

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

DCR Transmission, L.L.C.)	Docket Nos. ER23-2309-____,
)	ER24-1394-____, and
)	EL26-34-____
)	(consolidated)

**MOTION OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO SUPPLEMENT ANSWER TO
MOTIONS TO COMPEL OF DCR TRANSMISSION, L.L.C.
AND FOR SHORTENED ANSWER PERIOD**

**To: The Honorable Joel deJesus
Presiding Administrative Law Judge**

Pursuant to Rule 212 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,¹ the California Independent System Operator Corporation (CAISO) respectfully submits this motion seeking to supplement its April 2, 2026, Answer (April 2 Answer) to the Motions to Compel the California Independent System Operator Corporation to Respond to DCR Transmission, L.L.C.'s Tenth and Eleventh Set of Data Requests filed by DCR Transmission, L.L.C. (DCRT) in this proceeding on March 26, 2026 (March 26 Motion to Compel) and March 31, 2026 (March 31 Motion to Compel). The CAISO also respectfully requests that the Presiding Judge permit a shortened comment period so that this motion can be considered during the oral argument on the DCRT Motions to Compel. The CAISO notes that a shortened comment period is justified because this motion is being filed on the deadline for answers

¹ The CAISO submits this motion pursuant to Rule 212 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.212.

to DCRT's March 31 Motion to Compel as set forth in the Presiding Judge's April 1, 2026, Order Setting Answer Period and Scheduling Oral Argument.

This motion is limited to requesting that the Presiding Judge consider position statements and additional legal arguments provided to the CAISO by third parties who are not parties to this proceeding, but whose confidential information is sought in the DCRT data requests. Most of these position statements and legal arguments were provided to the CAISO concurrent with the deadline for filing the April 2 Answer.

As explained in the CAISO's April 2 Answer, DCRT is seeking highly confidential third-party information in the possession of the CAISO related to competitor bids and contract negotiations of competitors to DCRT in competitive solicitations other than the one underlying this proceeding. In the April 2 Answer, the CAISO provided details on Commission-approved provisions of the CAISO Tariff governing the confidentiality of third-party information in the possession of the CAISO implicated by the Motions to Compel which required the CAISO to consult with those third parties whose confidential information DCRT is seeking. The CAISO provided notice of the Motions to Compel to approved project sponsors whose confidential information DCRT is seeking. Multiple third-party approved project sponsors, who are not parties to this proceeding, contacted the CAISO and strongly object to the disclosure of their competitive solicitation bids under any circumstances, even when designated as "PRIV-HC" under the protective order in this proceeding. If the CAISO was not in possession of this third-party confidential information, DCRT would have been required to secure a

subpoena to obtain the confidential information from these non-parties, and those non-parties would have had an opportunity to seek to quash the subpoena.

In the April 2 Answer, the CAISO summarized the position of one Approved Project Sponsor opposing the motion to compel, Viridon California LLC (Viridon). Viridon's full position was set forth in a March 30, 2026, letter sent to the CAISO. During the evening of April 2, Viridon authorized the CAISO to submit that March 30 letter in this proceeding, and the CAISO provides the March 30 letter as Attachment 1 to this motion. At 4:55 PM Eastern on April 2, 2026, Viridon provided an e-mail supplementing its March 30 letter which responds to the DCRT March 31 Motion to Compel. That April 2 Viridon supplement is provided as Attachment 2 to this motion.

The CAISO notes that Viridon has requested that the CAISO pursue an interlocutory appeal to the Commission prior to disclosing their confidential information if the Presiding Judge grants the Motion to Compel with respect to confidential third party approved project sponsor information. In Attachment 2, Viridon affirms that the APSAs executed by Viridon's development subsidiaries accurately reflect Viridon's bids in the CAISO competitive solicitation process.

LS Power, the parent company of multiple Approved Project Sponsors, has also requested that the CAISO seek interlocutory appeal of any Presiding Judge decision granting the Motions to Compel with respect to LS Power's bidding information before producing the information in discovery. LS Power represents that the APSAs LS Power entered into with the CAISO accurately,

faithfully, and correctly reflect LS Power's bids submitted to the CAISO through the solicitation process.

