

Memorandum

To: ISO Board of Governors

From: Nancy Saracino, Vice President, General Counsel & Chief Administrative Officer

Date: March 13, 2013

Re: Regulatory Update

This memorandum does not require Board action.

Highlights

- *ISO files to reduce the price of the transmission relaxation parameter in order to lower the cost of real-time congestion, while maintaining the same level of effectiveness in relieving congestion in the real-time*
- *ISO files to improve its real-time local market power mitigation, including the ability to dynamically assess the competitiveness of the paths used in determining market power and to implement a default competitive path assessment*
- *ISO files to implement FERC's order suspending JP Morgan Venture Energy Corp.'s market based rate authority and responds to challenges by JP Morgan, and FERC clarifies that suspension only applies prospectively*

Federal Energy Regulatory Commission and related Court of Appeals matters

Tariff amendments and orders

- **Transmission constraints relaxation parameter (ER13-1060)**

On March 8, 2013, the ISO filed a proposed tariff amendment to reduce the real-time transmission congestion relaxation parameter (*i.e.*, the point at which the ISO will relax a transmission constraint rather than rely on increasingly expensive and ineffective supply bids to resolve congestion), from \$5,000 per megawatt-hour to \$1,500 per megawatt-hour. This change is necessary to arrive at a more effective and efficient market solution that reliably resolves congestion at a reasonable cost. A sudden increase in the cost of managing real-time congestion in July and August of 2012 caused the ISO to look more closely into drivers of such costs. The ISO's analysis

revealed that in highly constrained conditions the current parameter resulted in the use of less effective energy bids to relieve system congestion at a higher cost. Use of such ineffective bids provide de minimus incremental congestion relief compared to the result from lower parameter settings and can significantly and unnecessarily increase realtime congestion offset costs. The ISO's studies show that the lower real-time scheduling transmission constraint relaxation parameter will produce a reliable market solution at a more reasonable cost than the current parameter. The ISO requested an effective date of May 10, 2013.

Responsible Attorney: Anna McKenna

- **Order denying rehearing requests and upholding mitigation for a category of exceptional dispatch and residual imbalance energy (ER12-2539)**

FERC issued an order on March 8, 2013, denying requests for rehearing of FERC's October 26, 2012, order accepting the ISO's proposal to mitigate certain exceptional dispatches and the settlement of residual imbalance energy. JP Morgan Ventures Energy Corp., NRG Companies and Calpine Corporation requested rehearing of FERC's order opposing FERC's acceptance of the ISO's proposal to mitigate the settlement for exceptional dispatches in which resources were required to be taken to their dispatchable minimum load and the mitigation on inter-hour ramping energy in which resources were being paid as bid or better. FERC previously accepted the ISO's proposal in October finding that the ISO had demonstrated the potential for market participants to exercise market power where resources are exceptionally dispatched from minimum load to minimum dispatchable levels, as well as the proposed change to pay residual imbalance energy based on the mitigated bid. FERC also rejected requests that it reverse its prior order and deny the ISO's request for waiver of the sixty day notice requirements. This avoids the need for a resettlement of the first sixty-day market settlement in which the new mitigation came into effect.

Responsible Attorneys: Sidney Davies and Anna McKenna

- **Order denying rehearing by JP Morgan Ventures Energy Corp. regarding mitigation of exceptional dispatches (EL12-105)**

FERC issued an order on February 27, 2013, denying JP Morgan Ventures Energy Corp.'s request for rehearing of FERC's December 5, 2012, order dismissing JP Morgan's complaint against the ISO regarding the ISO's mitigation of certain exceptional dispatches issued between April and June 2012. FERC had dismissed JP Morgan's complaint as premature, referencing its well established policy of encouraging parties to attempt to resolve their disputes before bringing them to FERC, and found that JP Morgan had presented no compelling reason to subvert the pending alternative dispute process under way with the ISO. JP Morgan requested rehearing of FERC's order arguing that there was no tariff based requirement that the ISO process be exhausted before the issue is taken to FERC. FERC denied the request stating that, while JP Morgan need not go through the ISO alternative dispute mechanism before

going to FERC, having voluntarily commenced that process, it should wait until that process is complete before taking it to FERC.

