

# Memorandum

**To:** ISO Board of Governors

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

**Date:** October 25, 2012

**Re: Regulatory Update**

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***This memorandum does not require Board action.***

## **Regulatory Highlights**

- *ISO submits its filing in compliance Order No. 1000 addressing “regional” and “inter-regional” planning requirements, including process reforms and cost allocation mechanisms*
- *ISO files to amend its Transmission Control Agreement to enable the participation of two new participating transmission owners: Valley Electric Association, Inc. and the City of Colton*
- *ISO files tariff amendment to implement its proposal to better coordinate maintenance outages at resource adequacy resources, while ensuring that sufficient resource adequacy capacity is available each day to meet forecasted load and maintain grid reliability*
- *ISO files tariff amendment to implement its proposal to provide resource adequacy deliverability status to distributed generation resources from transmission capacity identified in the ISO’s annual transmission plan*
- *J.P. Morgan Ventures Energy Corp. files a complaint at FERC alleging that the ISO has improperly mitigated payments J.P. Morgan received for 18 exceptional dispatches of energy from generating units controlled by J.P. Morgan*
- *FERC issues an order to show cause to J.P. Morgan on why it should not be found to have violated FERC’s market behavior rules, finding preliminary that J.P. Morgan may have submitted misleading information to FERC, the ISO, and the ISO’s Department of Market Monitoring*
- *FERC issues order affirming prior requirements on transmission planning and cost allocation by transmission owning and operating public utilities (Order 1000 and Order 1000-A) issued last year and earlier this year*

## **Federal Energy Regulatory Commission and related Court of Appeals matters**

### **Tariff amendments and orders**

- **Amendment to the Valley Electric Transition Agreement (ER12-2623)**

On October 15, 2012, FERC issued a letter order accepting an amendment to the Transition Agreement between the ISO and Valley Electric Association, Inc., which provides for: (1) a change to the definition of the term “Transmission Upgrade” so as to include all the high voltage facilities that Valley Electric intends to turn over to the CAISO’s operational control; (2) the addition of a new definition, “Low-Voltage Upgrades,” to identify planned reliability upgrades on the 138 kV portion of the Valley Electric system that were not included in the Transition Agreement, and (3) a revision to clarify that Low-Voltage Upgrades will be exempt from the ISO’s transmission planning process. This amendment harmonizes what’s been planned and under construction with what’s described in Valley Electric’s revenue requirement filing, consistent with the ISO’s review of the Valley Electric planned upgrades as provided in the Transition Agreement.

Responsible Attorney: John Anders

- **Transmission Control Agreement (ER13-71)**

On October 10, 2012, the ISO filed changes to the Transmission Control Agreement between the ISO, the current participating transmission owners, and two new participating transmission owners: Valley Electric and the City of Colton. The ISO Board approved the Valley Electric and Colton applications to become new participating transmission owners during the September 13-14 meeting. The changes to add Valley Electric and Colton include updates to the table of contents, signature pages, and appendices to reflect their entitlement to the transmission facilities being transferred to ISO operational control. Another change in the body of the agreement was submitted to address a matter left unresolved by the most recent amendment of the Transmission Control Agreement. Also, Southern California Edison Company took this opportunity to reflect termination of an existing contract that had been an encumbrance on the ISO controlled grid.

Responsible Attorney: John Anders

- **FERC Order No. 1000- regional compliance filing (RM10-23)**

On October 11, 2012, the ISO submitted its filing in compliance with FERC’s Order No. 1000, issued in July 2011. Order No. 1000 addressed and enhanced certain aspects of the existing Order No. 890 transmission planning requirements for public utility transmission providers. Order No. 1000 established “regional” and “inter-regional” planning requirements, including process reforms and cost allocation mechanisms and directed all public utility transmission providers to enter into regional planning arrangements that would consider whether regional transmission projects more address needs more efficiently and cost-effectively than “local” projects located within the retail service area or footprint of the

provider. The ISO tariff was largely in compliance with the Order No. 1000 directives because of the transmission planning reforms that had been implemented in 2010 when FERC approved the ISO's revised transmission planning process (RTPP). For example, the ISO tariff already contained a provision for evaluating and approving "policy-driven" transmission solutions that are needed to meet specific state or federal laws or directives such as California's 33% renewable portfolio requirements. RTPP also introduced a competitive solicitation process for policy-driven and economically-driven transmission solutions that provides opportunities for independent transmission developers to submit proposals and, if selected, become participating transmission owners in the ISO system.