Several third-party Approved Project Sponsors who have provided the CAISO with confidential bidding information sought in the DCRT Motions to Compel did not provide attachments to the CAISO but requested that the CAISO make the following arguments in opposing those Motions to Compel. One project sponsor requested that the CAISO advance the following arguments:

- **Legal Standard**
- When competitively sensitive materials are sought, FERC balances “the interests of a party seeking confidential treatment for information with the interests of parties seeking access to that information.” *W. Deptford Energy, LLC*, 134 FERC ¶ 61189, at P 30 (2011).
 - “Fairness requires that in a Commission adjudicatory proceeding, entities which have intervened properly in a proceeding and are parties to that proceeding be permitted to participate meaningfully in that proceeding.” *Id.* at P 25.
 - A party claiming that confidential material should be withheld must show that a protective order will not adequately safeguard its interests. *Id.* at P 27.
- Here, the interests of CAISO are in protecting the integrity of its solicitation processes by ensuring that it can receive creative and competitive bids. This requires CAISO to be able to protect the commercially sensitive, proprietary, and trade secret information included in the bid submissions it receives.
- As such, the CAISO tariff explicitly outlines the protections applied to the transmission planning bid it receives.

- Transmission planning bids and related information are also confidential under the CAISO tariff. Section 20.1 of CAISO's tariff states that "The CAISO shall maintain the confidentiality of all of the documents, data and information provided to it by any Market Participant that are treated as confidential or commercially sensitive under Section 20.2." Section 20.2 includes "bids" and "information related to the Transmission Planning Process" deemed confidential. [As well as Critical Energy Infrastructure information.]
 - Section 20.3 further provides that "No Market Participant shall have the right hereunder to receive from the CAISO or to review any documents, data or other information of another Market Participant to the extent such documents, data or information is to be treated as in accordance with Section 20.2."
 - Permitting the disclosure of competitive bidding information to competitors in contravention of these tariff provisions would undermine the CAISO's credibility as a counterparty to these transmission development agreements and would discourage transmission developers from participating in future competitive solicitations to the detriment of CAISO all its stakeholders.
- Furthermore, the solicitation documents associated with these bids also reiterated these protections and how a bidder could avail themselves of such protections
 - To the extent a project sponsor considers any of the information submitted with its application to be confidential or proprietary, the project sponsor must clearly identify the confidential or proprietary information and must include an explanation as to why the

information should be treated by the ISO as confidential. The ISO will not treat the identity of a project sponsor and basic information about the project sponsor's proposed project as confidential information. A project sponsor must separately request confidential treatment for each response to an individual application information request and explain the need for confidential treatment. Project sponsors shall not make general designations of large sections of the application as confidential or proprietary.

- Removing these protections would have a chilling effect on the type, scope, and quality of information that bidders are willing to include in their bid submission out of concern that such information would become freely available to competitors. This reduction in available information in bids would impair CAISO's ability to robustly evaluate the bids and prudently select the best proposal in the best interest of electric consumers in CAISO.
- It is important to note that the information sought is not simply the bids submitted by each of the participants, but also the evaluation materials associated with each of those bids and the communications between CAISO and the successful bidders.
 - The information at issue and the interests implicated are not just those of the bidders, but also the way in which CAISO evaluates and compares different bids as part of its selection process.
- In contrast, the interest of DCR in making this request is simply to gain access to the commercially sensitive, proprietary, and trade secret information of its competitors.

- DCR claims that “[b]ecause the CAISO alleges that ‘other Approved Project Sponsors clearly know how to include wording in their bid that indicates the binding cost cap is subject to a future inflation adjustment,’ ... DCRT has the right to request information on the negotiation of other APSAs, as well as the administration, evaluation, and interpretation of the cost caps, final costs, and cost reports related to the APSAs of the other Approved Project Sponsors, to evaluate the CAISO’s statements.”
- The scope of this request plainly exceeds the level of information needed to verify whether the CAISO’s witness was correct in stating that “other Approved Project Sponsors clearly know how to include wording in their bid that indicates the binding cost cap is subject to a future inflation adjustment.”
- DCR’s desire to second-guess the judgments and conclusions of CAISO do not override CAISO’s interests in protecting the integrity of its solicitations by ensuring a competitive and robust pool of bidders.
 - For these same reasons, releasing the requested information pursuant to a protective order, even the more bespoke protective order applicable to this proceeding, is insufficient to protect the interests of CAISO. Once released to DCR, and only DCR, a direct competitor to the other bidders in this and future solicitations, DCR would have an improper advantage through its access to the bid details, strategy, and proprietary information of its competitors, as well as CAISO’s internal decision-making and evaluation process. This information asymmetry and the harm it would do to the competitive process cannot be rectified if this information is released.

