

July 20, 2010

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: California Independent System Operator Corporation,  
Docket No. ER10-\_\_\_-000  
Tariff Amendment Regarding Administration of ADR**

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act<sup>1</sup> and Section 35.15 of the regulations of the Federal Energy Regulatory Commission,<sup>2</sup> and in compliance with Order No. 714 regarding electronic filing of tariff submittals,<sup>3</sup> the California Independent System Operator Corporation or “ISO” submits for filing the attached amendments to its Fifth Replacement FERC Electric Tariff. These amendments assign responsibility for administering the process of alternative dispute resolution to a designated ISO employee, and make additional revisions to ensure fairness when the ISO is a party to a dispute.

**I. BACKGROUND**

Section 13 of the ISO tariff details the process for resolving disputes that arise under the tariff and related documents, known as alternative dispute resolution or “ADR.” The ISO’s ADR process can involve negotiation, mediation, or arbitration, as well as appeals of arbitration awards to the Commission or a court. In order to administer this process, the ISO must publish summary information regarding claims, decisions, and appeals, maintain lists of qualified potential mediators<sup>4</sup> and arbitrators, and resolve certain procedural disputes that arise between parties.<sup>5</sup> These administrative responsibilities are currently assigned to a committee of the

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<sup>1</sup> 16 U.S.C § 824d.

<sup>2</sup> 18 C.F.R. § 35.15.

<sup>3</sup> 124 FERC ¶ 61,270 (2008).

<sup>4</sup> ISO FERC Electric Tariff § 13.2.3.

<sup>5</sup> *Id.* §§ 13.2.2 and 13.3.2.

ISO's Board of Governors. This committee is also responsible for compiling standard procedures for arbitration of disputes.<sup>6</sup>

The proposed tariff amendment reassigns these responsibilities to an ISO employee selected by the Chief Executive Officer. The change stems from a broader review of the ISO's corporate documents, including its committee charters, which concluded that it is not necessary to involve the Board of Governors in ADR administration. Reassigning this responsibility will permit the "ADR/Audit Committee" to focus exclusively on its core function of overseeing audits, compliance, and controls.

This amendment does not represent a significant change from current practice. In October 2007, to ensure that its responsibilities could be fulfilled between Board meetings, the ADR/Audit Committee delegated its administrative functions to the General Counsel. This tariff amendment will essentially formalize that delegation. Moreover, it will bring the California ISO's tariff in line with other independent system operators and regional transmission organizations. Both PJM and the New York ISO assign coordinating responsibility to a staff position, PJM having eliminated its governing board committee last year.<sup>7</sup>

## II. STAKEHOLDER PROCESS

In April 2010, the ISO initiated a stakeholder process by posting for review and comment a white paper that explained the suggested amendment together with draft tariff language.

One written comment was submitted by the California Municipal Utilities Association ("CMUA"). It raised a concern about the draft tariff provision regarding selection of mediators, suggesting that it be revised to parallel the provision regarding selection of arbitrators, which is based on a list of candidates provided by AAA. The draft had used a list of mediator candidates provided by the ISO. On April 23, 2010, the ISO hosted a conference call to discuss the proposed amendment and answer questions. During this call, the ISO explained that it would address the concerns of CMUA by revising the provision about selection of mediators to use a list of candidates supplied by AAA in the event that the parties could not agree on a mediator from other sources. No other concerns were raised during the call.

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<sup>6</sup> *Id.* § 13.3.3.

<sup>7</sup> Docket No. ER09-1583 (2009) (PJM filed tariff amendment on August 14 2009; it was accepted on October 8, 2009); NYISO FERC Electric Tariff § 1.10(d) (2010) (NYISO defines "Dispute Resolution Administrator" as "[a]n individual hired by the ISO to administer the Dispute Resolution Process established in the ISO Tariffs and ISO Agreement"), available at [http://www.nyiso.com/public/webdocs/documents/tariffs/oatt/body\\_oatt.pdf](http://www.nyiso.com/public/webdocs/documents/tariffs/oatt/body_oatt.pdf).

