Memorandum

To: ISO Board of Governors

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

Date: September 5, 2013

Re: **Regulatory update**

This memorandum does not require Board action.

Highlights

- *FERC issues order approving a stipulation and consent agreement in which JP Morgan agrees to pay a civil penalty of $285,000,000 and agrees to disgorge alleged unjust profits of $125,000,000*

- *The ISO submits the second required compliance filing with FERC Order No. 1000 addressing regional transmission planning coordination and cost allocation*

- *The ISO submits a tariff amendment to further enhance cost recovery by generating resources*

Federal Energy Regulatory Commission and related Court of Appeals matters

- **Tariff amendment to further enhance cost recovery by generating resources (ER13-2296)**

On August 30, 2013 filed an amendment to include additional categories of costs eligible for inclusion in proxy cost calculations for start-up and minimum load, generated bids, and variable cost default energy bids. Specifically, the ISO proposes to include: (1) the volumetric components of the grid management charge in proxy cost calculations for start-up and minimum load costs, generated energy bids, and variable cost default energy bids; (2) the bid segment fee in the minimum load proxy cost calculation, generated energy bids, and variable cost default energy bids; and (3) a major maintenance expense component in the proxy start-up and minimum load costs. In conjunction with these changes, the ISO also proposes to reduce the level of the registered cost cap for scheduling coordinators opting to use the registered cost option rather than the proxy cost option. The ISO also proposes to revise the tariff in two additional respects. First, the ISO proposes to change one of the publications used to calculate the greenhouse gas allowance price. The tariff currently refers to Platt's Daily, which does not currently publish a greenhouse gas price. Second, the ISO proposes to clarify the definition of the grid management charge to be consistent with the current rate structure and to revise the definition of an independent entity. The ISO requests that the Commission issue an order on October 29, 2013 (i.e., 60 days from the date of this filing) that accepts the tariff changes effective as of November 1, 2013.

- **Payment rescission rules for ancillary services (ER13-2040)**

On August 26, 2013, FERC accepted the ISO's July 26, 2013, proposed tariff amendment to request an extension of the effective date of the amendment already accepted by FERC which will rescind capacity payments associated with awarded or self-provided ancillary services capacity that the ISO determines is not available before real-time due to a resource constraint. The original amendment was to be made effective on October 1, 2013 but this extension requests an effective date of November 1, 2013.

- **Reliability demand response resource compliance filing (ER11-3616)**

On August 19, 2013, the ISO submitted its compliance filing in response to FERC's July 18, 2013 order on compliance and rehearing in which FERC directed the ISO to resubmit its reliability demand response resource tariff revisions with a cost allocation that complies with FERC Order No. 745.

- **FERC Order No. 1000- regional second compliance filing (ER13-103)**

On August 16, 2013, the ISO submitted its second compliance filing in connection with the regional requirements of FERC Order No. 1000. Phase 1 of Order No. 1000 established regional planning requirements, including process reforms and cost allocation mechanisms. In its second compliance filing, the ISO proposed to clarify the meaning and ensure the consistent usage of the terms "project," "solution," "element," "upgrade," and "addition."

- **Application to issue securities (ES13-29)**

On July 31, 2013, FERC issued a letter order granting the ISO authorization to issue bonds in an amount not to exceed $210 million for the purpose of advance re-funding approximately $200 million of bonds it issued in 2009. The ISO filed an application on June 13, 2013, requesting such authorization. The ISO conditioned its application on Board authorization to proceed, which was approved at its July 11-12, 2013 meeting.

- **Amendment to require registration of multi-stage generators and modify minimum load costs test for bid cost recovery (ER13-2063)**

On July 30, 2013, the ISO submitted a tariff amendment which proposes to enable the ISO to (1) require certain resources that are operable in multiple configurations to register as multi-stage generation resources; and (2) modify the minimum load cost tolerance band test to eliminate the possibility for a resource to receive minimum load cost recovery payments when the resource is not actually producing at minimum load. The ISO requested FERC accept its proposed amendment effective November 1, 2013.