- **Harm to CAISO and the Competitive Bid Process**
- FERC has recognized the harm that can occur in a competitive marketplace if bidding parties have knowledge of other bidding parties' strategies and behavior and that, for example, unmasking parties' bids in a competitive bidding process could result in market-damaging collusion. See, e.g., *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, 125 FERC ¶ 61,071, at P 432 (2008); see also *Cent. Hudson Gas & Elec.*, 86 FERC ¶ 61,062, at P 61,204 (1999) (explaining that the basis for keeping bid data confidential for six months is to prevent collusive behavior).
 - In Order No. 719-A, FERC rejected a request to make bidding behavior and identities public, recognizing that market participants might use such information to gain a “competitive advantage, or to eliminate the competitive advantage of another entity.” *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719-A, 128 FERC ¶ 61,059, at P 153-57 (2009).
 - FERC has noted that the sharing of certain types of information between market parties could result in collusion. See, e.g., *San Diego Gas & Elec. Co.*, 95 FERC ¶ 61,115, at P 61,364 (2001) (“The amount particular competitors bid is generally considered confidential business information. Disclosure of such information may lead to a reduction in competition because it will allow competitors to learn what their competitors are bidding and could lead to price collusion or coordination.”).
- In the capacity auction context, FERC has explained that “revealing resource-specific bid data [in a capacity auction] would result in such harm to the Forward Capacity Market that it cannot be provided to parties, even though a non-

disclosure agreement. *ISO New England Inc.*, 148 FERC ¶ 61,137, at P 20 (2014).

- Specifically, FERC was concerned that revealing information related to the capacity auctions, costs and prices, and bidder behaviors “could harm the market participants that provided such information and adversely affect the competitiveness of future capacity auctions. Contrary to the assertions made by EMCOS, this information is not “stale,” as it is predictive of resources’ bidding behavior in future auctions. Given the ongoing relevance of this information, we are concerned that market participants could use this information in order to gain a competitive advantage in future auctions.” *Id.*
- The same rationales that led FERC to uphold the confidentiality of bids in the capacity market context apply with equal force to the CAISO solicitation process: the disclosure of bid information necessarily undermines the competitive process and could lead to collusion.
- **Harm to the Bidders**
- FERC has also recognized the harm to the bidders themselves
 - In *ISO New England Inc.*, 148 FERC ¶ 61,137, at P 20 (2014), FERC was specifically concerned that revealing information related to the capacity auctions, costs and prices, and bidder behaviors “could harm the market participants that provided such information and adversely affect the competitiveness of future capacity auctions. Contrary to the assertions made by EMCOS, this information is not “stale,” as it is predictive of resources’ bidding behavior in future auctions. Given the ongoing relevance of this information, we are concerned that market participants

could use this information in order to gain a competitive advantage in future auctions.” *Id.*

- Revealing confidential bids in this proceeding would put the affected transmission developers at a significant competitive disadvantage, as other competitive suppliers (including DCR) would have information about the affected transmission developers that they would not have about DCR.
 - In addition to the bidder’s own information, the bid contain confidential or proprietary information from third parties, such as engineering data, soil boring analysis, or geological data that is subject to separate confidentiality protections between the bidder and those third parties.
- Furthermore, FERC ALJs have acknowledged the particular harm to bidders where the party seeking access to their bid data was a competitor.
 - In *Entergy Services Inc., et al.*, Docket No. ER03-583, the presiding ALJ denied a motion to compel: “when weighed against the fact that the information is of the highest magnitude of commercial sensitivity for bidders that are not parties to the proceeding but are competitors of [movant], [movant] failed to show that there was a specific need for the third-party nonaffiliated bid data. While [movant] offered to have the information turned over only to its outside counsel in the first instance, any further attempt to use it for the hearing would quickly lead to the concern that there would be a need to make a further disclosure to other persons. Therefore, on balance for this combination of reasons, [the] motion was denied.” Order Summarizing Rulings on Motions to Compel, (June 14, 2004) (J. Brenner) (Unreported).
- Similar harms to the bidder are present here.

- The transmission developers who provided this information, conversely, have a significant interest in its confidentiality because their bids and the associated negotiations with CAISO contain commercially sensitive, proprietary, and trade secret information.
- Providing the Confidential Information pursuant to a non-disclosure agreement will not adequately protect the interests of the transmission developers who provided the Confidential Information, because the information would be available to any transmission developers competitor that executes a non-disclosure agreement.