### III. DESCRIPTION OF PROPOSED AMENDMENT

The proposed amendment reassigns the administrative responsibilities of the “CAISO ADR Committee” to a “CAISO ADR Coordinator,” who is defined as an employee selected by the Chief Executive Officer.<sup>8</sup> Throughout Section 13, the term “CAISO ADR Coordinator” is substituted for “CAISO ADR Committee.”<sup>9</sup>

In addition, certain minor revisions were made to ensure fairness to litigating parties. Because the ISO has been a party to nearly every dispute that has proceeded beyond the negotiation phase, it is important that the CAISO ADR Coordinator not be in a position to make decisions that could be perceived as unfairly favoring the ISO. Accordingly:

- While the currently effective tariff allows the chair of the CAISO ADR Committee, to grant extensions of time to respond to a statement of claim, the proposed amendment would allow such extensions only by “mutual agreement of the parties.”<sup>10</sup>
- If the parties wish to mediate but cannot agree on mediator, they will proceed to strike names from a list of candidates supplied by AAA, instead of the ISO.<sup>11</sup>
- Similarly, the proposed amendment would have arbitrators select from a list supplied by AAA, rather than by the ISO.<sup>12</sup>
- Finally, AAA will resolve any objections to the use of an arbitrator who is selected by the procedures, but discloses a possible conflict of interest.<sup>13</sup> The currently effective language specifies that these disputes will be resolved by the ISO ADR Committee.

Finally, the amendment updates the requirements for publishing notices of claims and other procedural developments of interest to market participants that have not been parties. The currently effective language, which requires notice in, among other places, a “newsletter or electronic bulletin board,” is replaced with a reference

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<sup>8</sup> Attachment B, Master Definition Supplement.

<sup>9</sup> Id. §§ 13.2.2, 13.2.3, 13.2.4, 13.2.5, 13.3.3, 13.3.11.1, 13.3.11.2, 13.4.3.1, 13.4.4.

<sup>10</sup> Id. § 13.2.2.

<sup>11</sup> Id. § 13.2.3.

<sup>12</sup> Id. § 13.3.1.1 and 13.2.1.2.

<sup>13</sup> Id. § 13.3.2.

to the ISO website.<sup>14</sup> To ensure the broadest possible notice of new claims, the proposed amendment requires that, in addition to the means of publication already specified, summaries must also be published by market notice.<sup>15</sup>

#### **IV. EFFECTIVE DATE**

The ISO requests an effective date of September 19, 2010, 61 days from the date of this filing.

#### **V. CONTENTS OF FILING**

In addition to this transmittal letter, the instant compliance filing includes two sets of Tariff sheets, identified as Attachments A through B.

**Attachment A** – Revised Tariff Sheets – Clean

**Attachment B** – Revised Tariff Sheets - Blackline

#### **VI. COMMUNICATIONS**

Correspondence and other communications regarding this filing should be directed to:

Daniel J. Shonkwiler\*  
California Independent System  
Operator Corporation  
151 Blue Ravine Road  
Folsom, CA 95630  
Tel: (916) 351-4400  
Fax: (916) 351-2350  
dshonkwiler@caiso.com

\* Parties designated for service.

#### **VII. SERVICE**

The ISO has served copies of this filing on the Public Utilities Commission of the State of California, the California Energy Commission, and all parties with

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<sup>14</sup> Id. §§ 13.2.2, 13.2.4, 13.2.5, 13.3.11.1, 13.3.11.2, 13.4.3.1, 13.4.4.

<sup>15</sup> Id. § 13.2.2.

Scheduling Coordinator Agreements under the ISO tariff. In addition, the ISO has posted a copy of the filing on the ISO website.

### **VIII. CONCLUSION**

The ISO respectfully requests that the Commission accept its proposed amendment. Please contact the undersigned if you have any questions concerning this matter.

/s/ Daniel J. Shonkwiler  
Daniel J. Shonkwiler  
California Independent System  
Operator Corporation  
151 Blue Ravine Road  
Folsom, CA 95630  
Tel: (916) 351-4400

**Attachment A – Clean Sheets**  
**California Independent System Operator Corporation**  
**Fifth Replacement FERC Electric Tariff**  
**Alternative Dispute Resolution Amendment**

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**13.2.2 Statement Of Claim**