- **FERC Investigation of JP Morgan make-whole payments and related bidding strategies (IN11-8/IN13-5)**

On July 30, 2013, FERC issued an order approving a stipulation and consent agreement entered into between FERC's Office of Enforcement and JP Morgan in which JP Morgan agreed to pay a civil penalty of $285,000,000, agreed to disgorge alleged unjust profits of $125,000,000, agreed to waive claims for additional bid cost recovery and exceptional dispatch payments from the ISO, and agreed to implement additional compliance measures. FERC determined that JP Morgan violated the Commission's anti-manipulation rule by intentionally submitting bids to the California ISO and Midwest ISO that falsely appeared economic to the California ISO and Midwest ISO's market software but that were intended to, and in almost all cases did, lead to the California ISO and Midwest ISO paying JP Morgan rates far above market prices. FERC Commissioner Tony Clark issued a public statement on the settlement, and Commissioner Jon Wellinghoff interviewed with several media outlets to discuss the settlement.

On July 31, 2013, Senators Elizabeth Warren and Edward Markey submitted questions to FERC regarding their investigation of JP Morgan and on August 6, 2013, Senator John McCain requested key documents collected by FERC in the investigation.

- **Reliability demand response resource (ER11-4100/ER11-3616)**

On July 18, 2013, FERC issued an order on compliance, accepting in part and rejecting in part the ISO's compliance filing which proposes to make the ISO's demand response program consistent with FERC Order No. 745. Order No. 745 requires each ISO and RTO to pay a demand response resource the market price for energy, i.e., the locational marginal price, when two conditions are met. First, the demand response resource must have the capability to balance supply and demand as an alternative to a generation resource. Second, dispatching the demand response resource must be cost-effective as determined by a net benefits test in accordance with Order No. 745. The net benefits test is necessary to ensure that the overall benefit of the reduced location marginal price that results from dispatching demand response resources exceeds the costs of dispatching and paying the locational marginal price to those resources.

- **Western power market manipulation investigation (IN08-8)**

On July 16, 2013, FERC ordered Barclays Bank and four of its traders to pay $453 million in civil penalties for manipulating electric energy prices in California and other western markets between November 2006 and December 2008. FERC also ordered Barclays to disgorge $34.9 million, plus interest, in unjust profits to the Low-Income Home Energy

Assistance Programs of Arizona, California, Oregon, and Washington. In the order, FERC found that Barclays and the four traders built and then flattened substantial monthly physical index positions at four of the then-most liquid trading points in the western United States for the fraudulent purpose of manipulating the index price to benefit Barclays' financial swap positions. FERC found that their actions demonstrated an affirmative, coordinated and intentional effort to carry out a manipulative scheme, in violation of the Federal Power Act and FERC's anti-manipulation rule. Barclays intends to challenge the FERC findings in district court.

- **Minimum criteria for direct participation amendment (ER13-1971)**

On July 12, 2013, the ISO submitted a tariff amendment to implement new minimum criteria for direct participation in the ISO market. These revisions are necessary so that transactions in the ISO market will be exempted from regulatory oversight by the Commodity Futures Trading Commission, in accordance with a final order issued by the CFTC on March 28, 2013. The ISO requested FERC accept these tariff revisions effective September 16, 2013.

- **Tariff clarifications amendment (ER13-1274)**

On July 11, 2013, the ISO submitted a filing in compliance with FERC's June 11, 2013, order accepting in part and rejecting in part the ISO's April 12, 2013, tariff clarifications amendment. The primary purpose of the amendment was to clarify the meaning of existing tariff provisions and ensure consistency throughout the tariff as well as between the tariff and business practices.

- **FERC Order No. 1000- interregional compliance filing (ER13-1470)**

On July 9, 2013, the ISO submitted answers to motions to intervene, comments, and protests in response to the filing in compliance with the interregional requirements of FERC Order No. 1000. On July 18, 2013, the ISO, along with the Northern Tier Transmission Group, and WestConnect, submitted answers to late-filed protests of several public interest organizations in response to the filing in compliance with the interregional requirements of FERC Order No. 1000. Phase 2 of Order No. 1000 established "inter-regional" planning requirements, including process reforms and cost allocation mechanisms.

