UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Shell Energy North America (US), L.P.	)	
	)	
v.	)	**Docket No. EL15-94-000**
	)	
California Independent System Operator Corporation	)	
	)	

ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO COMPLAINT

The California Independent System Operator Corporation ("CAISO") submits this answer to the August 24, 2015 complaint of Shell Energy North America (US), L.P. ("Shell Energy").[1] The complaint concerns an unfortunate situation in which Shell Energy failed to timely submit a dispute to a settlement statement that contained an erroneous charge of $307,500. As a result, the CAISO had no choice but to deny the dispute as outside of the tariff-required dispute deadline. Invoking section 306 of the Federal Power Act, Shell Energy asks the Commission to require the CAISO to reverse the erroneous charge, to make related changes to the resulting invoice and to refund the relevant payments. Shell Energy also asks the Commission, under section 206 of the Federal Power Act, to find unjust and unreasonable the CAISO tariff provisions which require market participants to raise disputes regarding certain settlement

[1] The CAISO submits this answer pursuant to Rules 206(f) and 213 of the Commission's Rules of Practice and Procedure,18 C.F.R. §§ 385.206(f), 385.213, and the Notice of Complaint issued in this proceeding on August 26, 2015.

statements within five business days of the issuance of the invoice – i.e. Section 11.29.8.4.6.

As explained below, the error that ultimately led to the erroneous charge at issue was a misinterpretation by the CAISO of an instruction from Shell Energy regarding a resource ID. Nonetheless, because Shell Energy failed to dispute the invoice within the period required by the CAISO tariff, correction of the invoice would be contrary to the tariff, and thus to the filed rate. The CAISO therefore must ask that the Commission deny Shell Energy's request. The CAISO must also oppose Shell Energy's alternative request for a waiver, which does not meet the Commission's standards for a waiver and would set a bad precedent that would undermine the finality of CAISO settlements.

In addition, Shell has failed to allege any changed circumstances that would justify a Commission finding that the previously approved section 11.29.8.4.6 is unjust or unreasonable.

I. Background: the Settlement and Dispute Process and the Erroneous Charge

The CAISO operates on a 36-month settlement and invoicing cycle. For every trading day, the CAISO issues an initial settlement statement three business days later based on estimated data. This initial settlement statement is followed by a series of recalculation settlement statements showing incremental adjustments, issued at specified intervals as data becomes available, disputes are resolved, software patches are installed and other corrections are made. The recalculation intervals begin at 12 business days after the trading day, followed by 55 business days, then 194 (approximately 9 months), 383

(approximately 18 months), 737 (approximately 35 months) and 759 business days (approximately 36 months).[2] There is a shorthand for each of these; relevant here, the settlement statement after 35 months is known as the recalculation settlement statement T+35M.

The tariff imposes deadlines for disputing each of these settlement statements. For the T+35M settlement statement, at issue here, the deadline for submitting a dispute is five business days.[3] The CAISO must resolve any dispute within 14 (calendar) days.[4] This enables the CAISO to issue the final recalculation settlement statement at 36 months. A dispute of the T+35 settlement statement may only be based on incremental changes from the immediately preceding settlement statement for the given trading day.[5] The tariff does not permit a dispute of the final settlement statement except by order of the Commission or the CAISO Board, thus providing market participants with an assurance of finality regarding their financial obligations.[6]

This Commission approved these timelines and deadlines as part of the CAISO's proposal to accelerate the payment timeline.[7] The Commission found:

> [T]he payment acceleration program should lower the market's credit exposure and reduce the amount of the credit requirements market participants must meet. A longer average cash clearing schedule exposes the CAISO to an increasing amount of

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2 CAISO Tariff § 11.29.7.1. While the intervals have changed slightly during the earlier period encompassing the events relevant to this complaint, that has no bearing on the issues here.

3 CAISO Tariff § 11.29.8.4.6.

4 *Id.* § 11.29.8.5.

5 *Id.* § 11.29.8.4.6

6 *Id.* § 11.29.8.4.7.

7 *See Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,265 (2009).

> outstanding market charges and payments, and exposes market participants to increased credit risk.[8]

The Commission found, "[I]t is important to have a date by which the settlement process is deemed to be final and the proposed sunset date provides an appropriate time limit for bringing the process to a close."[9] This complaint proceeding concerns an erroneous charge that first appeared in the T+35M settlement statement issued to Shell Energy on August 5, 2013, for August 2010. The error, however, stems at least in part from an earlier misunderstanding regarding Shell Energy's resource IDs.