Responsible Attorney: Burton Gross

- **Local market power mitigation (ER13-967)**

On February 23, 2013, the ISO filed a proposed tariff amendment to implement additional improvements to its real-time local market power mitigation mechanisms that build on the day-ahead improvements that FERC accepted last year. These changes will further increase the accuracy and efficiency of the ISO's automated local market power mitigation processes. In particular, they will extend the benefits of more accurate and efficient market power mitigation for the day-ahead market and the hour-ahead scheduling process to the real-time market by (1) utilizing the dynamic competitive path assessment to determine transmission constraint competitiveness in the hour-ahead scheduling process and the real-time market; and (2) adding the automated market power mitigation process every 15 minutes for use in the real-time market processes. Because the ISO is proposing to retire the conservative quarterly competitive path assessment, which is also used to determine whether a constraint is noncompetitive for purposes of exceptional dispatch settlement, and because of the potential of the dynamic competitive path assessment to fail in production, the ISO is also proposing to implement a default competitive path assessment process that will be employed under two types of circumstances: (1) to use as a back-up in the event of a failure of the dynamic competitive path assessment, so as to prevent the potential exercise of market power under such circumstances; and (2) to determine whether a transmission constraint is non-competitive for purposes of exceptional dispatch mitigation. The ISO requested an effective date of May 1, 2013.

Responsible Attorney: Sidney Davies

- **Enhancement of price consistency (ER13-957)**

On February 19, 2013, the ISO filed a proposed tariff amendment intended to reduce the incidence of inconsistencies between settlement prices and bid-in prices associated with the amounts scheduled through the ISO market. Specifically, the amendment revises the manner in which the ISO calculates prices for load aggregation points and trading hubs to take into account the effectiveness of the aggregated nodes in relieving congestion, rather than the average effectiveness of the individual nodes. The ISO requested an effective date of May 1, 2013.

Responsible Attorney: Anna McKenna

- **Treatment of market participants with suspended market-based rate authority (ER13-872)**

On February 1, 2013, the ISO filed a proposed tariff amendment to include the terms and conditions applicable when FERC has suspended market-based rate authority for a market participant, but nonetheless has permitted the entity to continue participating in the ISO market. This amendment is necessary for the ISO to address the implementation of FERC's November 14, 2012 order in Docket No. EL12-103 suspending the market-based rate authority of JP Morgan Ventures Energy Corp. for a period of six months, beginning on April 1, 2013. The tariff amendment submitted in this filing would apply to any similarly-situated market participant whose market-based rate authority has been suspended. Two days before the ISO filed, JP Morgan proposed its own tariff language to address how it would bid into the ISO market and be paid for energy and other services. In the ISO's filing, the ISO argued that FERC should accept the ISO's filing rather than JP Morgan's proposed tariff because: (i) FERC precedent establishes that market participants cannot unilaterally file to change the terms of the ISO tariff for the benefit of specific resources, (ii) the JP Morgan proposal is based on a mischaracterization of the November 14 order, and (iii) the ISO's proposed tariff amendment is needed to address the impacts of the November 14 order not only on JP Morgan but also on the dispatch of other resources needed to maintain system reliability and on the market clearing prices to be paid to other market participants. The ISO requested an effective date of April 1, 2013. The ISO asked for a FERC order by March 18, 2013. On February 27, 2013, the ISO filed an answer to JP Morgan's protest to the ISO's tariff amendment. The ISO argued that JP Morgan's arguments are without merit, and FERC should issue an order by March 18, 2013, accepting the ISO tariff amendment. In addition, only JP Morgan opposes the tariff amendment; all of the other comments filed in this proceeding by a range of market participants support the ISO's filing. On February 1, 2013, FERC issued an order in a related docket clarifying that its November 14, 2012, order suspending JP Morgan's market-based rates for a six-month period only applied prospectively and would not modify, abrogate, or otherwise affect existing contractual arrangements.