In the event a dispute is not resolved through such good-faith negotiations, any one of the parties may submit a statement of claim, in writing, to each other disputing party, and the CAISO ADR Coordinator, which submission shall commence the CAISO ADR Procedures. The statement of claim shall set forth in reasonable detail (i) each claim, (ii) the relief sought, including the proposed award, if applicable, (iii) a summary of the grounds for such relief and the basis for each claim, (iv) the parties to the dispute, and (v) the individuals having knowledge of each claim. The other parties to the dispute shall similarly submit their respective statements of claim within fourteen (14) days of the date of the initial statement of claim or such longer period as permitted by mutual agreement of the parties. If any responding party wishes to submit a counterclaim in response to the statement of claim, it shall be included in such party's responsive statement of claim. A summary of the statements of claim shall be published by the CAISO on the CAISO Website, by Market Notice, and any other method chosen by the CAISO ADR Coordinator. No Market Participant shall be considered as having received notice of a claim decided or relief granted by a decision made under these procedures unless the summary of the statements of claim published by the CAISO includes such claim or relief.

**13.2.3 Selection Of Mediator**

After submission of the statements of claim, the parties may request mediation, if at least seventy-five percent (75%) of the disputing parties so agree, except that where a dispute involves three parties, at least two of the parties must agree to mediation. If the parties agree to mediate, the CAISO ADR Coordinator shall distribute to the parties by facsimile or other electronic means a list containing the names of at least seven prospective mediators with mediation experience, or with technical or business experience in the electric power industry, or both, as he or she shall deem appropriate to the dispute. The parties shall have seven days from receipt of the CAISO ADR Coordinator's list of prospective mediators to agree upon a mediator from the list provided or from any alternative source, , unless the time is extended by mutual agreement. If the parties cannot agree on a mediator, any party may request from the American Arbitration Association a list of at least seven mediators with technical or business experience in the electric power industry, or both. The parties will alternate in striking names from the list

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with the last name on the list becoming the mediator. The first party to strike off a name from the list shall be determined by lot. The parties shall have seven days from receipt of the list from the American Arbitration Association to complete the mediator selection process and appoint the mediator, unless the time is extended by mutual agreement. The mediator shall comply with the requirements of Section 13.3.2

**13.2.4 Mediation**

The mediator and representatives of the disputing parties, with authority to settle the dispute, shall within fourteen (14) days after the mediator's date of appointment schedule a date to mediate the dispute. Matters discussed during the mediation shall be confidential and shall not be referred to in any subsequent proceeding. With the consent of all disputing parties, a resolution may include referring the dispute directly to a technical body (such as a WECC technical advisory panel) for resolution or an advisory opinion, or referring the dispute directly to FERC. The CAISO shall publish notice of the referral of the dispute on the CAISO's Website, and any other method adopted by the CAISO ADR Coordinator.

**13.2.5 Demand For Arbitration**

If the disputing parties have not succeeded in negotiating a resolution of the dispute within thirty (30) days of the initial statement of claim or, if within that period the parties agreed to mediate, within thirty (30) days of the parties first meeting with the mediator, such parties shall be deemed to be at impasse and any such disputing party may then commence the arbitration process, unless the parties by mutual agreement agree to extend the time. A party seeking arbitration shall provide notice of its demand for arbitration to the other disputing parties, the CAISO ADR Coordinator, who shall publish notice of such demand on the CAISO Website, and any other method adopted by the CAISO ADR Coordinator.

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**13.3.1 Selection Of Arbitrator**

**13.3.1.1 Disputes Under \$1,000,000**

Where the total amount of claims and counterclaims in controversy is less than \$1,000,000 (exclusive of costs and interest), the disputing parties shall select an arbitrator from a list containing the names of at

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least ten (10) qualified individuals supplied by the American Arbitration Association within fourteen (14) days following submission of the demand for arbitration. If the parties cannot agree upon an arbitrator within fourteen (the) stated time, they shall take turns striking names from the list of proposed arbitrators. The first party to strike-off a name shall be determined by lot. This process shall be repeated until one name remains on the list, and that individual shall be the designated arbitrator.

**13.3.1.2 Disputes of \$1,000,000 or Over**

Where the total amount of claims and counterclaims in controversy is \$1,000,000 or more (exclusive of interest and costs), the disputing parties may agree on any person to serve as a single arbitrator, or shall endeavor in good faith to agree on a single arbitrator from a list of ten (10) qualified individuals provided by the American Arbitration Association within fourteen (14) days following submission of the demand for arbitration. If the parties are unable to agree on a single arbitrator within the stated time, the party or parties demanding arbitration, and the party or parties responding to the demand for arbitration, shall each designate an arbitrator. Each designation shall be from the list of arbitrators no later than the tenth (10th) day thereafter. The two arbitrators so chosen shall then choose a third arbitrator.