In 2010, the CAISO implemented a standard capacity product. The standard capacity product provides availability standards for resources that load-serving entities use to meet resource adequacy requirements, as well as penalties for failure to meet those standards.[10] The tariff provides a "grandfather" exemption from these penalties, however, for certain capacity that was under contract for resource adequacy prior to June 28, 2009. One such grandfathered resource was 90 megawatts of capacity from Shell Energy's La Rosita 1 Unit.

For purposes of availability penalties under the standard capacity product, the CAISO settlements system tracks resources by their resource IDs. On December 22, 2010, Shell Energy requested that the resource ID for La Rosita Unit 1, which it understood to be grandfathered capacity, be changed from

> CRLP_CREROA_I_***F_STEAM*** ("F_STEAM")

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8 *Id.* at P 11.

9 128 FERC ¶ 61,265 at P 48.

10 *See* CAISO Tariff § 40.9.

to

CRLP_CREROA_I_***UC_STEAM*** ("UC_STEAM")[11]

Shell Energy informed the CAISO that it intended to begin use of the new ID, UC_STEAM, on January 1, 2011.[12] On February 1, 2011, the CAISO informed Shell Energy that the CAISO's records did not show the resource ID that Shell Energy had asked to change as grandfathered capacity. Rather, the grandfathered capacity was identified by a third ID, as CRLP_CREROA_I_***F_DA1*** ("F_DA1").

The CAISO offered to revise the ID of the grandfathered resource – F_DA1 – to UC_STEAM, to correspond to the new resource ID that Shell had requested.[13] Shell Energy confirmed this change on February 8, 2011. In implementing this change, however, the CAISO misunderstood Shell Energy's request. Rather than assign an end date for the grandfathering exemption of F_DA1 in February 2011 and initiate the use of UC_STEAM for grandfathering exemption purposes on that date, the CAISO deleted F_DA1 as an identifier, replacing it with UC_STEAM for all time periods.

On August 5, 2013, on the T+35M recalculation statement for August 31, 2010, the ISO settlement system generated the erroneous charge at issue here. Apparently as a result of the changes that had been made in February 2011, deleting the previous resource ID of "F_DA1" rather than end-dating it, the

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11 In those resource IDs, "F" stands for "firm" while "UC" stands for "unit contingent."

12 *See* Exh. 1 attached.

13 *Id.*

system did not show that all required capacity was made available from F_DA1 in the month of August 2010. It also did not show a grandfathered contract for F_DA1. Accordingly, the system assessed an unavailability penalty in the amount of $307,500. This was the only charge on the statement (along with two small credits).

As noted above, while Shell Energy disputed the erroneous settlement charges, it did not meet the tariff deadline for doing so. The CAISO tariff requires market participants to file disputes of the T+35M settlement statement within five business days.[14] In this instance, the deadline was August 12, 2013.[15] Shell Energy did not file its dispute until August 16, 2013. The CAISO denied the dispute as untimely on August 23, 2013.[16]

After Shell Energy's dispute called attention to the erroneous ID records, the CAISO was able to correct the records going forward.[17] These corrections

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[14] CAISO Tariff § 11.29.8.4.6

[15] Complaint at 6.

[16] The CAISO's payments calendar for 2013, and as a result the dispute denial, erroneously identified the deadline for T+35M disputes as August 14, 2013. Shell Energy's dispute would have been untimely even under that erroneous payment calendar. The ISO has corrected its current payment calendar to reflect the correct dispute deadline for T+35M recalculation settlement statement, and has initiated proposed changes to conform the Business Practice Manual to the tariff.

[17] Contrary to the suggestion in the complaint, the deletion of the "DA_1" ID had not been detected (or corrected) earlier. See Complaint at 5. Shell had received erroneous non-availability charges on the same resource during July and the first seventeen days of August, 2011. But those charges were triggered by an error that Shell Energy made on the supply plan it submitted to the ISO. Shell had inadvertently listed the resource on its supply plan for July and August using the old ID, "F_DA1," which did not match the ID it was using to schedule the resource and to identify it in CAISO's records of grandfathered agreements—i.e., UC_STEAM. In that case, Shell submitted a timely dispute, and the matter was ultimately resolved in its favor by adjusting the supply plans for July and August 2011. The resolution of that dispute did not involve changes to the resource IDs.

avoided erroneous charges on any subsequent T+35M settlement statements for September 2010 and the following months.

