

Memorandum

To: ISO Board of Governors
From: Nancy Saracino, General Counsel
Date: January 18, 2008
Re: Regulatory Update

This is an update of key regulatory activities and requires no Board action.

FERC Matters and Related Decisions of the Court of Appeals

Market Redesign and Technology Upgrade (MRTU)

- **Orders Accepting Resource Adequacy Tariff Provisions (ER06-615, ER07-1257 and ER08-64)**

On January 9, 2008, the Commission issued an order generally accepting the Resource Adequacy related MRTU tariff language included in the CAISO's August 3 compliance filing, as supplemented on August 10, 2007. The order conditions acceptance upon the CAISO's compliance filing of specific limited items. The January Order also has the collateral affect of clarifying the Commission's December 14, 2007 order in ER08-64, which accepted the early effectiveness in the currently effective tariff of specific Resource Adequacy provisions pending the outcome of the Commission's decision on the MRTU August 3 compliance filing. In particular, the January 9 Order accepted the CAISO's reliability criteria and allocation methodology used to determine and assign Local Capacity Area requirements to load serving entities for 2008. The January 9, 2008 Order also accepts the tariff language filed in ER08-64, which removes any uncertainty concerning the Resource Adequacy provisions currently in effect.

Responsible Attorney: Grant Rosenblum

- **Replacement MRTU Tariff (ER06-615, ER07-1257, ER08-367)**

On December 21, 2007, the CAISO filed a replacement MRTU tariff to bring the tariff up to date to reflect tariff amendments in the currently-effective tariff that will roll over into MRTU, to update terminology in compliance with prior Commission orders and to include tariff changes that align existing tariff provisions to be consistent with MRTU and new tariff amendments approved by the Board of Governors at the December 13 meeting. The latter category includes: revising the scheduling and settlement provisions relating to Station Power, revisions

to *pro forma* contracts to be consistent with MRTU, reversion authority, clarification of annual operations compliance review, settlements priority for FERC Annual Charges and for amounts less than \$5,000, reduction of outage reporting requirements for generating units less than 40MW, tariff clarification to ensure confidential portions of Operating Procedures are not required to be publicly available, substitution of the term "Balancing Authority" for "Control Area Operator", modifications to *pro forma* Scheduling Coordinator Agreement, consistency of "boilerplate" terminology in *pro forma* contracts and modifications to credit provisions to reflect experience to date with the CAISO's updated credit policies.

Responsible Attorneys: Mike Dozier, Anna McKenna and Sidney Davies

- **Other MRTU Filings (ER06-615)**

The CAISO submitted two additional filings in the MRTU proceeding. On December 3, 2007, the CAISO submitted an answer responding to comments and protests concerning the CAISO's compliance filing in which it modified the Reliability Must Run *pro forma* contract to be consistent with MRTU. On December 7, 2007, the CAISO filed reply comments in response to comments filed by parties relating to the issues addressed in the Technical Conference concerning details in the Business Practice Manuals.

Responsible Attorneys: Mike Dozier, Anna McKenna and Sidney Davies

Location Constrained Resource Interconnection (ER08-140)

On December 21, 2007, FERC issued an order approving tariff provisions implementing the CAISO's Location Constrained Resource Interconnection ("LCRI") policy, subject to the CAISO filing certain tariff revisions as directed by FERC. The LCRI tariff provisions provide a new mechanism to facilitate the financing and development of interconnection facilities intended to connect renewable resources to the transmission grid. FERC's decision on the key issues was consistent with the previous general guidance that FERC had provided in its *Order Granting Petition for Declaratory Order*. In particular, FERC approved the following elements of the LCRI policy over the objections of certain intervenors: (1) a 15% cap based on the aggregate of net investment of all high voltage transmission facilities; (2) the requirement for a total demonstration of interest in a LCRI facility equal to at least 60% of the capacity of the proposed facility; and (3) an initial capacity subscription requirement based on executed Large Generator Interconnection Agreements or Small Interconnection Agreements representing at least 25% of the proposed capacity of the LCRI facility; and (4) allocation of costs of LCRI facilities to wheel-through customers. However, FERC imposed an additional requirement (other than executed LGIAs or SGIAs), in addition to meeting the three additional interest showings specified in the tariff; a generator must also provide evidence of site control or pay a deposit of \$250,000. FERC directed the CAISO to submit a compliance filing by January 20, 2008.