Regulatory Agreements

- **SCE Large Generator Interconnection Agreements (ER13-1994)**

On August 26, 2013, FERC accepted the ISO's July 18, 2013, certificates of concurrence with respect to various large generator interconnection agreements among the ISO, Southern California Edison, and the following interconnection customers: 1) Abengoa Solar, 2) Alta Wind I, et al., 3) Alta Windpower Development, et al., 4) AV Solar Ranch I, 5) Coram California Development, 6) Desert Sunlight 300, et al., 7) Granite Wind, 8) Manzana

Wind, 9) NextEra Desert Center Blythe, 10) Palen Solar II, 11) Palo Verde Solar II, 12) Solar Partners I, 13) Solar Partners II, 14) Solar Partners VIII, and 15) The Nevada Hydro Company. These amendments to large generator interconnection agreements made by SCE were to update the monthly charge to recover the revenue requirement based on an update of that requirement adopted by the CPUC.

- **AES Huntington Beach reliability must-run agreement (ER13-351) and (ER13-1630)**

On July 25, 2013, FERC accepted the revisions to the executed version of the reliability must-run service agreement and accompanying rate schedules between the ISO and AES Huntington Beach which the parties jointly submitted on June 3, 2013. The revisions reflect additional costs incurred as a result of a delay in the effective date of the agreement due to the additional time needed to satisfy the conditions precedent. There were also minor modifications to the descriptions of the resources' capabilities.

- **Sacramento Municipal Utility District market efficiency enhancement agreement (ER13-2178)**

On August 16, 2013, the ISO filed the market efficiency enhancement agreement (MEEA) it entered into with Sacramento Municipal Utility District on August 15, 2013. The agreement sets forth the terms under which the ISO will price SMUD energy bids at the non-default or MEEA-specific price consistent with the ISO tariff. The ISO requested an effective date of October 16, 2013 for this agreement.

- **California Department of Water Resources participating load agreement (ER13-1858)**

On August 22, 2013, FERC accepted the ISO's June 28, 2013 filing of an amended participating load agreement between the ISO and the California Department of Water Resources. The purpose of the amendment is to extend the term of the current agreement from July 1, 2013 to November 15, 2013.

Reports filed

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

On July 15, the ISO submitted its monthly report of market disruptions that occurred May 16 through June 15. On August 15, the ISO submitted its monthly report of market disruptions that occurred June 16 through July 15. 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.

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

On July 15, 2013 and August 15, 2013, the ISO submitted transactional data including incremental and decremental megawatt volume, duration and location for exceptional dispatches occurring during the months of May and June 2013, respectively. On July 30, 2013 and June 28, 2013, the ISO submitted megawatt hour data and cost data for exceptional dispatches occurring during the months of April 2013 and March 2013, respectively. 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.

- **Quarterly interconnection queue report (ER08-1317/ER11-1830)**

On July 30, 2013, the ISO submitted its interconnection queue quarterly progress report for the second quarter of 2013 (April 1, 2013 – June 30, 2013). This report describes the progress of the ISO in processing generator interconnection requests during this time period and provides specific data as to the components of the ISO's interconnection queue, and the composition of requests by technology (i.e., turbine, combined cycle, etc.).

California Public Utilities Commission matters

- **Application of San Diego Gas & Electric Company to fill local capacity requirement need (A.13-06-015)**

On August 7, 2013, the ISO filed a response to SDG&E's application for approval to enter into a power purchase tolling agreement with Pio Pico Energy Center. The ISO supports SDG&E's request for authority to enter into the amended power purchase tolling agreement with Pio Pico.