Under section 13.1.4 of the CAISO tariff, the deadline for invoking the dispute resolution process concerning a settlement issue is 90 days from the CAISO resolution of the dispute. For this dispute, that deadline was November 21, 2013. Shell Energy did not seek good faith negotiations until December 31, 2013. For this reason, and because of the failure to meet the dispute deadline, the CAISO closed negotiations in a telephone conversation on February 2, 2015 and, after further discussions, confirmed the closure by letter on May 5, 2015.

II. Answer

A. The Commission Should Deny Shell Energy's Requested Financial Relief as Contrary to the CAISO Tariff.

Shell Energy acknowledges that section 11.29.8.4.6 of the CAISO tariff requires the filing of any disputes to the T+35M settlement statement within five business days of the issuance of the statement.[18] It also admits that its dispute of T+35M settlement statement was submitted after the deadline had passed, on August 16, 2013. It nonetheless contends that the Commission should grant it the relief that the tariff denies.

1. Market Participants Have the Responsibility to Review Every Settlement Statement, and Within the FERC-Approved Tariff Deadlines

Shell Energy asserts that it did not have a fair opportunity to review its statement, suggesting that it should not expect any incremental changes on a

[18] Complaint at 7 n.25.

T+35M recalculation settlement statement and that, when such charges do appear, they are so burdensome to review that five business days is an unreasonably short deadline for submitting a dispute.[19] Neither proposition is correct. To the contrary, the very point of the T+35M recalculation settlement statement is to review for unexpected errors that can occur at that stage of the process. Moreover, the erroneous charge on Shell Energy's T+35M was the only charge on the statement, and reviewing it should have been a relatively simple matter.

The dispute process in the CAISO tariff specifically contemplates that errors could occur throughout the process, all the way through the T+35M recalculation settlement statement. It provides that market participants may challenge only incremental changes in the T+35M.[20] In other words, the only errors that are disputable on the T+35M are those appearing *for the first time in the thirty-fifth month* of the invoice and settlement cycle. The tariff, moreover, provides for one further settlement statement, T+36M, for the sole purpose of adjusting for any successful disputes to the T+35M. Thus, market participants are responsible for reviewing every recalculation settlement statement for errors, including the T+35M.

The Commission approved the dispute deadline for the T+35M with this construction in mind.[21] In that order, the Commission rejected arguments that

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19 *Id.* at 8-10.

20 *See* CAISO tariff § 11.29.8.4.6.

21 *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,265 at P 40 (

the proposed dispute deadline for the T+35M was too short. Shell Energy's reliance on a statement from this order to support its assertion that disputes should not be expected at that late stage is misplaced. The Commission stated:

> "seven calendar days[22] should provide market participants with sufficient time to identify any disputes that may arise regarding the fourth recalculation settlement statement, given that the market participants and the CAISO have had, at that point in the settlement process, 35 months to achieve an accurate settlement of market transactions."[23]

This statement shows that the Commission expected the iterative settlement process to reduce the *number* of disputes that might arise regarding the T+35 recalculation settlement statement. It is not reasonable to conclude, however, that the Commission expected that there would be no disputes whatsoever, and thus no reason for a market participant to review its T+35M settlement statement. In fact, the specific tariff language regarding disputes of incremental changes from the preceding recalculation statement demonstrates that the Commission contemplated the existence of such disputes. This is apparent from a statement earlier in the quoted paragraph where the Commission found: "We will accept the CAISO's proposal to allow market participants no more than seven calendar days to dispute *incremental* changes in the fourth recalculation settlement

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[22] In this proceeding, the CAISO proposed, protestors challenged, and the Commission approved a deadline of seven calendar days to file the dispute. The CAISO revised the time to five business days in 2011 in Docket No. ER11-4176. *See Cal. Indep. Sys. Operator Corp.,* 136 FERC ¶ 61,232 (2011) at P 8; see also CAISO Transmittal Letter dated August 1, 2011, p. 14, Attachment B (§ 11.29.8.4.6), Attachment C (§ 11.29.8.4.6). Because seven calendar days and five business days are generally equivalent, this change is irrelevant to Shell Energy's and the CAISO's arguments.