**13.3.2 Disclosures Required Of Arbitrators**

The designated arbitrator(s) shall be required to disclose to the parties any circumstances which might preclude him or her from rendering an objective and impartial determination. Each designated arbitrator shall disclose:

- (a) Any direct financial or personal interest in the outcome of the arbitration;
- (b) Any information required to be disclosed by California Code of Civil Procedure Section 1281.9.; and
- (c) Any existing or past financial, business, professional, or personal interest that are likely to affect impartiality or might reasonably create an appearance of partiality or bias.

The designated arbitrator shall disclose any such relationships that he or she personally has with any party or its counsel, or with any individual whom he or she has been told will be a witness. Designated

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arbitrators should also disclose any such relationship involving members of their families or their current employers, partners, or business associates. All designated arbitrators shall make a reasonable effort to inform themselves of any interests or relationships described above. The obligation to disclose interests, relationships, or circumstances that might preclude an arbitrator from rendering an objective and impartial determination is a continuing duty that requires the arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances that arise, or are recalled or discovered. If, as a result of the continuing disclosure duty, an arbitrator makes a disclosure which is likely to affect his or her partiality, or might reasonably create an appearance of partiality or bias or if a party independently discovers the existence of such circumstances, a party wishing to object to the continuing use of the arbitrator must provide written notice of its objection to the other parties within ten (10) days of receipt of the arbitrator's disclosure or the date of a party's discovery of the circumstances giving rise to that party's objection. Failure to provide such notice shall be deemed a waiver of such objection. If a party timely provides a notice of objection to the continuing use of the arbitrator the parties shall attempt to agree whether the arbitrator should be dismissed and replaced in the manner described in Section 13.3.1. If within ten (10) days of a party's objection notice the parties have not agreed how to proceed, the matter shall be referred to the American Arbitration Association for resolution.

**13.3.3 Arbitration Procedures**

The CAISO ADR Coordinator shall compile and make available to the arbitrator and the parties standard procedures for the arbitration of disputes, which procedures (i) shall include provision, upon good cause shown, for intervention or other participation in the proceeding by any party whose interests may be affected by its outcome, (ii) shall conform to the requirements specified herein, and (iii) may be modified or adopted for use in a particular proceeding as the arbitrator deems appropriate, in accordance with Section 13.3.4. The procedures adopted by the CAISO ADR Coordinator shall be based on the latest edition of the American Arbitration Association Commercial Arbitration Rules, to the extent such rules are not inconsistent with this Section 13. Except as provided herein, all parties shall be bound by such procedures.

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**13.3.11 Decision**

**13.3.11.1** Except as provided below with respect to "baseball" style arbitration, the arbitrator shall issue a written decision granting the relief requested by one of the parties, or such other remedy as is appropriate, if any, and shall include findings of fact and law. The arbitration decision shall be based on (i) the evidence in the record, (ii) the terms of the relevant CAISO Documents, (iii) applicable United States federal law, including the FPA and any applicable FERC regulations and decisions, and international treaties or agreements as applicable, and (iv) applicable state law. Additionally, the arbitrator may consider relevant decisions in previous arbitration proceedings. A summary of the disputed matter and the arbitrator's decision shall be published on the CAISO Website and any other method chosen by the CAISO ADR Coordinator.

**13.3.11.2** In arbitration conducted "baseball" style, the arbitrator shall issue a written decision adopting one of the awards proposed by the parties, and shall include findings of fact and law. The arbitration decision shall be based on (i) the evidence in the record, (ii) the terms of the relevant CAISO Documents, (iii) applicable United States federal law, including the FPA and any applicable FERC regulations and decisions, and international treaties or agreements as applicable, and (iv) applicable state law. If the arbitrator concludes that no proposed award is consistent with the factors enumerated in (i) through (iv) above, or addresses all of the issues in dispute, the arbitrator shall specify how each proposed award is deficient and direct that the parties submit new proposed awards that cure the identified deficiencies. A summary of the disputed matter and the arbitrator's decision shall be published on the CAISO Website, and any other method chosen by the CAISO ADR Coordinator. An award shall not be deemed to be precedential.