In its compliance filing, the ISO proposes to eliminate from the ISO tariff the remaining provisions that grant a federal "right of first refusal" for incumbent participating transmission owners to build and own certain transmission facilities whose costs will be allocated regionally -- including transmission facilities of 200 kV and above and lower voltage transmission facilities that extend beyond the retail service territory or footprint of an incumbent transmission owner, i.e., regional transmission facilities. The ISO also proposes to eliminate tariff provisions that provide a federal right of first refusal for transmission facilities on a participating transmission owner's own rights-of-way. The ISO is retaining its existing cost allocation scheme for purposes of Order No. 1000 compliance with minor terminology changes to conform to the Order No. 1000 paradigm. Specifically, under the existing cost allocation approach, the ISO (1) will allocate the costs of all transmission facilities under 200 kV to the participating transmission owner who builds them and who recovers their costs through its transmission owner tariff from its low voltage transmission customers, and (2) will allocate the costs of all transmission facilities at voltage levels of 200 kV or higher to all ISO customers through the ISO regional access charge.

Other tariff amendments include enhancements to opportunities for stakeholders to propose public policy directives and requirements, and increasing competitive solicitation transparency. The ISO has requested that the tariff amendments become effective on October 1, 2013 but advised the Commission that if approved by February 1, 2013, the changes can be implemented in the 2012/2013 planning cycle. In the meantime, the ISO has initiated a stakeholder process that will address compliance with the inter-regional aspects of Order 1000 and involves coordination with neighboring regional planning groups.

Responsible Attorneys: Anthony Ivancovich and Judi Sanders

- **Real-time disturbance dispatch enhancement (ER13-69)**

On October 10, 2012, the ISO filed a tariff amendment with FERC to implement an alternative mode of the existing real-time contingency dispatch of resources in the ISO markets referred to as the real-time disturbance dispatch. When confronted with a loss of generation or transmission, ISO operations can activate the contingency dispatch mode of real-time operations. The contingency dispatch activates all operating reserve—spinning and non-spinning reserve—and co-optimizes it with available energy only resources. At its May 2012 meeting, the Board approved management's proposal to implement a new

alternative mode of the real-time contingency dispatch to be utilized in the event of major disturbances. Under the new disturbance dispatch mode of the contingency dispatch, operating reserve capacity, which must respond within 10 minutes, is prioritized over energy only capacity and then dispatched in merit order. This new mode of operations will help to ensure that the ISO will be able to respond to major contingency events more quickly and ensure that the ISO satisfied applicable mandatory standards on disturbance control performance.

Responsible Attorney: Sidney Davies

- **Data and Information Release Phase 3 (ER13-40)**

On October 5, 2012, the ISO filed a tariff amendment with FERC requesting permission to release the following market-related data and information: (1) additional market modeling data including transmission limits, load distribution factors, shift factors or power transfer distribution factors, and aggregate generation outages; (2) congestion revenue rights auction bid data; and (3) wind and solar energy resources forecast data. The ISO is proposing to release this data in response to requests by stakeholders. The ISO believes that the release of this information will enhance the participation of market participants in the ISO market. The ISO's proposal also contains proper measures to protect any confidentiality or security concerns related to the release of this information.

Responsible Attorney: Anna McKenna

- **Order 745 demand response filings (ER11-4100, ER11-3616 and RM10-17)**

On March 14, 2012, the ISO submitted a compliance filing in response to FERC's final rule on demand response compensation, Order 745. This compliance filing responded to FERC's directive to eliminate the default load adjustment mechanism. The default load mechanism prevented the ISO from paying both the demand response provider and the load serving entity the locational marginal price for the same demand response. On August 27, 2012, FERC staff issued a letter requesting additional information in order to process the March 14 filing. The request asked the ISO to: (1) identify which tariff provisions govern the allocation of the uplift cost and how such provisions will allocate the costs on a market wide basis; (2) demonstrate the uplift cost allocation methodology included in the tariff allocates the costs to those that benefit from a decreased locational marginal prices, as required by Order 745, and provide a further explanation of the ISO's cost allocation is similar to New England ISO's uplift cost allocation methodology. On September 26, the ISO responded with the additional information requested. In addition, on September 21 the ISO submitted its analysis of the feasibility of incorporating the net benefits test in the ISO's market optimization. The net benefits test determines when demand response resources are sufficiently cost-effective to be paid the full locational marginal price. The ISO identified several technical challenges that would need to be overcome and concluded that it would not be feasible for several years.