Responsible Attorneys: Anna McKenna and Burton Gross

- **Flexible capacity and local reliability resource retention amendment (ER13-550)**

On December 12, 2012, the ISO filed a proposed tariff amendment seeking approval of its flexible capacity and local reliability resource retention mechanism. The mechanism provides an incentive for a resource that is uneconomic and at risk of retirement to remain available because it will be needed for flexible capacity or local reliability during the following two to five-year period, but not in the next year. If the ISO, through a transparent stakeholder process, determines that the resource is required during that period, the ISO will provide the unit with a flexible capacity and local reliability resource retention designation. The resource will receive compensation that supplements any revenues it receives from capacity contracts and participation in the ISO market such that the resource

is provided recovery of its annual going-forward costs as calculated by an independent evaluator and approved by FERC. The proposed amendment allocates the costs of these payments, made to the designated resource, to load-serving entities in the transmission access charge area or areas affected by the designated need, based on load ratio share. This proposal is an interim measure. It is intended to prevent the retirement of resources that are necessary for reliability while the ISO works with the California Public Utilities Commission, other local regulatory authorities and stakeholders toward the implementation of multi-year forward capacity procurement obligations for flexible and local resources for all load serving entities within the ISO balancing authority area. Accordingly, the proposal includes a sunset provision keyed to the earlier of the implementation of such obligations or five years. The ISO requested an effective date of April 1, 2013. Parties filed protests opposing aspects of the proposal, which included challenges to the ISO's jurisdictional rights on implementing the proposal and the appropriateness of the payment. The ISO responded to the protests and comments on February 11, 2013.

Responsible Attorneys: Beth Ann Burns and Anthony Ivancovich

- **Petition for distribution of forfeited funds collected in processing generator interconnection process requests (ER13-547)**

On December 11, 2012, the ISO filed a petition with FERC seeking approval to distribute certain forfeited funds that had been collected under the ISO's generator interconnection process from interconnection customers that withdrew during calendar year 2011. Under this process, each interconnection customer must submit deposits that cover: 1) interconnection study costs; and 2) if they continue through the process, financial security to cover the customer's cost responsibility for its interconnection network upgrades. A portion of the study deposit is forfeited if the customer withdraws its request from the interconnection queue before the first interconnection study phase is completed. At a later point in the process, part of the financial security deposit is forfeited if the customer withdraws before actual construction of the network upgrades. The generator interconnection process provides that forfeited funds are distributed to scheduling coordinators in largely the same manner as the ISO distributes penalties collected under the tariff. The ISO's filing reflects the proposed distribution of \$6,325,179 plus any market interest that will be accrued through the date of actual distribution. The ISO's filing is unopposed. On February 15, 2013, the ISO made an informational filing to provide FERC with official notice that it has issued a market notice of its December 11, 2012 petition.

Responsible Attorney: Bill DiCapo

- **Amendments to enable settlement rule for schedules sourcing and sinking in the same Balancing Authority Area (ER13-449)**

FERC issued an order on January 30, 2013, approving the ISO's circular scheduling settlement rule proposal, subject to a minor compliance obligation. Under the proposal, the ISO sought to implement new settlement rules that would allow the ISO to recapture

revenue derived from intertie circular scheduling practices that are already prohibited under the tariff. Circular scheduling can generally be thought of as simultaneous import and export schedules that source and sink in the same balancing authority area. Such schedules do not produce an actual flow of power and can create operational and market complications for the ISO. The ISO proposed to resettle both the direct revenue earned from such schedules and any incremental congestion revenue rights revenue earned as a result of such schedules.