[23] Complaint at 9, quoting 128 FERC ¶ 61,265 at P 40.

statement."[24] Thus, it would be illogical to expect no incremental changes on the T+35 recalculation statement. Indeed, the fact that the eighteen-month settlement statement is disputable means that there will sometimes be revisions to the T+35M scheduling statements, as the resolution of one market participant's dispute could require revisions to the subsequent statements of other market participants. There can be little question that the Commission was aware that the tariff-imposed deadline would apply to disputes that appear for the first time in the T+35M settlement statement.

As the Commission recognized in the passage quoted above, there should be few issues left to resolve by the time of the T+35M recalculation settlement statement. This was indeed the case here. The erroneous charge that is the focus of this complaint was the ***only*** charge on the Shell Energy's T+35M recalculation settlement statement for August 2010. In addition to that charge of $307,480.46, there were a two small credits for a statement total of $305,737.21. And given that this total charge was an incremental change – i.e., a new charge occurring for the first time at 35 months – a glance at the statement total, without any details, would have signaled the need to analyze the charge that produced it.

2. Enforcing the Dispute Deadline Is Required by the Filed Rate Doctrine.

Shell Energy seeks to rely on the file rate doctrine, asserting, "It is uncontested that CAISO committed an error and did not charge Shell Energy the filed rate."[25] The filed rate doctrine, however, actually compels denial of Shell

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[24] 128 FERC ¶ 61,265 at P 40 (emphasis added).

[25] Complaint at 10-11.

Energy's complaint because the deadline for submitting disputes is itself part of the filed rate. The tariff requires that disputes must be submitted within the prescribed deadlines, stating that a market participant "shall be deemed to have validated" incremental charges "unless it has raised a dispute or reported an exception" within the deadlines, and that validated settlement statements "shall be binding."[26]

While the erroneous charge may initially have been contrary to the filed rate, it now *is* the filed rate as a result of Shell's failure to submit a timely dispute. As the Commission stated in a proceeding involving a petition for a declaratory order in which a market participant had missed the dispute deadline under the New York Independent System Operator ("NYISO") tariff, "[S]ince the deadline for correcting billing errors in NYISO's tariff passed well before [the petitioner] discovered the errors, much less filed its petition, the 'filed rate' in the instant case became the actual billed amounts once that tariff deadline passed."[27] An earlier order in the same proceeding explained why this result is fully consistent with the filed rate doctrine:

> One purpose of the filed rate doctrine is rate predictability for customers. [The section imposing a deadline] gives . . . transmission customers the assurance that, after the specified timeframe for review, challenge and correction, their invoices are final unless the Commission or a court orders a change. Providing this financial certainty to customers is fully consistent with the filed rate doctrine.[28]

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[26] CAISO Tariff § 11.29.8.3.3.

[27] *N.Y. State Elec. & Gas Corp.*, 142 FERC ¶ 61,151 (2013) at P 26.

[28] *N.Y. State Elec. & Gas Corp.,* 133 FERC ¶ 61,094 (2010) at P 44, quoting *N.Y. Indep. Sys. Operator*, 128 FERC 61,086 (2009) at P 22.

Shell Energy relies on an earlier proceeding that involved the same NYISO tariff provision. In ruling on a petition for a declaratory order in *Niagara Mohawk Power Corp.*, the Commission directed the correction of errors that the market participant disputed after the dispute deadline because failure to do so would yield an unjust and unreasonable result.[29] Shell Energy cites the fact that in the later *New York State Electric and Gas Corp.* proceeding—i.e., the proceeding in which the Commission made the statements quoted above—the Commission distinguished *Niagara Mohawk* because in the latter case,

> "the errors arose at the very end of the market settlement and correction process, when incorrect data was introduced into allegedly 'corrected' bills: a mishap that the utilities could not reasonably have anticipated and, therefore, they could not be faulted for not reviewing again" and moreover the "utility had only a 25-day review period to detect the errors."[30]

Although Shell Energy does not so state explicitly, its argument implies that Shell Energy is similarly situated to the utility in *Niagara Mohawk*, such that the filed rate doctrine is similarly not a bar.

Shell Energy's reliance on *Niagara Mohawk* is misplaced in two regards. First, the Commission's actions in *Niagara Mohawk* were not inconsistent with the filed rate doctrine. Under the NYISO Market Services Tariff in effect at the time, invoices became "finalized" after expiration of the period for challenges.[31] The tariff at issue there, however, specifically provides that "finalized data" is

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[29] Complaint at 12 n.35, citing *Niagara Mohawk Power Corp.*, 123 FERC ¶ 61,314 (2008).