Responsible Attorneys: Sidney Davies and John Anders

- **Scheduling priority for combined-heat and power resources (ER12-2634)**

On September 21, 2012, the ISO filed a tariff amendment with FERC to permit combined-heat and power resources to: (1) establish a higher scheduling priority for capacity dedicated to industrial host requirements, and (2) retain the higher scheduling priority for qualifying facilities 20 MWs or less that remain subject to the Public Utility Regulatory Policies Act of 1978 (PURPA). These changes, approved by the Board at its May meeting, are driven by state and federal policies that require qualifying facilities to comply with the tariff and the PURPA mandatory purchase requirement for qualifying facilities greater than 20 MW. The amendments retain the higher scheduling priority for combined heat and power resources due to provide a higher level of protection against curtailments to minimize disruption of the industrial hosts' operations and to ensure the energy efficiency benefits of cogeneration.

Responsible Attorney: Sidney Davies

- **Replacement Requirement (ER12-2669)**

On September 20, 2012, the ISO filed a tariff amendment with FERC to better coordinate maintenance outages at resource adequacy resources, while ensuring that sufficient resource adequacy capacity is available each day to meet forecasted load and maintain grid reliability. The proposed tariff modifications establish a replacement requirement for load serving entities, to the extent the ISO determines, under specified criteria, that capacity listed in their monthly resource adequacy plans must be replaced because it is scheduled for an approved maintenance outage during the month and will not be operationally available to the ISO. The proposed tariff modifications establish a replacement requirement for resource adequacy resources that allows them the flexibility to request a maintenance outage with replacement capacity, or as an opportunity outage without replacement capacity. The proposed tariff modifications also establish a new backstop mechanism whereby the ISO can procure resource adequacy maintenance outage backstop capacity when needed to maintain grid reliability.

Responsible Attorney: Beth Ann Burns

- **Resource Adequacy for Distributed Generation Resources (ER12-2643)**

On September 18, 2012, the ISO filed a tariff amendment with FERC to implement its proposal to provide resource adequacy deliverability status to distributed generation resources from transmission capacity identified in the ISO's annual transmission plan. The Board approved this proposal at its May 2012 meeting. Under the proposed new process, the annual transmission planning process will identify, through a proposed new deliverability study, available transmission capacity to support deliverability status for distributed generation resources without requiring any additional delivery network upgrades to the ISO controlled grid and without adversely affecting the deliverability status of existing

generation resources or proposed generation in the interconnection queue. Parties submitted comments on October 9, which generally support the proposal. SCE has asked FERC to direct the ISO to modify the process so that potential deliverability that the ISO identifies for distributed generation is allocated directly to load serving entities, instead of to local regulatory authorities who, in turn, allocate to their jurisdictional load serving entities. The ISO expects to file an answer recommending that FERC accept the proposal design as submitted. The ISO has asked FERC for a November 17 effective date in order to incorporate the proposal terms into its study process schedule.

Responsible Attorneys: Bill Di Capo and Beth Ann Burns

- **Amendment to extend exceptional dispatch mitigated energy settlement rules and modify residual imbalance energy settlement rules**

On August 28, 2012, the ISO filed a tariff amendment with FERC seeking changes to its settlement rules to address excessive payments that can be caused by the exercise of market power resulting in payments up to \$1,000 per MWh. First, the ISO proposes to extend the mitigated exceptional dispatch energy settlement to out-of-market exceptional dispatches needed to move a resource from its minimum operating level to its minimum dispatchable level. The mitigated exceptional dispatch rule compensates resources at the market price unless the market price is lower than the actual bid price, in which case the compensation is set at the lower of the resource's cost-based default energy bid or the bid price. Second, the ISO proposes changes to the settlement rules for residual imbalance energy, which is the energy associated with ramping up to a dispatch at the beginning of an hour or ramping down from a dispatch in the previous hour. The ISO is proposing a new settlement rule that pays residual imbalance energy at the market clearing price unless its bid is lower than the market clearing price, in which case the ISO will pay it the lower of its submitted bid or the default energy bid. In both cases, the rule changes eliminate the incentive for participants to bid and participate in the ISO market in an effort to inflate payments through these two out-of-market mechanisms. The impact on resources not engaged in the exercise of market power will be minimal and the proposed rules will ensure that resources recover their costs. The ISO's filing requested waiver of the 60-day prior notice requirement under the Federal Power Act so that the amendments could be made effective as of August 29, 2012. On September 18, seven parties moved to intervene and provide comments and two parties filed protests. On October 3, the ISO filed an answer in response to certain comments and the protests. In particular, J.P. Morgan protested the ISO's filing contending that the ISO failed to show the existence of market power or the potential to exercise market power in connection with exceptional dispatches to bring a resource to its dispatchable minimum level. The ISO responded to J.P. Morgan's assertions stating that J.P. Morgan misunderstands what is necessary in order to demonstrate market power in these circumstances. On October 18, J.P. Morgan filed an answer to the ISO's answer again asserting that the ISO's request for additional mitigation should be rejected.