Responsible Attorney: David Zlotlow

Regulatory Agreements

- **Concurrence Blue Sky Ranch Small Generator Interconnection Agreement (ER13-1034) and (ER13-1036)**

On March 5, 2013, the ISO filed a Certificate of Concurrence with respect to the Small Generator Interconnection Agreement (SGIA) among Western Antelope Blue Sky Ranch A, LLC, Southern California Edison Company (SCE) and the ISO (Blue Sky Ranch SGIA) submitted by SCE on January 25, 2013 in Docket No. ER12-2208. As explained in SCE's January 25 filing, the Blue Sky Ranch SGIA has been revised in compliance with Paragraphs 29 and 67 of the order issued in Docket Nos. ER12-2206, et al. on November 5, 2012. Pursuant to Paragraph 29 of the November 5 order, SCE revised the SGIA to remove the reclassification provision from Attachment 2 of the SGIA. The ISO has previously filed the Blue Sky Ranch SGIA in Docket No. ER12-2209. Rather than filing a duplicate version under the ISO tariff of the agreement as revised, the ISO is submitting a concurrence tariff record for the Blue Sky Ranch SGIA that was attached to SCE January 25 filing. The ISO also filed a Certificate of Concurrence with respect to the SGIA between Western Antelope Dry Ranch, LLC, SCE and the ISO (Dry Ranch SGIA) submitted by SCE on January 25, 2013 in Docket No. ER12-2206, for the same reasons.

Responsible Attorneys: Bill DiCapo and Sidney Davies

- **First Amended Operating Agreement between PacifiCorp and the ISO (ER13 - 794)**

On January 24, 2013, the ISO submitted for filing and acceptance the First Amended Operating Agreement between the ISO and PacifiCorp. The ISO and PacifiCorp originally filed the Operating Agreement as part of a November 2007 settlement among several parties, including PacifiCorp and the ISO that provided PacifiCorp and its customers with transmission ownership-like rights on a portion of the California Oregon Intertie. The Amended Operating Agreement provides for PacifiCorp and its customers the opportunity to elect to receive "option" congestion revenue rights for transactions scheduled at a specific ISO scheduling point as the sink. This treatment contrasts with the current treatment, where the ISO honors existing transmission ownership rights by reversing all the

congestion charges for their transactions (a process called the “perfect hedge”). Powerex Corp., Iberdrola Renewables, LLC, and Pacific Gas and Electric Company (PG&E) filed comments and supported the Amended Operating Agreement. The Transmission Agency of Northern California (TANC) filed a “protest” but did not oppose any aspect of the Amended Operating Agreement. Instead, TANC requests that FERC condition its approval of the Amended Operating Agreement on a requirement that the ISO undertake a stakeholder process that addresses the possibility of including “option” congestion revenue rights comparable to the PacifiCorp congestion revenue rights provided under the Amended Operating Agreement in the tariff. On February 27, the ISO submitted a motion for leave to answer the protest and comments indicating that the ISO already agreed to initiate a stakeholder process to consider making option revenue rights available to similarly situated entities once the stakeholder and ISO resources were available to undertake such an effort.

Responsible Attorney: John Anders

Reports filed

- **Informational Filing - AES Huntington Beach Reliability Must-Run Agreement (ER13-351)**

On February 21, 2013, the ISO made an informational filing to advise FERC that the ISO, AES Huntington Beach, L.L.C. (AESHB), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) are exercising their rights pursuant to Schedule B of the Reliability Must-Run Agreement (“RMR Agreement”), and have agreed to a further extension of time for the satisfaction of the conditions precedent set forth in Section 2.1(a) of the RMR Agreement, including the consent of BE CA, an affiliate of JP Morgan Ventures Energy Corp. to the synchronous condenser project. The purpose of the RMR Agreement is to construct the synchronous condensers and to have them in service by June 2013 to provide voltage support in the absence of SONGS. No amendment to the RMR Agreement is required for this extension. In addition, this informational filing informs FERC of an agreement between SCE and BE CA that SCE recently filed with the CPUC. If the CPUC approves this agreement, BE CA would provide consent to the synchronous condenser project and SCE would toll the Huntington Beach generating units. The ISO notified FERC of these extensions in an informational filing on January 4, 2013 in Docket EL13-21.