[30] *Id.,* quoting 142 FERC ¶ 61,151 at P 32.

[31] 123 FERC ¶ 61,314 at P 6.

subject to further correction "as ordered by the Commission."[32] The filed rate itself thus specifically authorized an exception by the Commission. In contrast, section 11.29.8.4.6 of the CAISO tariff does not specifically authorize such the Commission to permit disputes of the T+35M settlement statement after the deadline.[33] Accordingly, the only means by which Shell Energy can obtain relief is through its alternative request—a waiver of the filed rate—for which it does not qualify, as discussed below.

Second, contrary to its implication, Shell Energy is not similarly situated to the utility in *Niagara Mohawk.* Shell Energy does not actually assert that it did not detect the error until after the deadline; at most it implies that it lacked sufficient time to assemble the evidence.[34] As discussed below in connection with Shell Energy's request for a waiver, this should not excuse a failure to file the dispute in a timely manner. Moreover, while the errors in *Niagara Mohawk* were small errors that accumulated over time, the $307,500 error in a single settlement statement should have been immediately obvious (as also discussed

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[32] *Id.* at P 23. Current section 7.4 of the NYISO Market Services Tariff provides the same authority, but the Commission chose not to exercise it in *New York State Electric and Gas* because the petitioner did not meet the test established in *Niagara Mohawk.*

[33] The CAISO tariff does provide for the Commission to direct the issuance of additional settlement statements by the Commission. *See* § 11.29.7.3.2. It also provides for the Commission to authorize disputes of the final settlement statement. *See* § 11.29.8.4.7. These, however, are not the reliefs that Shell Energy seeks.

[34] Complaint at 7 n.26. At one point, Shell Energy states, "Shell Energy did not become aware of the nature of the error and present its dispute until August 16, 2013." *Id.* at 7. In light of its assertions that it took time to investigate the error, this cannot reasonably be interpreted as an assertion that it did not learn of the error prior to the deadline.

below). Thus, even if the CAISO tariff provided for exceptions granted by the Commission, none would be appropriate in this instance.

3. Shell Energy Has Not Justified a Tariff Waiver.

As an alternative form of relief, Shell Energy asks the Commission to waive the tariff deadline of section 11.29.8.4.6. Shell Energy, however, does not demonstrate that such a waiver would be consistent with any of the standards that the Commission has used to evaluate waivers.

Particularly relevant here is a formulation often used by the Commission with minor variations: "The Commission has previously granted requests for waiver in situations where, as here: (1) the applicant was not able to comply with the tariff provision at issue in good faith; (2) the waiver is of limited scope; (3) a concrete problem must be remedied; and (4) the waiver does not have undesirable consequences, such as harming third parties."[35] The CAISO acknowledges that Shell Energy could satisfy the third of these factors: there is a concrete issue. Arguably, Shell Energy could demonstrate the final factor as well: the financial harm to third parties from a waiver would likely not be significant. On the other hand, the interference with the finality of the settlements is also an undesirable consequence for third parties. Regardless, the first two factors argue strongly against a waiver.

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[35] *Brookfield Energy Marketing LP*, 150 FERC ¶ 61,018 at P 10 (2015), citing *East Kentucky Power Coop, Inc.*, 147 FERC ¶ 61,075 (2014); *Dynegy Kendall Energy, LLC*, 147 FERC ¶ 61,094 (2014); *Calpine Corp.*, 147 FERC ¶ 61,205 (2014); *EDP Renewables North America, LLC*, 149 FERC ¶ 61,069 (2014).

a. Shell Energy Has Not Shown that It Was Not Able to Comply with the Tariff Provision at Issue.

Shell Energy has made no showing that it could not have met the dispute deadline by exercising due diligence. Shell Energy defense is that the CAISO procedures require a dispute to include "the reason for the dispute, the amount claimed, plus supporting evidence."[36] Thus, according to Shell, it "could not properly submit its dispute of the T+35M Statement until it had fully researched the issue and gathered evidence supporting its view that the charge was improper. This research took time and contributed to Shell Energy's late filing of the dispute."[37]

Shell Energy does not assert that this need to research the issue precluded its meeting the deadline, but only that it "contributed" to it. Shell Energy also does not explain why it could not have filed the dispute with the evidence that it had identified by the fifth business day, informing the CAISO that its research continued. Had the CAISO nonetheless found the dispute incomplete, which is far from certain, Shell Energy could have entered good faith negotiations on this issue. Instead, Shell allowed the deadline to pass. Shell Energy then missed the next deadline, under section 13.1.4 of the CAISO tariff, for seeking good faith negotiations under the dispute resolution process of the ISO tariff.