Responsible Attorneys: Sidney Davies and Anna McKenna

- **Nevada Hydro large generator interconnection agreements (ER12-1312 and ER12-1305)**

On October 9, 2012, FERC conducted its first settlement conference on the matter, which related to two interconnection agreements with Nevada Hydro for a proposed project and related transmission line that would interconnect to the transmission systems of both SDG&E and SCE. The October 9 conference covered introductory remarks and initial settlement discussions, and a second conference has been set for November 15. The Nevada Hydro's proposed generation project, known as Lake Elsinore Advanced Pumped Storage (LEAPS) is a proposed hydroelectric pumped storage generating facility. In an earlier August 9 order, FERC set the matter for hearing and settlement, stating that the parties' filings had raised certain issues of material fact for determination through a hearing.

Responsible Attorney: Bill Di Capo

- **Central counterparty amendment (ER12-1856)**

On August 31, 2012, FERC conditionally accepted the ISO's filing to become a central counterparty to market transactions in compliance with FERC Order No. 741. Historically, the ISO has been a pass-through. Market participants transacted directly with one another, with the ISO serving as an agent. To comply with Order 741, the ISO amended its tariff to become a central counterparty to market transactions -- a buyer to every seller and vice-versa. FERC's order requires the ISO to file additional tariff language that the ISO had proposed as a way to resolve concerns about the tax-exempt status of certain transmission. That issue is distinct from the tax-exempt status of generation, which is the subject of a proposal that will be presented to the Board this month. Otherwise, the Commission rejected all protests, including concerns about the implications of the change for state greenhouse gas regulation and restrictions on the use of federal preference power. In addition, the Commission granted the ISO's request to relieve it from any obligations that might otherwise apply by virtue of its energy sales, especially reporting obligations associated with market-based rate authority. The central counterparty structure became effective September 1. On October 1, 2012, the ISO submitted a compliance filing consistent with the August 31 order.

Responsible Attorneys: Roger Collanton and Dan Shonkwiler

- **Flexible ramping constraint amendment (ER12-50)**

On July 27, 2012, the ISO filed an offer of settlement resolving all issues concerning the ISO's proposal to implement the flexible ramping constraint. In October 2011, the ISO submitted its proposal to implement a flexible ramping constraint in its real-time market processes, which would provide compensation for resources that contributed to the relief of that constraint and allocate the costs to load. The constraint allows the ISO to utilize flexible ramping capability during the portions of the day where ramping capability is most needed. In December 2011, FERC accepted the filing in part, which enabled the ISO to implement the constraint immediately, but set the matter for hearing to address, among

other things, the issue of compensation and the allocation of related costs. The parties reached a settlement earlier this summer and all parties either supported or did not oppose the terms of the settlement. The settlement modifies the compensation cost allocation, proposing to allocate costs to both load and generation. The Commission issued a letter order accepting the offer of settlement without further conditions on October 3. The changes will take effect November 1.

Responsible Attorney: Anna McKenna

- **Congestion revenue rights tariff clarification (ER12-2245)**

On July 16, 2012, the ISO filed a tariff amendment with FERC to reflect clarifications regarding the congestion revenue rights process. These changes were unopposed by stakeholders and represent incremental enhancements that improve the administration of the congestion revenue rights process for the benefit of the ISO and market participants. The five changes will: (1) clarify the amount of congestion revenue rights that a holder is eligible to nominate in the priority nomination process and long term tier of the allocation; (2) clarify how the amount of congestion revenue rights that a holder is eligible to nominate in tier two and tier three of the allocation is adjusted to account for load migration; (3) create more flexibility for the amount of advance notice holders must provide to the ISO for a transaction to become effective on the secondary registration system; (4) harmonize the credit requirements that recipients of congestion revenue rights acquired through load migration must meet with the ISO's generally applicable credit requirements and clarify what happens in the event that those credit requirements are not met; and (5) remove obsolete references in the provisions governing the allocation of merchant transmission congestion revenue rights. To ensure that the tariff amendments are in place for the 2013 annual CRR process, the ISO requested that the tariff amendments be effective as of September 15, 2012. On September 10, the Commission accepted the ISO's filing without further amendment.