Responsible Attorney: Sidney Davies

- **Market disruption reports (ER06-615)**

A market disruption is an action or event that causes a failure of the ISO market, related to system operation issues or system emergencies. The ISO reports these market disruptions

to FERC on a monthly basis. On February 15, the ISO submitted its monthly report of market disruptions that occurred December 16 through January 15.

Responsible Attorney: Anna McKenna

- **Exceptional dispatch reports (ER08-1178)**

An exceptional dispatch is a dispatch or a commitment issued by the ISO to a resource outside the operation of the ISO market to address operational needs that cannot be addressed by the ISO market. The ISO submits two types of monthly exceptional dispatch reports to FERC. On February 16, 2013, the ISO submitted transactional data including incremental and decremental megawatt volume, duration and location for exceptional dispatches occurring during the month of December 2012. On February 28, the ISO submitted megawatt hour data and cost data for exceptional dispatches occurring during the months of November 2012.

Responsible Attorney: Sidney Davies

Other FERC matters

- **SunPower tariff waiver request (ER13-958)**

On February 19, 2013, SunPower, a generator interconnection customer, submitted a petition requesting that FERC “waive” the deadline for it to withdraw its request to downsize its project by 49 MWs. FERC recently approved the ISO’s tariff amendment to allow interconnection customers a one-time opportunity to reduce the amount of capacity required to be developed under existing interconnections requests. The ISO designed and timed the new downsizing process to study the total amount of MWs to be downsized by all interested customers in time for the results to be considered in the next transmission cluster study process for new interconnection requests. Downsizing customers have the right, under the tariff, to withdraw their requests within five days of the downsizing study results. That tariff driven deadline was February 19, 2013. SunPower requests that FERC allow it to extend its right to withdraw into the mid-April time-frame—ten business days from the date it anticipates that investor-owned utilities will publish the “short list” names of projects in response to their pending request for offers. On March 8, 2013, the ISO filed a protest objecting to the waiver on procedural and substantive grounds. The request for waiver is procedurally defective because it is not a waiver at all, but rather a request for an entirely different rule that is inconsistent with the recently approved tariff amendment. The request should be rejected on substantive grounds because SunPower has not met its burden to demonstrate good cause for the waiver and because the waiver, if granted, would undermine the purpose and timing of the existing downsizing process.

Responsible Attorneys: Roger Collanton and Sidney Davies

California Public Utilities Commission matters

- **Bilateral Capacity Sale and Tolling Agreement Between Southern California Edison Company and BE CA LLC (Advice Letter No. 2853-E)**

On March 6, 2013, the ISO filed a letter in support of Southern California Edison's advice letter filing, in which SCE seeks CPUC approval for a bilateral capacity sale and tolling agreement with BE CA, an affiliate of JP Morgan Ventures Energy Corp. BE CA has an existing tolling agreement with AES Corporation affiliates concerning the Huntington Beach generating units. If approved, the SCE-BE CA agreement would allow SCE to control the capacity of the Huntington Beach generating units. In addition, as noted above, CPUC approval would also resolve the BE CA consent-related condition precedent of the reliability must run agreement allowing the synchronous condenser project to become commercially operational once the decision becomes final. The synchronous condensers will provide voltage support to prevent load shedding under certain conditions.