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[36] Complaint at 7 n.26, quoting CAISO Business Practice Manual for Settlement and Billing at 68.

[37] *Id.* Apparently in the belief that the volume of settlement materials supports this position, Shell Energy attaches the 9,405 page settlement statement to its complaint, even though the erroneous charge appears on only fifteen pages of the statement. .

Finally, Shell Energy does not provide any evidence, such as a declaration, to support a conclusion that it could not with reasonable effort have assembled the evidence within five business days (which was seven calendar days here). In fact, the time should have been more than ample. Although Shell Energy contends that when a scheduling coordinator receives a statement from the CAISO, "it must contract with a third party to have the unreadable .xml file converted into a usable file format with certain organizational enhancements,"[38] that it not in fact the case. These files can be read with software that is readily available at reasonable prices. Moreover, in the month before the settlement statement was issued, Shell received advance warning of the problem in the settlement details file that it received daily. Those files would have showed the billing determinants each day, alerting Shell of the possible charge on the settlement statement for August 31, which contained the month-end total.

Even accepting Shell Energy's assertion that it must convert the files to another format and that one day is required for converting the file, the conclusion of Shell Energy that it could not with reasonable effort have assembled the evidence in seven calendar days is not self-evident. The erroneous charge in the T+35M settlement statement appeared on the second page of the settlement statement.[39] It was the only incremental charge on the statement, and all associated details could be located through a search of the file. The Commission

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[38] *Id.* at 5 n.21.

[39] *Id.* at 6 n.22.

should not grant a waiver based on a mere allegation, with no support, that their settlements are too complicated to review in the allotted time.

b. Shell Energy Has Not Shown that Its Request for a Waiver Is of Limited Scope.

While Shell Energy's specific request is limited to a single incident, the precedent that it could set is not of limited scope. As previously noted, market participants can only dispute incremental charges on the T+35M statement, so every dispute will be of a charge that, like the charge at issue, appeared for the first time on the T+35M settlement statement. If the Commission were to conclude that the appearance of a charge for the first time on the T+35M settlement statement provides a basis for waiver of the dispute deadline, then the deadline would become meaningless. The purpose of the deadline is, as the Commission explained, to promote finality. The Commission should not undercut that purpose by establishing a precedent that allows easy waiver of the deadline.

B. The Commission Should Deny Shell Energy's Section 206 Complaint.

Shell Energy asks the Commission alternatively to exercise its authority under section 206 of the Federal Power Act to find section 11.29.8.4.6 of the CAISO Tariff unjust and unreasonable and revise it to provide for "at least 30 days, but not less than 10 business days," for disputes when errors appear for the first time in the T+35M settlement statement. Shell Energy offers no argument that the existing deadline is unjust or unreasonable other than "the

facts of this case."[40] The "facts of this case," however, show only that Shell Energy missed the deadline for disputing the T+35M settlement statement.

The Federal Power Act plainly states that a party challenging an existing rate under section 206 bears the burden of proving that the existing rate is unjust or unreasonable.[41] Logic and principles preventing the relitigation of issues[42] dictate that in order to meet this burden, the complainant must show some change of circumstances or subsequent event that undermines the Commission's previous finding that the rate provision is just and reasonable. Shell Energy has shown none. The CAISO's settlement timeline and the fundamental nature of the CAISO's settlement statements and invoices have not changed since the Commission's 2011 approval of the timeline, including the dispute deadlines. There is no evidence that would justify the Commission's revisiting the deadline at this time.

C. Compliance with Rule 213(c)(2).

Rule 213(c)(2) of the Commission's Rules of Practice and Procedure provides:

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[40] *Id.* at 14.

[41] *See, e.g.*, *FirstEnergy Service Co. v. FERC*, 758 F.3d 346, 353 (D.C. Cir. 2014); *Sithe/Independence Power Partners, L.P. v. FERC*, 165 F.3d 944, 948-49 (D.C.Cir.1999).