Another impacted project sponsor requested that the CAISO make the following arguments:

- **Unduly burdensome request**

- This motion, and the result of granting the motion, diverts CAISO resources from the hearing itself and multiple competitive solicitations that CAISO is currently conducting
- The motion to compel and disclosure of the requested materials would produce no material of substance that Lotus does not already have in its possession by way of the executed APSAs previously produced in this proceeding
 - It would give Lotus insight into business strategies of its competitors that were submitted under the pretext that bids would be confidential

- **Motions are inconsistent with the competitive guardrails baked into the CAISO competitive solicitation process, and granting them will have a chilling effect on future competition**
 - The risk of competitive harm to other participants in CAISO's competitive solicitation process substantially outweighs any alleged probative value of the materials requested
 - If Qualified Bidders have reason to believe that their confidential submissions can be pulled into litigation by competitors years later, participation in competitive solicitations will decline, undermining FERC's own policy goals around competitive transmission development
- **The competitive harm caused by granting the motions is concrete and irreparable**
 - Competitive bids contain proprietary pricing strategies, cost structures, risk assumptions, and supplier relationships. Disclosure to a direct competitor—even through a formal FERC proceeding—causes real competitive harm that cannot be undone. This is not merely speculative injury
- **Confidentiality provisions in the bids were bargained for and legally binding**
 - CAISO's competitive solicitation process explicitly promised confidentiality to bidders. That promise induced participation and shaped how bids were structured. Unraveling those protections retroactively undermines the integrity of future competitive solicitations, not just this one
 - Designation of requested materials as "PRIV H/C" does not mitigate the potential for competitive harm because non-competitive signatories could become competitive personnel at any moment

- **Lotus has less invasive alternatives to the materials the motion to compel seeks to produce**
 - CAISO can provide aggregated, anonymized, or redacted data addressing Lotus' comparability argument without exposing individual bids
 - Lotus should be required to exhaust those alternatives first
- **The requests are overbroad and disproportionate**
 - Lotus' underlying dispute is about its own cost recovery, not a broad audit of CAISO's procurement practices. Competitors' bids spanning years go far beyond what is necessary to resolve whether Lotus is entitled to cost recovery. FERC's discovery standards, like most, require proportionality between the request and the claim at issue
- **Seeks information that is duplicative of information already provided in discovery (duplicative and burdensome)**
 - The substance that Lotus seeks to gain via these motions is already memorialized in Appendix E of the APSAs in Lotus' possession via this proceeding
 - Appendix E is generally a faithful recitation of what was in the bid

The CAISO requests that the Presiding Judge consider these arguments as part of Your Honor's deliberations on the Motions to Compel.

In light of the importance of the attached position statements and the additional legal arguments set forth in this motion to the issues being considered during the oral argument on DCRT's Motions to Compel scheduled for April 6, 2026, the CAISO respectfully requests that the Presiding Judge establish a shortened comment period for any written answers to this motion to supplement

so that they are due prior to the oral argument on April 6. This request is warranted because this motion is being filed on the deadline for answers to DCRT's March 31 Motion to Compel as set forth in the Presiding Judge's April 1, 2026, Order Setting Answer Period and Scheduling Oral Argument. The CAISO notes that all interested participants will have an opportunity to address this motion verbally during the April 6 oral argument.

II. Conclusion

For the foregoing reasons, the CAISO respectfully requests that Your Honor establish the requested shortened comment period, accept this motion to supplement the CAISO's April 2 Answer, and consider the additional legal arguments and position statements provided herein when ruling on the DCRT Motions to Compel.

Respectfully submitted,

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Dated: April 3, 2026

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 above-referenced dockets, pursuant to 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 3rd day of April, 2026.

/s/ Deiman Flores

Deiman Flores

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ATTACHMENT 1

March 30, 2026 Letter from Viridon to the CAISO



Verónica Gómez
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Chicago, IL 60654
773.551.1920
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March 30, 2026

Mr. Anthony Ivancovich
Deputy General Counsel
California Independent System Operator Corporation
250 Outcropping Way
Folsom, California 95630
aivancovich@caiso.com

Re: Viridon California LLC's Objection to Producing Confidential Information

Dear Mr. Ivancovich:

Viridon California LLC ("Viridon") on behalf of itself and California Grid Holdings LLC ("CalGrid") submits this letter pursuant to California Independent System Operator Corporation ("CAISO") Tariff Section 20.4(b), which requires the CAISO to cooperate with Market Participants in the course of administrative proceedings "to the maximum extent practicable to minimize the disclosure of [confidential] information consistent with applicable law." As described in detail below, Viridon strenuously objects to disclosing any confidential information related to the CAISO's competitive transmission solicitation process, including related bid or application materials and Approved Project Sponsor Agreements ("APSAs"). Disclosure of competitive bid information, even pursuant to a protective order, would have significant negative impacts on Viridon specifically and, more generally, on all Order No. 1000 competitive solicitation processes in the CAISO and nationwide. Viridon requests that the CAISO oppose any attempt to require disclosure through ongoing administrative proceedings.