Responsible Attorney: Anthony Ivancovich

City and County of San Francisco Operating Agreement (ER06-227)

In December 2007, the CAISO filed a settlement resolving a matter related to the City and County of San Francisco ("CCSF") that arose in 2005, when the CAISO unilaterally filed an Interim Operations Agreement following unsuccessful negotiations with CCSF. The Interim Operations Agreement was necessary to address issues relating to two events that occurred in December 2005: (i) the transfer of Modesto Irrigation District's ("MID's") system and the 500 kV California-Oregon Transmission Project ("COTP") transmission line from the ISO Control Area to the SMUD Control Area, and (ii) the implementation of the new TID-operated Control Area. These events required new interties with TID and SMUD that impacted CCSF and created issues primarily in the areas of

operations and CAISO charges. In January, 2006, FERC issued an order accepting the Interim Operations Agreement for filing and establishing settlement proceedings to address certain elements that CCSF claimed were not just and reasonable. The CAISO and CCSF conducted extensive settlement negotiations over the course of nearly two years resulting in the joint offer of settlement, which includes a replacement Operating Agreement. The settlement will resolve all issues in the proceeding, was not opposed by any party, does not require any settlements reruns, and was supported by FERC staff. At this time, the assigned Settlement Judge is waiting for the CCSF Board of Supervisors to approve the settlement prior to determining whether she will certify the settlement to the Commission, which we anticipate should occur sometime in late January or early February.

Responsible Attorney: John Anders

SGIP/SGIA (ER06-629 and ER06-630)

On December 13 and 17, 2007, the CAISO submitted to FERC a revised version of the ISO Tariff provisions for its standard Small Generator Interconnection Procedures ("SGIP") for the interconnection of Small Generating Facilities (20 MW and less), and on December 13 the CAISO and the Participating TOs ("PTOs") submitted an accompanying joint filing of a revised pro forma Small Generator Interconnection Agreement ("SGIA"), both in compliance with FERC's November 16 order requiring revisions to the SGIP and SGIA filed in 2006. The new SGIP and SGIA are effective retroactive to November 16, 2007, as of which date the CAISO is responsible for the interconnection process for Small Generating Facilities desiring to interconnect to the ISO Controlled Grid. In addition, on December 17, 2007, the CAISO joined in a portion of the joint request for clarification or rehearing of the November 16 FERC order filed by the PTOs on that date.

Responsible Attorneys: Mike Dozier and Grant Rosenblum

Relating to Reliability Capacity Services Tariff (EL05-146, et al.)

- **Order on Rehearing**

On December 20, 2007, FERC issued an *Order on Rehearing and Clarification* in which it, *inter alia*, denied the requests for rehearing of its February 13, 2007 order approving the Reliability Capacity Services Tariff ("RCST") Settlement. In particular, FERC affirmed its prior finding that the RCST target capacity price of \$73/kW-year is just and reasonable. FERC declined to modify the terms of the RCST Settlement affecting designations of capacity or to require the CAISO to make RCST designations for zonal reasons. FERC also affirmed its prior finding that the frequently mitigated unit bid adder is an appropriate mechanism to compensate units for the portion of their capacity that is needed for reliability services that is not operating under a capacity contract. Finally, FERC rejected requests for rehearing regarding the allocation of RCST costs.