[42] Historically, the Commission's policy against relitigation of issues is not constrained by the limits of the judicial doctrine of collateral estoppel. "The Commission's position on relitigation of issues is one where in the absence of new or changed circumstances requiring a different result, 'it is contrary to sound administrative practice and a waste of resources to relitigate issues in succeeding cases once those issues have been finally determined.'" *Alamito Co.*, 41 FERC ¶ 61,312 at 61,829 (1987), quoting *Central Kansas Power Co.*, 5 FERC ¶ 61,291, at 61,621 (1978).

(2) When an answer is made in response to a complaint, an order to show cause, or an amendment to such pleading, the answerer must, to the extent practicable:

(i) Admit or deny, specifically and in detail, each material allegation of the pleading answered; and

(ii) Set forth every defense relied on.

The CAISO believes that the discussion above includes the required information, but to ensure compliance states that it admits all material allegations of the complaint except for the following:

- The statement, "However, when settlements were run, the new resource ID for imports from Shell Energy's La Rosita 1 Unit in the CAISO system did not match the ID in the CAISO settlement system or the associated resource adequacy plan,"[43] is only partially correct. The correct impact of revisions to resource ID's is set forth in the Background above. Further, the resource adequacy plan is the responsibility of Shell Energy, not the CAISO.
- The statement, "In July 2011, upon receiving the erroneous unavailability charges at the outset of the invoicing cycle, Shell Energy promptly asked CAISO to rectify the situation and correct the settlement statements,"[44] conflates two different events. The erroneous charges in July 2011 were not the same as those in August 2013. The correct discussion of the erroneous charges is set forth in the Background above.

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43 Complaint at 5.

44 *Id.*

- The CAISO denies that the .xml file it provides is unreadable and that it is necessary to contract with a third party to convert.[45] The CAISO avers that viewers are commercially available at reasonable prices.
- The CAISO denies that Shell Energy reported the erroneous charges to the CAISO "promptly."[46]
- The CAISO denies that the erroneous charge arose from a "random emergence of the prior resource ID error." The prior dispute arose from a Shell Energy error.[47]
- The CAISO can neither admit nor deny that "Shell Energy did not become aware of the nature of the error . . . until August 16, 2013."[48]
- The CAISO denies that "It is unreasonable to expect [market participants] to adequately research improper charges showing up for the first time in the thirty-fifth (35th) month of the invoice and settlement cycle within the short T+35M Dispute Deadline."[49]
- The CAISO denies that it did not inform Shell Energy of it determination until May 2015 in response to concerns raised by

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45 *Id.* n. 21. *See also id.* at 13 n. 37.

46 *Id.* at 6.

47 *Id.* at 6.

48 *Id.* at 7.

49 *Id.* n.26.

Shell Energy in the later part of 2013.[50] The dispute denial stated the reason on August 23, 2013. May 2015 was the date on which negotiations closed.

- The CAISO cannot admit or deny whether the Commission intended "to deprive market participants of a reasonable period to dispute invoice and settlement errors appearing for the first time in the thirty-fifth month of the invoice and settlement cycle,"[51] but denies the implication that five business days is unreasonable.
- The CAISO denies that Shell dutifully followed the settlement process.[52] Rather, it failed to dispute the settlement statement at issue within the tariff deadline.
- The CAISO denies that the error in T+35M settlement statement for August 2010, which it published on August 5, 2013, was one that the CAISO "had corrected years prior."[53]
- The CAISO denies that "Shell Energy was not afforded a fair opportunity to review its invoice and settlement statement and obtain a correction."[54]

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50 *Id.* n.27.

51 *Id.* at 8.

52 *Id.* at 9.

53 *Id.*

54 *Id.* at 10.

- The CAISO denies that it failed to state the denial was required by the tariff.[55] The dispute denial states the dispute should have been submitted on August 14, 2013.
- The CAISO asserts that Shell Energy has not met the Commission's standards for a tariff waiver.[56]
- The CAISO denies that "It is uncontested that CAISO . . . did not charge Shell energy the filed rate."[57]
- The CAISO denies that "allowing correction of such errors [as that at issue in the complaint] will not significantly undermine the settlement process and create uncertainty in the finality of invoices."[58]
- The CAISO denies that the deadline set forth in section 11.29.8.4.6 is unjust or unreasonable.[59]

III. Service and Communications

All service of pleadings and documents and all communications regarding this proceeding should be addressed to the following:

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55 *Id.* n.31.