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**13.4.3 Procedures For Appeals**

**13.4.3.1** If a party to an arbitration desires to appeal an award, it shall provide a notice of appeal to the CAISO ADR Coordinator, all parties and the arbitrator within fourteen (14) days following the date of the award. The CAISO ADR Coordinator shall publish notice of the appeal on the CAISO Website, and any other method chosen by the CAISO ADR Coordinator.

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Within ten (10) days of the filing of the notice of appeal, the appealing party must file an appropriate application, petition or motion with the FERC to trigger review under the FPA or with a court of competent jurisdiction. Such filing shall state that the subject matter has been the subject of an arbitration pursuant to the relevant CAISO Document.

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**13.4.4 Award Implementation**

Implementation of the award shall be deemed stayed pending an appeal unless and until, at the request of a party, the FERC or the court of competent jurisdiction to which an appeal has been filed, issues an order dissolving, shortening, or extending such stay. However, a summary of each appeal shall be published on the CAISO Website, and any other method chosen by the CAISO ADR Coordinator.

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**CAISO Alternative Dispute Resolution Coordinator**

The individual designated by the CAISO CEO to perform functions assigned to the CAISO ADR Coordinator in the CAISO ADR Procedures in Section 13.

**Attachment B - Blacklines**  
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### 13.2.2 Statement Of Claim

-In the event a dispute is not resolved through such good-faith negotiations, any one of the parties may submit a statement of claim, in writing, to each other disputing party, ~~the CAISO ADR Committee,~~ and the CAISO ADR Coordinator~~Governing Board~~, which submission shall commence the CAISO ADR Procedures. The statement of claim shall set forth in reasonable detail (i) each claim, (ii) the relief sought, including the proposed award, if applicable, (iii) a summary of the grounds for such relief and the basis for each claim, (iv) the parties to the dispute, and (v) the individuals having knowledge of each claim. The other parties to the dispute shall similarly submit their respective statements of claim within fourteen (14) days of the date of the initial statement of claim or such longer period as permitted by mutual agreement of the parties.~~the chair of the CAISO ADR Committee may permit following an application by the responding party.~~ If any responding party wishes to submit a counterclaim in response to the statement of claim, it shall be included in such party's responsive statement of claim. A summary of the statements of claim shall be published by the CAISO on the CAISO Website, by Market Notice~~CAISO's secure communication system~~, and any other method chosen~~adopted~~ by the CAISO ADR Coordinator~~Committee~~. No Market Participant shall be considered as having received notice of a claim decided or relief granted by a decision made under these procedures unless the summary of the statements of claim published by the CAISO includes such claim or relief.

### 13.2.3 Selection Of Mediator

-After submission of the statements of claim, the parties may request mediation, if at least seventy-five percent (75%) of the disputing parties so agree, except that where a dispute involves three parties, at least two of the parties must agree to mediation. If the parties agree to mediate, the ~~chair of the CAISO ADR~~ Coordinator~~Committee~~ shall distribute to the parties by facsimile or other electronic means a list containing the names of at least seven prospective mediators with mediation experience, or with technical or business experience in the electric power industry, or both, as he or she shall deem appropriate to the dispute. The parties shall have seven days from receipt of the CAISO ADR Coordinator's list of prospective mediators ~~either~~ agree upon a mediator from the list provided or from any alternative source, unless the time is extended by mutual agreement. If the parties cannot agree on a mediator, any party may request from the American Arbitration Association a list of at least seven mediators with

technical or business experience in the electric power industry, or both. The parties will alternate in striking names from the list with the last name on the list becoming the mediator. The first party to strike off a name from the list shall be determined by lot. The parties shall have seven days from ~~the date of~~ receipt of the ~~CAISO ADR Committee chair's~~ list from the American Arbitration Association of prospective mediators to complete the mediator selection process and appoint the mediator, unless the time is extended by mutual agreement. The mediator shall comply with the requirements of Section 13.3.2.

#### **13.2.4 Mediation**

-The mediator and representatives of the disputing parties, with authority to settle the dispute, shall within fourteen (14) days after the mediator's date of appointment schedule a date to mediate the dispute. Matters discussed during the mediation shall be confidential and shall not be referred to in any subsequent proceeding. With the consent of all disputing parties, a resolution may include referring the dispute directly to a technical body (such as a WECC technical advisory panel) for resolution or an advisory opinion, or referring the dispute directly to FERC. The CAISO shall publish notice of the referral of the dispute on the CAISO's Website ~~secure communication system~~, and any other method adopted by the CAISO ADR Coordinator ~~Committee~~.