Viridon understands that DCR Transmission, L.L.C. ("DCRT") filed a motion to compel the CAISO to produce responses to data requests in its ongoing Federal Energy Regulatory Commission ("FERC") rate case proceeding.¹ Viridon takes no position on DCRT's rate proceeding. Viridon seeks here to protect its own important interests that are directly implicated by DCRT's data request. That request seeks the bids materials, application documents, and executed contracts for competitive transmission projects awarded to parties other than DCRT. This data request potentially implicates highly confidential commercially sensitive materials submitted by or relating to Viridon and/or its subsidiary, CalGrid. Viridon and CalGrid's confidential

¹ Docket Nos. ER23-2309-000 et seq; ER24-1394-000 et seq; and EL26-34-000

Mr. Anthony Ivancovich

March 30, 2026

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information is specifically designated as confidential pursuant to CAISO Tariff Section 20.2(f), which provides that the CAISO must treat any “information received under CAISO Tariff Section 24.8 [the competitive solicitation process] as confidential to the extent designated in accordance with the Business Practice Manual.” Viridon, through CalGrid, properly designated competitive solicitation bid materials as confidential information pursuant to this provision. The CAISO should maintain that confidentiality to protect Viridon’s highly sensitive and proprietary information, including details regarding its business structure and financials, as well as other commercially sensitive materials, and to safeguard the integrity of the competitive solicitation process.

Viridon further objects to providing these materials under a protective order. The protective order in the ongoing DCRT rate case does not provide adequate protection for commercially sensitive competitive bid materials. Instead, it allows for disclosure of “Highly Confidential Privileged Material” to “Reviewing Representatives” that have signed a non-disclosure certificate.² This would allow review by in-house and outside counsel, experts retained by a party, and party employees that are not “Competitive Duty Personnel.”³ In practice, this means the protective order would allow DCRT’s counsel, experts, and any employees that are not “Competitive Duty Personnel” to access confidential bid materials for all CAISO awarded projects. Such an outcome is untenable and would fundamentally undermine the competitive solicitation process. There is no protection against such individuals engaging in “competitive activities” in the future and leveraging the confidential competitive bid materials to disrupt the competitive process and directly compete against Viridon and other developers. The protective order is inadequate to protect the commercially sensitive information at issue here.

Viridon appreciates the CAISO’s efforts to date in objecting to DCRT’s data requests for confidential bid information. Viridon requests that the CAISO continue these efforts to object to production to the maximum extent possible. Viridon is ready and willing to provide any assistance necessary to ensure these materials remain confidential.

Sincerely,

A handwritten signature in black ink, appearing to read "Veronica Gomez", with a stylized, cursive script.

Verónica Gómez

cc: Eric Gleason
Fanny Kidwell Langlois
Jordan Pinjuv
by electronic delivery

² <https://elibrary.ferc.gov/eLibrary/filedownload?fileid=79817F4F-1175-C464-9405-99F293900000>, at page 5-6.

³ Id. at 6.

ATTACHMENT 2

April 2, 2026 Email from Viridon to the CAISO

From: Verónica Gómez <veronica@viridon.com>

Sent: Thursday, April 2, 2026 1:55 PM

To: Ivancovich, Anthony <Alvancovich@caiso.com>

Cc: Pinjuv, Jordan <JPinjuv@wbklaw.com>

Subject: [EXTERNAL] Re: Viridon/CalGrid Objection to Disclosing Confidential Information

Mr. Ivancovich:

As a supplement to Viridon California LLC's ("Viridon") March 30, 2026, letter objecting to producing confidential information ("March 30 letter"), Viridon provides this additional objection in response to DCR Transmission L.L.C.'s ("DCRT") subsequent March 31, 2026, Motion to Compel ("second motion"). Viridon objects to producing confidential information in response to the second motion on the same grounds as those provided in its March 30 Letter. In addition, Viridon provides additional clarification that the Approved Project Sponsor Agreements ("APSAs") executed by Viridon's development subsidiary, California Grid Holdings LLC (CalGrid), accurately reflect the company's bids into the CAISO competitive solicitation process.

Viridon appreciates the CAISO's efforts to maintain confidentiality of the competitive information at issue in DCRT rate case. To the extent the Administrative Law Judge grants DCRT's motions to compel the CAISO to produce confidential competitive information, Viridon requests the CAISO

pursue interlocutory appeal, or a similar procedural mechanism, to continue to press protection of these important rights of Viridon and other affected parties and allow Viridon an opportunity to directly participate to challenge any disclosure of its information, as necessary and appropriate.

Please do not hesitate to contact me if you would like to discuss this.

Sincerely,

Verónica



Verónica Gómez | General Counsel & Chief Administrative Officer

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