- **Order Instituting Investigation and Extending RCST**

Also on December 20, 2007, FERC issued an *Order Instituting Section 206 Investigation and Denying Motion for Reconsideration and Clarification*. In its order, FERC instituted a proceeding under Section 206 of the Federal Power Act to investigate the justness and reasonableness of extending the RCST until the earlier of implementation of MRTU or implementation of an alternative backstop capacity procurement mechanism. FERC requested that parties submit comments and reply comments on this limited issue. FERC preliminarily concluded that the RCST, which was set to expire on December 31, 2007, should be extended so that all generators are compensated for the reliability and capacity they provide through compliance with the must offer obligation ("MOO"). FERC directed the CAISO to make a compliance filing extending the effective date of the RCST. Finally, FERC's order denied the

request of the Independent Energy Producers Association that FERC require the CAISO to file tariff provisions to implement its proposed Interim Capacity Procurement Mechanism effective January 1, 2008. On December 28, 2007, the CAISO made a compliance filing that contained tariff provisions extending the RCST until the earlier of MRTU implementation or implementation of a backstop capacity procurement mechanism. Simultaneously therewith, the CAISO filed a motion for expedited clarification in which the CAISO requested that the Commission clarify how the CAISO should administer, in 2008, certain aspects of RCST that contain timeline, processes and criteria that are specific to 2006 and/or 2007 and are not readily adaptable to use in 2008 absent substantive tariff revisions.

Responsible Attorney: Anthony Ivancovich

Order No. 890 (RM05-25)

On December 28, 2007, FERC issued Order No. 890-A, its order on rehearing and clarification of Order No. 890. FERC affirmed its basic determinations in Order No. 890, but granted rehearing and clarification regarding certain revisions to its regulations and the *pro forma* Open Access Tariff, or OATT, adopted in Order Nos. 888 and 889 to ensure that transmission services are provided on a basis that is just, reasonable, and not unduly discriminatory. Notably, FERC rejected requests to eliminate, or substantially modify, the various reforms adopted in Order No. 890. FERC directed RTO and ISO transmission providers to submit a Section 206 compliance filing that contains the revised non-rate terms and conditions of the *pro forma* OATT, as adopted in Order No. 890-A, within 90 days of publication of the order in the Federal Register.

Responsible Attorney: Anthony Ivancovich

Order No. 890 Compliance (OA08-12)

On October 11, 2007, the CAISO submitted its filing to comply with the non-transmission planning elements of Order No. 890. The CAISO submitted a new Appendix L to its Tariff explaining how the CAISO calculates Available Transfer Capacity. The CAISO also requested that FERC grant the CAISO a partial waiver of the requirement that transmission providers post load data for load-serving entities (LSEs) in their footprint by permitting the CAISO to post such load data for the three former investor-owned-utility regions. With respect to the remainder of the CAISO's Order No. 890 compliance obligations, the CAISO argued that the terms of its existing Tariff and the MRTU Tariff are consistent with or superior to the *pro forma* Open Access Transmission Tariff (OATT) as revised by Order No. 890. The CAISO noted that many of the specific reforms adopted in Order No. 890 are not applicable to the CAISO's service model which differs significantly from the *pro forma* OATT. In particular, the CAISO argued that the numerous changes to Order No. 888 point-to-point and network transmission services adopted in Order No. 890, as well as certain posting requirements related to these services, do not apply to the CAISO's "daily" transmission service model, and FERC should not require the CAISO to adopt them. Further, the CAISO argued that it satisfies the requirement that transmission providers post on their websites all rules, standards, or business practices that relate to the terms and conditions of transmission service. Finally, the CAISO argued that the provisions of its existing Tariff satisfy FERC's directives regarding the inclusion of credit procedures in an Attachment to a transmission provider's OATT.

