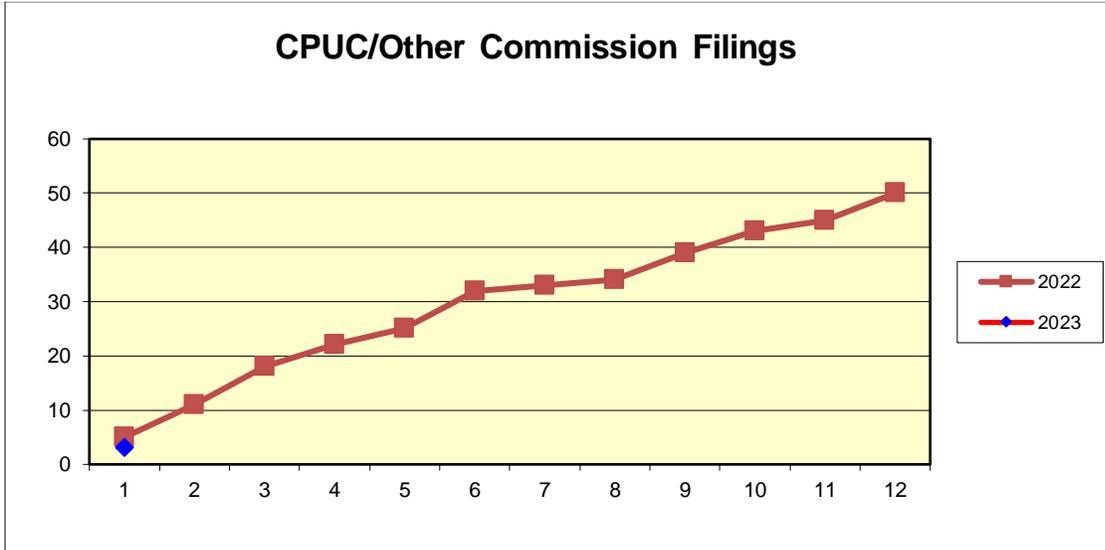
resource procurement program and options to improve the integrated resource planning (IRP) procurement framework. The ISO indicated it remains committed to working with the CPUC to evolve the IRP procurement framework, in coordination with the ISO's transmission planning process, to meet the state's reliability needs and establish procurement requirements well before the need arises based on effective, coordinated, and proactive planning. The ISO recommended the CPUC consolidate several critical functions into the IRP proceeding because the IRP program is better suited than the resource adequacy proceeding to conduct reliability modeling for both the IRP and resource adequacy proceedings.

On January 9, 2023, the ISO filed reply comments on the September 8, 2022, ALJ ruling that focused on establishing procurement requirements for existing and incremental resource needs in the new IRP procurement program. The ISO also responded to comments regarding local resource needs, reliability modeling, and the ISO's backstop procurement mechanisms and deliverability study methodologies. The ISO stated it continues to support a holistic procurement approach where the IRP proceeding is the sole forum considering CPUC footprint-wide planning, procurement requirements, need allocation, compliance, and enforcement of system, flexible, and local capacity requirements.

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