Responsible attorney: Sidney Davies

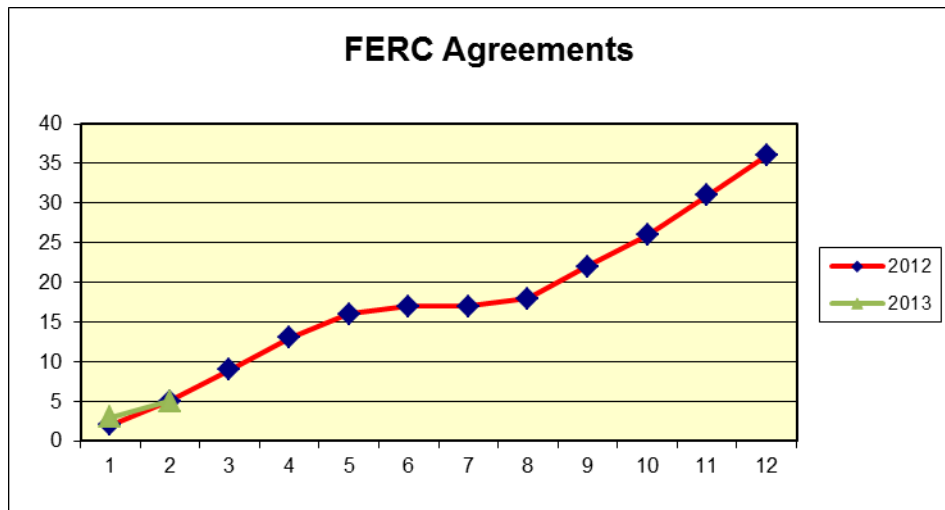
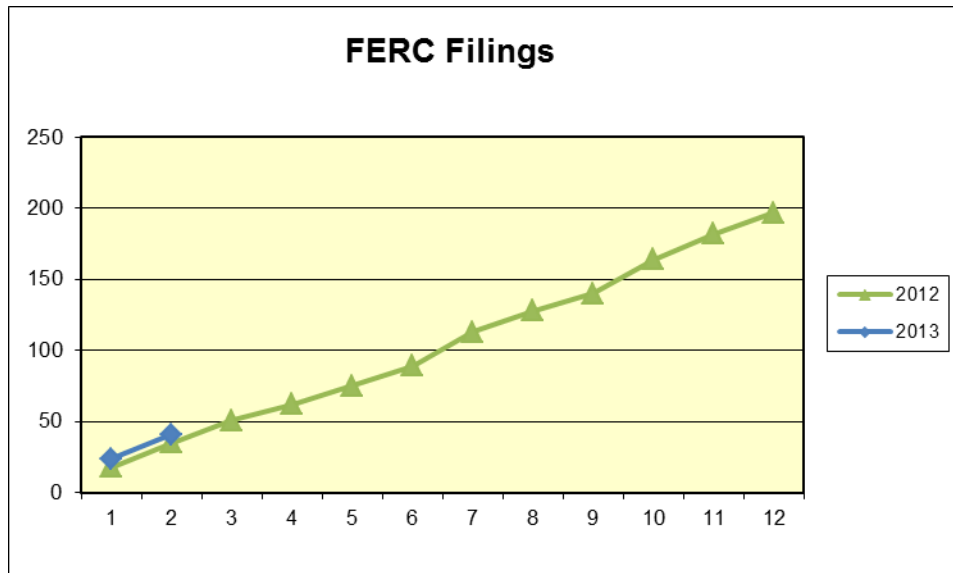
- **Long Term Procurement Process - CPUC Docket R.12-03-014**

The CPUC issued a Final Decision on February 13, 2013, in Track 1 of the long term procurement proceeding on the local capacity area needs for SCE's LA Basin/Big Creek Ventura local capacity areas. The ISO participated actively in Track 1 and presented the results of its once-through-cooling studies. In its testimony and brief, the ISO recommended that the CPUC authorize procurement in a range for 2400-3800 MW in western LA and 430 MW in Big Creek/ Ventura (depending on electrical location), based on the trajectory renewable portfolio scenario. The Proposed Decision recommended that SCE be authorized to procure a much lower level of resources: 1050-1500 MW in the LA Basin and 215-290 MW in Big Creek/Ventura.

