

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

New PURPA Section 210(m) Regulations) **Docket No. RM06-10-000**
Applicable to Small Power Production and)
Cogeneration Facilities)

**COMMENTS OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION ON NOTICE OF PROPOSED RULEMAKING**

The California Independent System Operator Corporation (“CAISO”) hereby submits its Comments in response to the Notice of Proposed Rulemaking (“NOPR”) concerning New PURPA Section 210(m) issued on January 19, 2006 by the Federal Energy Regulatory Commission (“Commission”) and noticed in the Federal Register on January 27, 2007 at 71 Fed. Reg. 4532-01 (2006).

I. BACKGROUND

The purpose of the proposed rulemaking is to determine amendments the Commission should make to its regulations governing small power production and cogeneration in response to Section 1253 of the Energy Policy Act of 2005 (“EPAct 2005”), which added Section 210(m) to the Public Utility Regulatory Policies Act of 1978 (“PURPA”). PURPA Section 210(m) provides for termination of an electric utility’s obligation to purchase energy and capacity from qualifying cogeneration facilities and qualifying small power production facilities (“QFs”) if the Commission finds that certain conditions are met. The NOPR proposes a framework for the Commission’s determination of whether electric utilities will be exempt from the PURPA mandatory purchase obligation as otherwise provided in PURPA Section 210. Among other things, the Commission proposes to find that electric utilities that are members of specified

independent system operators (“ISOs”) and regional transmission organizations (“RTOs”) meet the criteria under Section 210(m) for exemption from the mandatory purchase obligation. The Commission seeks comments on this and other issues raised in the NOPR.

II. COMMUNICATIONS AND INTEREST

The CAISO is a non-profit public benefit corporation organized under the laws of the State of California with its principal place of business at 151 Blue Ravine Road, Folsom, CA 95630. The CAISO is the Control Area operator responsible for the reliable operation of the electric grid comprising the transmission systems of a number of utilities, as well as the coordination of the ancillary services and real-time electricity markets in California. The CAISO is a Commission-approved ISO.

The CAISO requests that all communications and notices concerning these comments and these proceedings be provided to:

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III. EXECUTIVE SUMMARY

The CAISO appreciates the opportunity to comment on the proposed rules. The CAISO supports the efforts of the Commission to implement the subject provisions of EAct 2005. The purpose of these comments is to provide the views of the CAISO specifically regarding the provisions of the Commission’s NOPR with respect to the

effect of PURPA Section 210(m) on the status of QFs operating in the CAISO Control Area.

As discussed in more detail below, the CAISO believes that the Commission's proposed rules implementing Section 210(m) should result in the Commission finding that, once the CAISO has implemented the proposed day-ahead energy market as part of its Market Redesign and Technology Upgrade ("MRTU"), QFs interconnected with electric utilities that are members of the CAISO will have nondiscriminatory access to that market and that market meets the Section 210(m)(1)(A) criteria for removing the obligation of those electric utilities to enter into new contracts or obligations with QFs.

IV. SPECIFIC COMMENTS

Section 1253(a) of EPCRA 2005 adds subsection (m)(1) to Section 210 of PURPA. Subsection 210(m) terminates the mandatory purchase and sale requirements of Section 210 of PURPA upon findings of the Commission that a QF has nondiscriminatory access to: (A) independently administered, auction based day-ahead and real time wholesale markets *and* wholesale markets for long-term sales of capacity and energy; *or* (B) transmission and interconnection services provided by a Commission-approved regional transmission entity administered through a tariff that ensures nondiscriminatory treatment *and* competitive wholesale markets for long-term, short-term and real-time sales; *or* (C) comparable competitive wholesale markets. Once the Commission makes such findings, electric utilities will not be obligated to enter into a new contract or otherwise be obligated to purchase energy from a QF.

In the NOPR, the Commission interprets Section 210(m)(1)(A) to apply in regions in which ISOs and RTOs administer day-ahead and real-time markets, and bilateral

long-term contracts for the sale of capacity and electric energy are available to participants/QFs in these markets. NOPR at P 22. The Commission proposes to find that the Midwest ISO, PJM, ISO-NE, and NYISO satisfy the requirements of Section 210(m)(1)(A). *Id.* In conjunction with this proposed finding, the Commission states in the NOPR: “While Southwest Power Pool, Inc. (SPP) and the California Independent System Operator Corporation (Cal ISO), respectively are a Commission-approved RTO and ISO, they do not satisfy the requirements of Section 210(m)(1)(A) because neither has day-ahead markets.” NOPR at P 22, fn. 15.

While the NOPR is correct that the CAISO currently does not operate a day-ahead energy market, the CAISO is proposing to establish such a market upon the implementation of its MRTU Tariff. The CAISO filed its proposed MRTU Tariff on February 9, 2006, Docket No. ER06-615, and requested an effective date of November 1, 2007. The MRTU Tariff provides for operation of a “Day-Ahead Market,” in which Scheduling Coordinators can submit bids for energy and other services into a market that is closed in advance of the trading day. See MRTU Tariff, Section 31. With the addition of its proposed Day-Ahead Market, the CAISO believes that it would satisfy all of the requirements under Section 210(m)(1)(A). The CAISO anticipates that the Commission will be able to issue a finding that, as of the effective date of the Day-Ahead Market provisions of the CAISO’s MRTU Tariff, all electric utilities that are members of the CAISO will meet the requirements of Section 210(m)(1)(A). The CAISO requests that the Commission confirm this expectation in its final rulemaking.

V. CONCLUSION

The CAISO respectfully requests that the Commission clarify in its final rulemaking in this proceeding that as of the effective date of the Day-Ahead Market provisions of the CAISO's MRTU Tariff, all electric utilities that are members of the CAISO will meet the requirements of Section 210(m)(1)(A).

Respectfully submitted,

/s/ Sidney Mannheim Davies

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Date: February 27, 2006



February 27, 2006

VIA ELECTRONIC FILING

The Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: New PURPA Section 210(m) Regulations Applicable to Small Power
Production and Cogeneration Facilities
Docket No. RM06-10-000**

Dear Secretary Salas:

Transmitted herewith for electronic filing in the above-referenced proceedings is
Comments of the California Independent System Operator Corporation on the Notice of
Proposed Rulemaking in the aforementioned docket.

Thank you for your attention to this matter.

Yours truly,

/s/ Sidney Mannheim Davies

Sidney Mannheim Davies
Assistant General Counsel

Counsel for the California Independent
System Operator Corporation

Enclosure

cc: Service List

CERTIFICATE OF SERVICE

I hereby certify that I have, this 27th day of February 2006, caused to be served a copy of the forgoing document upon all parties listed on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

/s/ Sidney Mannheim Davies
Sidney Mannheim Davies