Responsible Attorney: Anthony Ivancovich

Facilities Design, Connections and Maintenance Reliability Standards (Docket RM07-3-00)

On December 27, 2007 the FERC issued its decision (Order 705) regarding three new Facilities Design, Connections and Maintenance (FAC) Reliability Standards that had been submitted for approval on November 15, 2006 and were

the subject of a Notice of Proposed Rulemaking (NOPR) issued on August 13, 2007. The new FAC Reliability Standards are FAC 010-1, 011-1 and 014-1, including the requirements and sub-requirements for each Standard, and the FERC generally approved the Standards as proposed by NERC. The FAC standards have phased-in effective dates: July 1, 2008 for FAC 010-1; October 1, 2008 for FAC 011-1; and January 1, 2009 for FAC 014-1 (Order at Par. 83). The three FAC Reliability Standards ensure that System Operating Limits (SOLs) and Interconnection Reliability Operating Limits (IROLs) are developed using consistent methodologies. In addition to approving the three FAC standards, the FERC also approved three new definitions to be added to the Glossary of Terms, and remanded a fourth definition ("Cascading Outages") to NERC for revision and clarification. Finally, the FERC approved 63 of 72 Violation Risk Factors for the three new Standards.

Responsible Attorney: Judi Sanders

CPUC Matters

Rulemaking to Integrate Procurement Policies and Consider Long Term Procurement Plans (R06-02-013)

This proceeding pertains to CPUC approval of the IOU approval Long Term Procurement Plans (LTTPs) for the 10-year planning horizon 2007-2016. As discussed in the previous regulatory report the Proposed Decision (PD) was issued by ALJ Carol Brown on November 20, 2007. The Commission Final Decision was issued December 21, 2007. The Final Decision did not make any substantive changes to PD's treatment of two issues pertinent to the CAISO and discussed in the last regulatory report relating to implementation of AB 1576, which relates to power plant repowering and the CPUC's monitoring of MRTU.

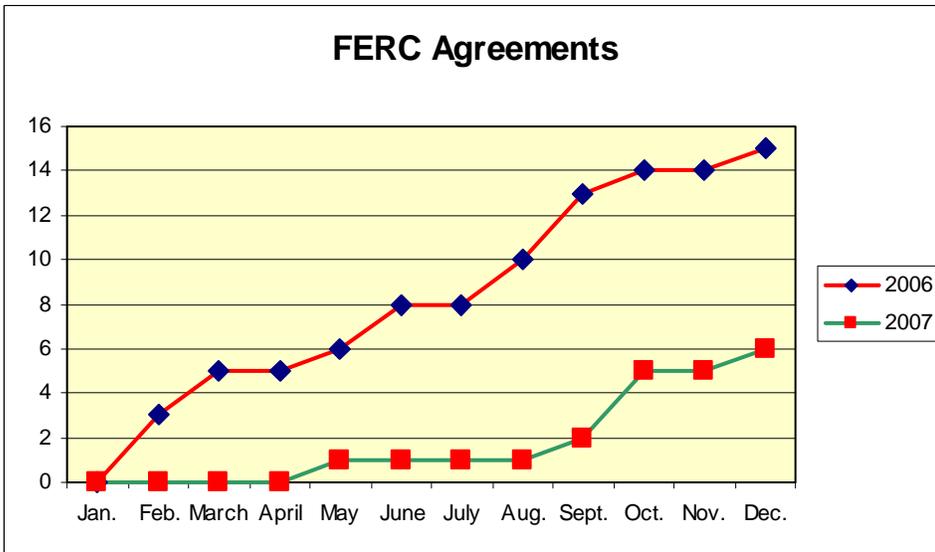
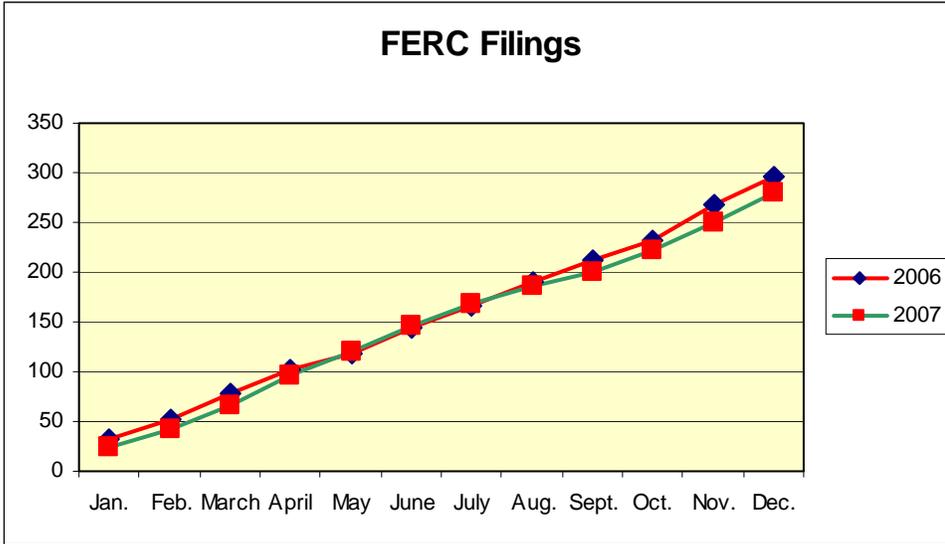
Responsible Attorney: Bill Di Capo