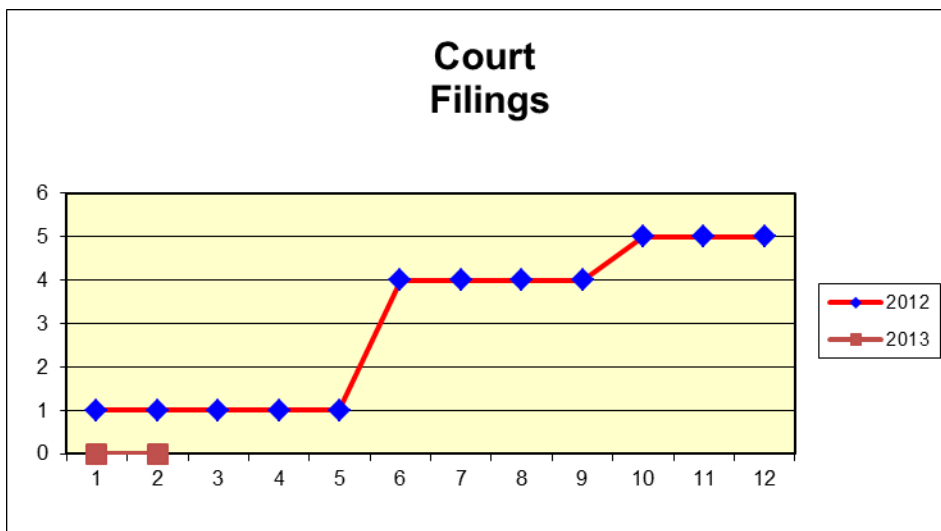
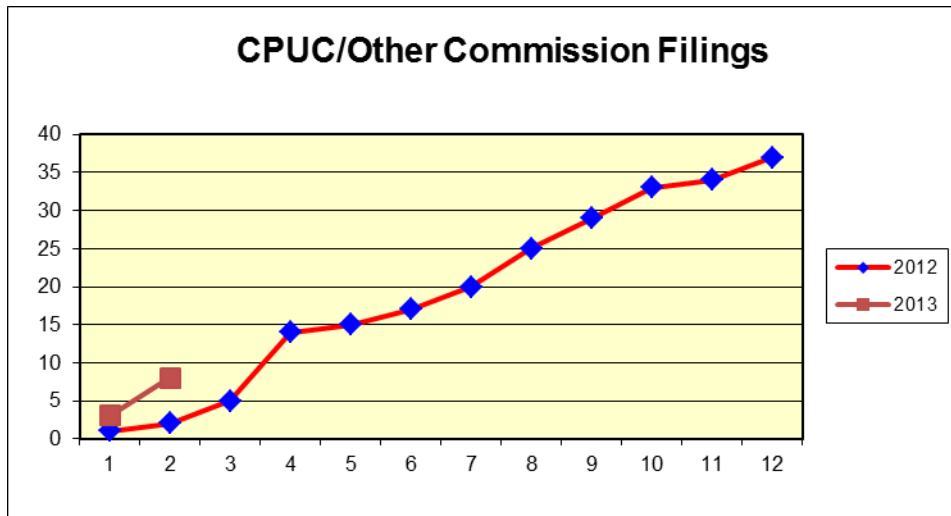
The Final Decision differed in many respects from the Proposed Decision that was released in late December. The CPUC continued to agree with the ISO's study methodology and authorized use of the trajectory scenario that the ISO had recommended. However, some of the load reduction and demand-side resource planning assumptions adopted in the Proposed Decision were modified in the Final Decision. Based on these revised planning assumptions, the CPUC authorized SCE to procure a slightly higher amount of resource procurement in the LA Basin local capacity area: 1400-1800 MW in the LA Basin. Moreover, 1000-1200 MW of this capacity must be procured from conventional gas-fired resources. At least 50 MW must be procured from energy storage resources and 150 MW must be procured through preferred resources, consistent with the state's loading order. The Final Decision did not change the procurement authorization level for the Big Creek/Ventura area.

Responsible Attorney: Judi Sanders

Regulatory Filings Through February 2013



Regulatory Filings Through February 2013



Regulatory Filings Through February 2013