Responsible Attorney: David Zlotlow

- **Order No. 755 - Compensation for regulation services (ER12- 1630)**

On April 27, 2012, the ISO filed a tariff amendment with FERC to comply with FERC's Order No. 755 directive to compensate regulation resources based on the actual service provided, including both a capacity payment that reflects the marginal unit's opportunity costs and a performance payment that reflects the quantity of regulation service actually provided in response to dispatch signals. The Board approved this tariff amendment at its March 2012 meeting. Given the complexity of the software enhancements, the ISO requested an effective date for its tariff revisions in the spring of 2013. On September 20, 2012, FERC issued an order accepting the ISO's tariff revisions, subject to conditions. These conditions include that the ISO submit a report on this market enhancement after collecting one year of operational data. FERC, however, directed the ISO to implement its tariff revisions on January 1, 2013. On October 19, 2012 the



ISO submitted the following three filings in response to the Commission's order: (1) a compliance filing to submit tariff revisions to address additional conditions in the Commission's September 20 order; (2) a request for rehearing challenging FERC's directive that the ISO implement this market enhancement by January 1, 2013; and (3) a motion for an extension of time requesting an effective date of May 1, 2013 to coincide with our spring 2013 market release.

Responsible Attorney: Andrew Ulmer

### **Regulatory contracts**

- **Western Antelope Dry Ranch and Western Antelope Blue Sky small generator interconnection agreements (ER12-2207 and ER12-2209)**

On July 5, 2012, the ISO filed two unexecuted small generator interconnection agreements with FERC at the interconnection customer's request. The two interconnection agreements relate to parallel solar projects which have the same project sponsor – Silverado Power. Dry Ranch is a 10 MW solar PV project, and Blue Sky Ranch is a 20 MW solar PV project; both projects are located in the Western Antelope, east of Kern River area of SCE's electrical system. The ISO is processing the projects under parallel interconnection requests, and the two agreements contain essentially the same terms. Silverado disputes the reasonableness of two provisions in the interconnection agreements. One provision relates to the appropriate classification of certain protective relays and telecommunication equipment at Antelope substation. Silverado believes the facilities should be classified as network upgrades, while the ISO and SCE have stated that they do not fit the definition of network upgrades and are to be installed solely for the protection of Silverado's generation tie-line. The second provision relates to potential reclassification of facilities needed to interconnect the projects from network facilities to distribution facilities. The reclassification would occur if and when certain upgrades, collectively known as the East of Kern Wind Resource Area project, are removed from the ISO controlled grid and returned to SCE as distribution facilities. If this were to occur, the upgrades would be reclassified as distribution facilities pursuant to the Transmission Control Agreement entered into by all of the ISO's participating transmission owners. The customer's dispute relates to whether the repayment for its funding of such upgrades would cease following the reclassification. The ISO and SCE maintain that repayment would cease in the event of reclassification. On August 10, FERC issued a deficiency letter relating to the first provision in dispute that seeks technical information regarding the particulars of the protection system and telecom equipment. On September 17, the ISO submitted the additional information related to certain upgrades classified under the SGIAs as participating transmission owner's interconnection facilities.

Responsible Attorney: Bill Di Capo

## Rulemakings and inquiries

- **Order No. 1000-B - Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities - (RM10-23-002; Order)**

On October 18, 2012, the Commission issued an order on rehearing and clarification to Order No. 1000 and 1000-A issued last year and earlier this year. This order affirms the Order No. 1000 and 1000-A. In particular, this order affirms the following principles in the preceding orders: (1) If any of the costs of a new transmission facility are allocated regionally or outside of a public utility transmission provider's retail distribution service territory, there can be no federal right of first refusal for such transmission facility. (2) On rehearing of Order No. 1000-A, several parties argued that a project whose costs are allocated to a single zone with multiple transmission owners should be considered local (thus permitting the public utility transmission provider to have a right-of-first-refusal). FERC stated that special consideration is needed when there is multiple transmission providers located within a single pricing zone and recognized that there is a continuum of situations that could exist. For example, a zone could have one small municipal utility and a single public utility transmission provider or multiple municipal utility and public utility transmission providers. FERC declined to issue a generic rule to address this matter. Rather, FERC will address this issue on a case-by-case basis based on the specific facts presented. (3) Cost Allocation Principle No. 2 in Order 1000 provides that those parties that do not benefit from transmission facilities, either at present or in a likely future scenario, must not be allocated any of the costs associated with the new transmission facility. In Order 1000-B, FERC clarified that this principle would be satisfied if a project or group of projects is shown to have benefits in one or more of the transmission planning scenarios identified by transmission planners.