Application of San Diego Gas & Electric Company for a CPCN for the Sunrise Powerlink Transmission Project (A.06-08-010)

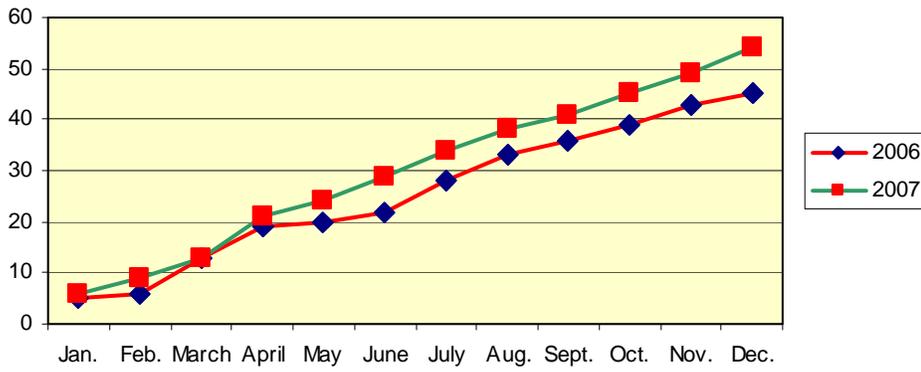
On January 3, 2008 the CPUC/Bureau of Land Management issued the Draft EIR/EIS in the Sunrise Powerlink application for a CPCN. The issuance of the EIR/EIS initiates Phase II of the proceeding during which the Commission will examine the environmental impacts of the proposed transmission project and the project alternatives, including routing alternatives. Public comments regarding the Draft EIR/EIS must be filed within 90 days of the publication date (April 11) and an evidentiary hearing has been scheduled to start on April 7.

Responsible Attorney: Judi Sanders

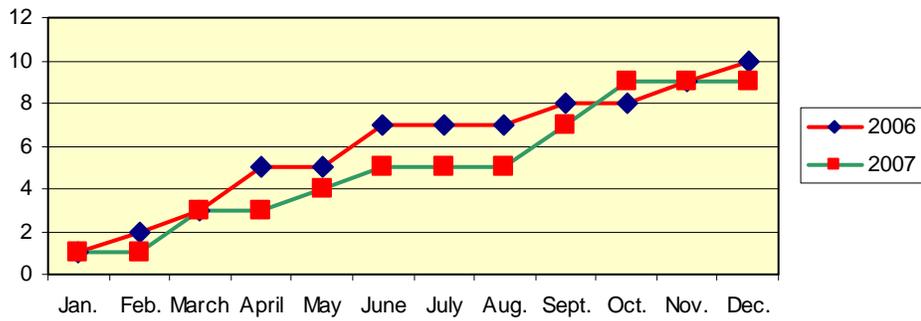
FILINGS THROUGH DECEMBER 2007



CPUC/Other Commission Filings



Court Filings



Total Filings