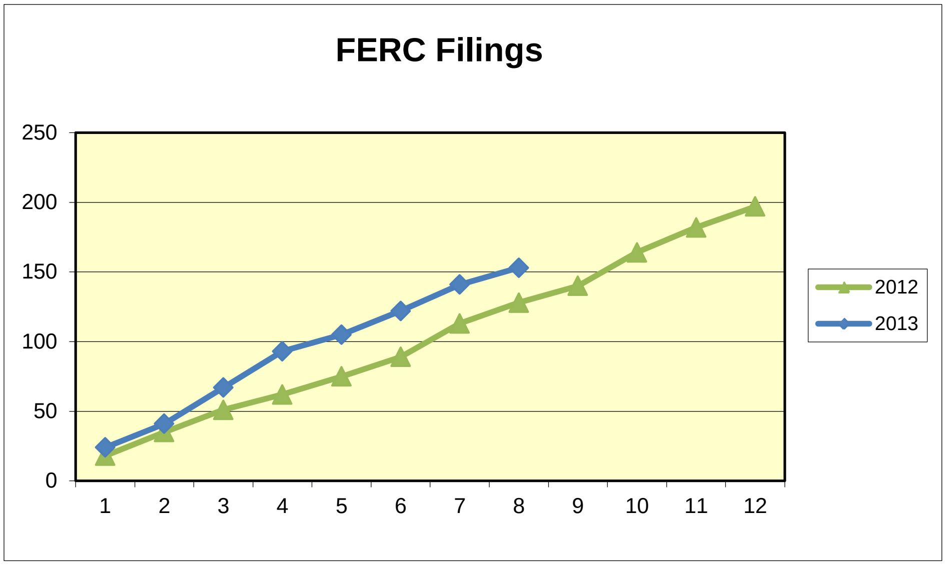
- **Order instituting rulemaking to integrate and refine procurement policies and consider long-term procurement plans (R.12-03-014)**

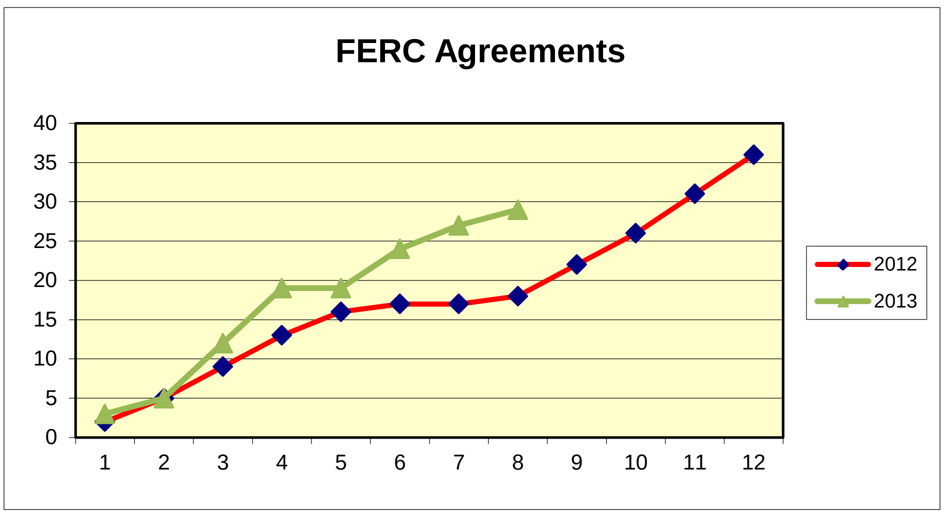
On August 5, 2013, the ISO submitted track 4 testimony of Robert Sparks, ISO Manager – Regional Transmission South, describing the results of the study conducted by the ISO and recommendations as to possible next steps in track 4 of the ISO's long term transmission planning process. On July 15, 2013, the ISO filed an opposition to a motion filed by the Division of Ratepayer Advocates, California Environmental Justice Alliance, and Sierra Club California in which those parties sought to expand the scope of the ISO's track 4 to include the evaluation of possible mitigation solutions for the loss of SONGS, particularly the amount of reactive power that might be required in the "without SONGS" scenarios. The revised scoping ruling that initiated track 4 and set forth the study parameters to be used by the ISO in evaluating mid- and long-term resource needs assumed a SONGS outage during the study period. The ISO argued that the fact that SONGS has been retired does not affect the limited scope and purpose of the track 4 studies that the ISO is currently undertaking. On July 11, 2013, the ISO filed a revision to its transmission planning base cases to remove the early SONGS retirement sensitivity scenario in light of the permanent retirement of SONGS.