Responsible Attorney: Anthony Ivancovich and Judi Sanders

- **Reliability Standards for Geomagnetic Disturbances (RM12-22)**

On October 18, 2012, FERC initiated a rulemaking to ensure continued reliable operation of the nation's bulk power system by proposing to approve a revised vegetation management standard and to require new standards addressing the impacts of a geomagnetic disturbance. In its Notice of Proposed Rulemaking, FERC proposes to direct the North American Electric Reliability Corporation (NERC), to develop and submit new geomagnetic disturbance standards in a two-stage process. First, within 90 days of the effective date of a final rule in the proceeding, NERC would file one or more standards requiring owners and operators of the bulk power system to develop and implement operational procedures to mitigate geomagnetic disturbance effects. In the second stage, FERC proposes that NERC file, within six months of a final rule, standards that require grid owners and operators to conduct initial and continuing assessments of the potential impacts of geomagnetic disturbances and, based on those assessments, implement strategies to protect the bulk power system, including automatic blocking of geomagnetically induced currents, instituting

specification requirements for new equipment, inventory management, or isolating certain equipment that is not cost effective to retrofit.

Responsible Attorney: Andrew Ulmer

## **Reports filed**

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

A market disruption is an action or event that causes a failure of an ISO market, related to system operation issues or system emergencies. The ISO reports these market disruptions to FERC on a monthly basis. On September 17, the ISO submitted its monthly report of market disruptions that occurred from July 16 through August 15.

Responsible Attorney: Anna McKenna

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

The ISO submits two types of monthly exceptional dispatch reports to FERC. On September 14 and October 15, 2012, the ISO submitted transactional data including incremental and decremental MW volume, duration and location for exceptional dispatches occurring during the months of July and August 2012, respectively. On September 28, the ISO submitted MW hour data and cost data for exceptional dispatches occurring during the month of June 2012, respectively. An exceptional dispatch is a dispatch or a commitment issued by the ISO to a resource outside of the operation of the ISO market to address operational needs that cannot be address by the ISO market. In addition, on October 10, 2012, the ISO filed its 120-day exceptional dispatch report. In this report, the ISO describes the efforts underway to reduce reliance on exceptional dispatch.

Responsible Attorney: Sidney Davies

## **Other FERC matters**

- **J.P. Morgan Ventures Energy Corp. complaint (EL12-105)**

On September 14, 2012, J.P. Morgan Ventures Energy Corp. (J.P. Morgan) filed a complaint at FERC alleging that the ISO had improperly mitigated the payments J.P. Morgan received for 18 exceptional dispatches of energy from generating units controlled by J.P. Morgan that occurred in the April-June 2012 time frame. The complaint alleges that J.P. Morgan was entitled to their full "as bid" price for these dispatches and that the ISO's imposition of bid mitigation resulted in an underpayment of approximately \$3.75 million for these dispatches. On October 3, 2012 the ISO filed an answer to the complaint that seeks dismissal on the ground that the complaint was premature and inconsistent with the ISO's FERC-approved settlement statement dispute resolution procedures. The answer explains that J.P. Morgan filed its complaint without allowing the ISO the time permitted by the ISO's

tariff to investigate and address its settlement statement disputes. The answer asserts that the complaint should be dismissed without prejudice to J.P. Morgan's right to potentially file a new complaint in the future in the event that it does not agree with the ultimate result of the ISO's ongoing review of the disputed payments. On October 18, 2012, J.P. Morgan filed a response to the ISO's answer that argues that the settlement statement dispute resolution process is permissive and does not prevent a party from pursuing a complaint while the settlement statement dispute resolution process is ongoing.

Responsible Attorney:     Burton Gross

- **Order to Show Cause re J.P. Morgan (EL12-103)**

On September 20, 2012, FERC issued an Order to Show Cause why J.P. Morgan should not be found to have violated FERC's market behavior rules. The Order to Show Cause preliminarily finds that J.P. Morgan may have submitted misleading information to FERC, the ISO, and the ISO's Department of Market Monitoring in connection with a complaint J.P. Morgan had previously filed with FERC challenging a monetary penalty the ISO had imposed for J.P. Morgan's failure to timely respond to DMM data requests that had been issued as part of an investigation into alleged improper bidding behavior. The Order to Show Cause contemplates suspension of J.P. Morgan's market-based rate authority as a potential remedy for the alleged misconduct. The Order to Show Cause directed J.P. Morgan to submit an answer within 21 days of publication of the order explaining why it should not be found to have violated FERC's market behavior rules and why its market-based rate authority should not be suspended. FERC also ordered interested parties to file any interventions by the same deadline. On October 17, 2012, the ISO filed a motion to intervene and comments in the proceeding. In its pleading, the ISO stresses the importance of complying with FERC's market behavior rules and supported FERC's decision to institute the proceeding. The ISO further stated its support for serious sanctions, up to and potentially including suspension of market-based rate authority or similar sanctions, if FERC concludes that material misrepresentations have occurred. On October 17, 2012, J.P. Morgan filed its answer to the Order to Show Cause. J.P. Morgan acknowledged that the pleadings identified by FERC in the Order to Show Cause contained "mistakes" but argues that the errors were not knowing or intentional and occurred despite its exercise of "adequate – albeit imperfect – due diligence." J.P. Morgan argues that the mistakes did not constitute a violation of FERC's market behavior rules and, even if they did, suspension of market-based rate authority would be an improper remedy.