56 *See id.* at 10, 13.

57 *Id.* at 10-11.

58 *Id.* at 13.

59 *Id.* at 13-14.

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IV. Conclusion

For the foregoing reasons, the Commission should deny, the complaint submitted by the Shell Energy in this proceeding.

Respectfully submitted,

/s/ Daniel J. Shonkwiler

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Dated: September 25, 2015

Exhibit 1

From: Cassinelli, Steve <SCassinelli@caiso.com>
Sent: Tuesday, February 8, 2011 3:43 PM
To: Evans (Coral Energy), Mike
Subject: RE: SCP Grandfathering - Request to change resource ID

Thanks

From: michael.evans@shell.com [mailto:michael.evans@shell.com]
Sent: Tuesday, February 08, 2011 12:39 PM
To: Cassinelli, Steve
Subject: RE: SCP Grandfathering - Request to change resource ID

Steve, please proceed as you suggested. Please change CRLP_CFEROA_1_F_DA1 to CRLP_CFEROA_I_UC_STEAM for grandfathering purposes.

Sorry for the timing; I thought I had replied. Thanks for the reminder.

Mike

From: Cassinelli, Steve [mailto:SCassinelli@caiso.com]
Sent: Tuesday, February 08, 2011 11:30 AM
To: Evans, Michael D SENA-STE/7
Subject: RE: SCP Grandfathering - Request to change resource ID

Hi Mike,
Last week I sent you the below e-mail asking for confirmation of the grandfathered resource ID to be changed. I can't find a response from you in my e-mail folder, but I thought for sure I heard back from you that you were going to check with someone else at Shell to make sure the below update is correct (maybe it was via a phone call). In any event, can you please review the below e-mail and let us know how you'd like to proceed.

Thank you,

Steve Cassinelli | Senior Client Representative | California Independent System Operator
Phone 916-608-5888
scassinelli@caiso.com

From: Cassinelli, Steve
Sent: Tuesday, February 01, 2011 1:58 PM
To: Evans, Mike
Subject: FW: SCP Grandfathering - Request to change resource ID

Hi Mike,
I've been informed that in the below e-mail from you that we do not show CRLP_CFEROA_I_F_STEAM as a grandfathered resource. Evidently we didn't notice this back in December when you made this request. The resource ID that we show that was grandfathered is CRLP_CFEROA_1_F_DA1 for 90 MW. As such, we can't update CRLP_CFEROA_I_F_STEAM to CRLP_CFEROA_I_UC_STEAM. If you'd like, we can change

CRLP_CFEROA_1_F_DA1 to CRLP_CFEROA_I_UC_STEAM for grandfathering purposes. This is the same result, but I want to make sure it makes sense to you. Please let me know how you'd like to proceed.

Let me know if you have any questions.

Thank you,

Steve Cassinelli | Senior Client Representative | California Independent System Operator
Phone 916-608-5888
scassinelli@caiso.com

From: michael.evans@shell.com [mailto:michael.evans@shell.com]
Sent: Wednesday, December 22, 2010 11:59 AM
To: Cassinelli, Steve
Subject: SCP Grandfathering - Request to change resource ID

Steve,

We submitted SCP grandfathering templates last year, but we need to change the Resource ID of the import from the La Rosita Steam Turbine output that is grandfathered. As I recall, Justin Wong handled the data, but I am not copying him as there may be another person handling this activity now.

The ISO recently updated the ability of an SC to designate an import as "UC", and we will be making this change for the La Rosita steam import.

We are changing the Resource ID as follows:

OLD: CRLP_CFEROA_I_F_STEAM

NEW: CRLP_CFEROA_I_UC_STEAM

I have attached a revised SCP template and have yellowed the cell on the RA Capacity tab where the change was made, and added an explanation on the right (column G).

Please update the revised Resource ID for SCP grandfathering at your earliest convenience. We will start scheduling with this ID in January. I think there will probably be a lag in the ISO implementation of the Resource ID, which is acceptable. Let me know if you have any questions.

Mike Evans

General Manager, Regulatory Affairs

Shell Energy North America

4445 Eastgate Mall, Suite 100

San Diego, CA 92121

858-526-2103

michael.evans@shell.com

<<Shell Energy RA grandfathering template Shell Energy 2010-12-22.xlsx>>

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 25th day of September, 2015.

/s/ Daniel Klein
Daniel Klein