- **Application of San Diego Gas & Electric Company for approval of demand response program augmentations and associated funding for 2013 through 2014 (A.12-12-016/A.12-12-017)**

On July 8, 2013, the ISO replied to comments in response to its July 1, 2013, submission of comments in support of the CPUC's proposed decision in which the CPUC evaluated the demand response programs of Southern California Edison and San Diego Gas & Electric and issued findings and recommendations on those programs for SCE and SDG&E to implement. Particularly, the ISO supported the proposal to investigate customer fatigue limitations with respect to all non-emergency based programs, agreed that further dispatch strategies and evaluation were necessary, supported the finding that the daily forecasting methods for all programs undergo meaningful and immediate improvements so that the day-ahead forecasting was a more effective and reliable tool for grid operators, and agreed to work with the CPUC and stakeholders to improve demand response forecast methodologies and, ultimately, to facilitate demand response participation as resources in the ISO market.

Regulatory Filings Through
August 2013





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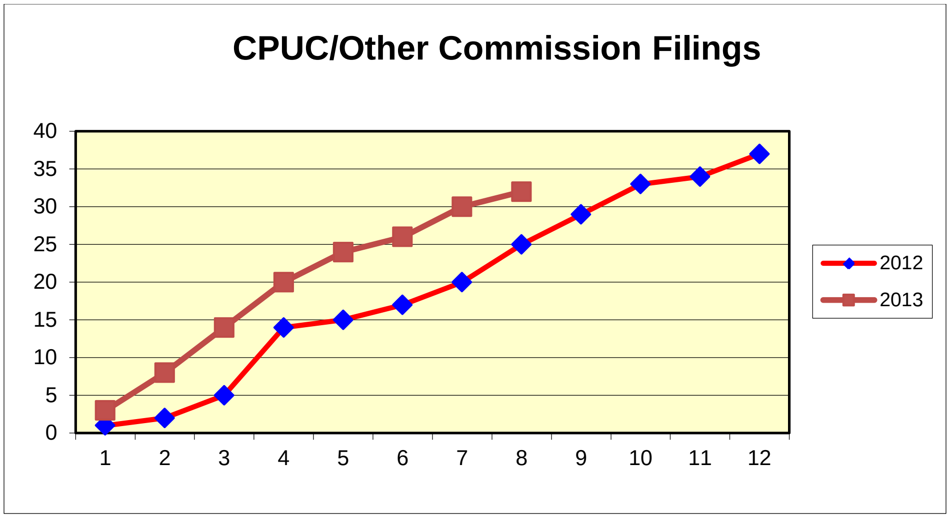

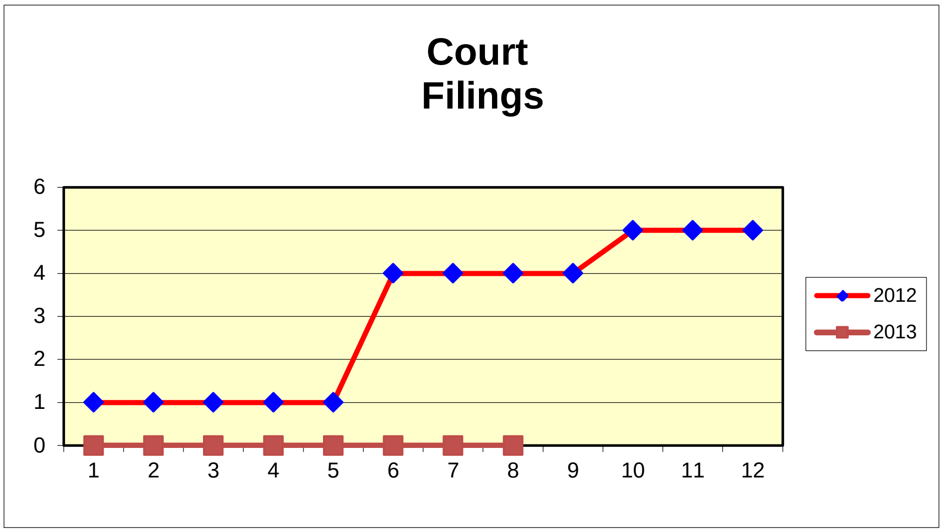

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