Responsible Attorney:     Burton Gross

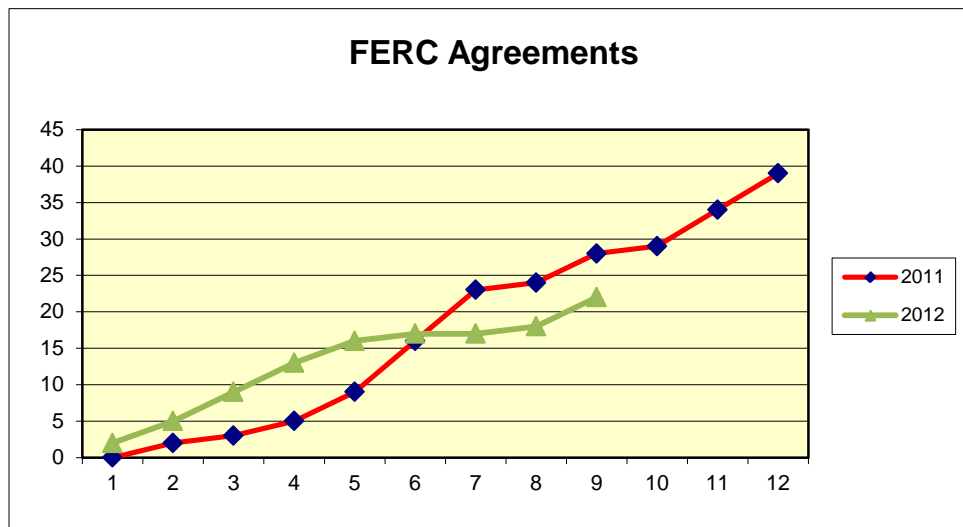
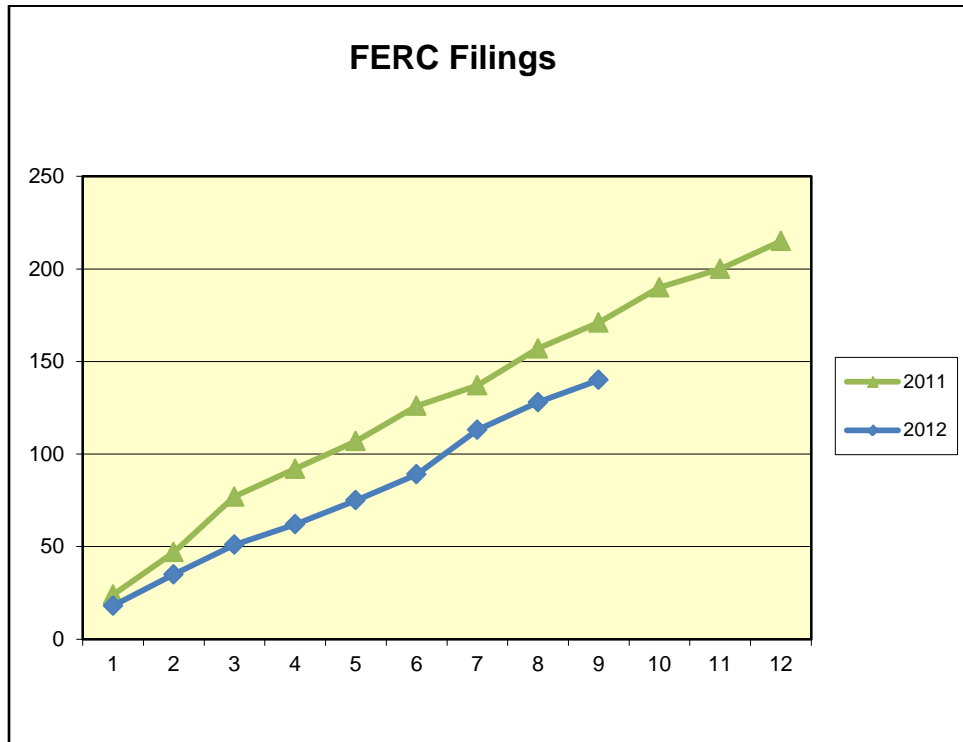
## **California Public Utilities Commission matters**

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

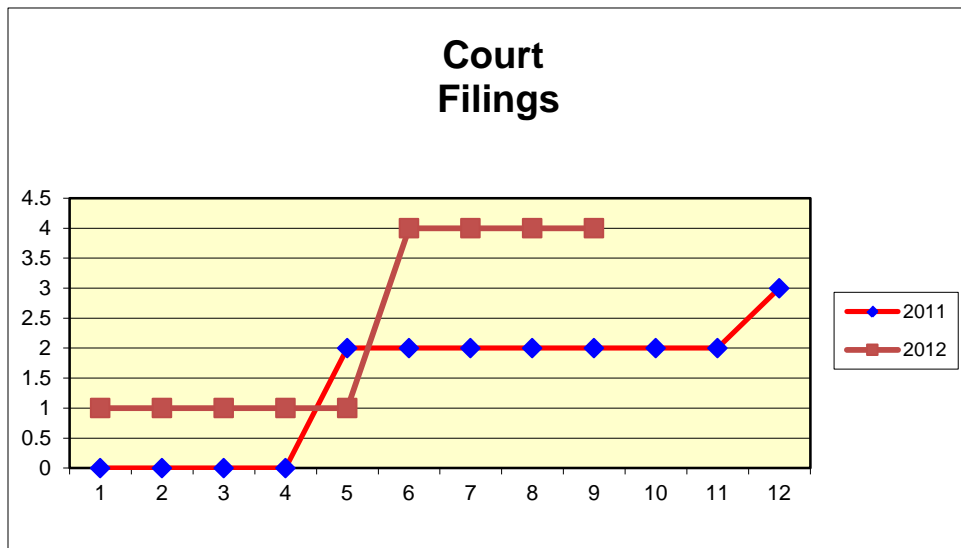
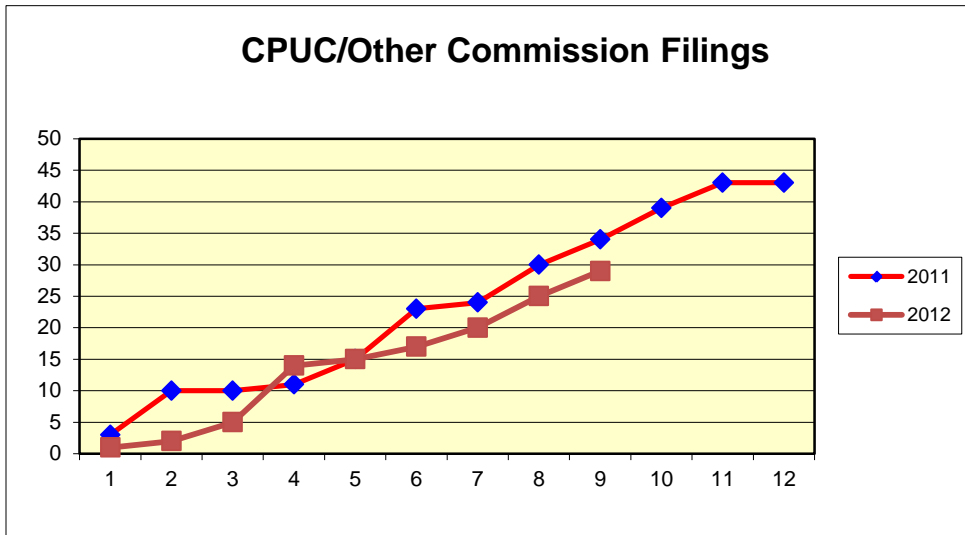
Track 1 of the CPUC long term procurement process involves an analysis of the need for local capacity in the LA Basin and Big Creek/Ventura local areas, based on the ISO's once-through cooling studies. The ISO presented opening and reply testimony in Track 1, supporting not only the once-through cooling study methodology but the study assumptions regarding uncommitted amounts of demand response, energy efficiency and other non-generation resource alternatives. On September 24 and October 12 the ISO submitted initial and reply briefs, respectively. In addition, the ISO has actively participated in workshops addressing the resource procurement process that will be initiated once the CPUC has directed Southern California Edison to procure resources needed in these areas. A decision in Track 1 is anticipated by year end 2012 or early 2013.

Responsible Attorney: Judi Sanders

# Regulatory Filings Through September 2012



# Regulatory Filings Through September 2012



# Regulatory Filings Through September 2012