#### **13.2.5 Demand For Arbitration**

-If the disputing parties have not succeeded in negotiating a resolution of the dispute within thirty (30) days of the initial statement of claim or, if within that period the parties agreed to mediate, within thirty (30) days of the parties first meeting with the mediator, such parties shall be deemed to be at impasse and any such disputing party may then commence the arbitration process, unless the parties by mutual agreement agree to extend the time. A party seeking arbitration shall provide notice of its demand for arbitration to the other disputing parties, the CAISO ADR Coordinator, ~~who~~ ~~Committee~~ and the CAISO ~~Governing Board~~, ~~which~~ shall publish notice of such demand on the CAISO Website ~~newsletter or electronic bulletin board~~, and any other method adopted by the CAISO ADR Coordinator ~~Committee~~.

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#### **13.3.1 Selection Of Arbitrator**

##### **13.3.1.1 Disputes Under \$1,000,000**

-Where the total amount of claims and counterclaims in controversy is less than \$1,000,000 (exclusive of costs and interest), the disputing parties shall select an arbitrator from a list containing the names of at least ten (10) qualified individuals supplied by the ~~CAISO ADR Committee~~, or if the ~~CAISO is a party to the dispute~~, the names of at least ten (10) qualified individuals supplied by the American Arbitration Association within fourteen (14) days following submission of the demand for arbitration. If the parties cannot agree upon an arbitrator within fourteen (the) stated time, they shall take turns striking names from the list of proposed arbitrators. The first party to strike-off a name shall be determined by lot. This process shall be repeated until one name remains on the list, and that individual shall be the designated arbitrator.

### **13.3.1.2 Disputes of \$1,000,000 or Over**

-Where the total amount of claims and counterclaims in controversy is \$1,000,000 or more (exclusive of interest and costs), the disputing parties may agree on any person to serve as a single arbitrator, or shall endeavor in good faith to agree on a single arbitrator from a list of ten (10) qualified individuals provided by the ~~CAISO ADR Committee~~, or if the ~~CAISO is a party to the dispute~~, the names of at least ten (10) qualified individuals supplied by the American Arbitration Association within fourteen (14) days following submission of the demand for arbitration. If the parties are unable to agree on a single arbitrator within the stated time, the party or parties demanding arbitration, and the party or parties responding to the demand for arbitration, shall each designate an arbitrator. Each designation shall be from the ~~CAISO ADR Committee~~ list of arbitrators no later than the tenth (10th) day thereafter. The two arbitrators so chosen shall then choose a third arbitrator.

### **13.3.2 Disclosures Required Of Arbitrators**

-The designated arbitrator(s) shall be required to disclose to the parties any circumstances which might preclude him or her from rendering an objective and impartial determination. Each designated arbitrator shall disclose:

- \_\_\_\_\_-(a)- Any direct financial or personal interest in the outcome of the arbitration;
- \_\_\_\_\_-(b)- Any information required to be disclosed by California Code of Civil Procedure Section 1281.9.; and

\_\_\_\_\_-(c)- Any existing or past financial, business, professional, or personal interest that are likely to affect impartiality or might reasonably create an appearance of impartiality or bias.

-The designated arbitrator shall disclose any such relationships that he or she personally has with any party or its counsel, or with any individual whom he or she has been told will be a witness. Designated arbitrators should also disclose any such relationship involving members of their families or their current employers, partners, or business associates. All designated arbitrators shall make a reasonable effort to inform themselves of any interests or relationships described above. The obligation to disclose interests, relationships, or circumstances that might preclude an arbitrator from rendering an objective and impartial determination is a continuing duty that requires the arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances that arise, or are recalled or discovered. If, as a result of the continuing disclosure duty, an arbitrator makes a disclosure which is likely to affect his or her impartiality, or might reasonably create an appearance of impartiality or bias or if a party independently discovers the existence of such circumstances, a party wishing to object to the continuing use of the arbitrator must provide written notice of its objection to the other parties within ten (10) days of receipt of the arbitrator's disclosure or the date of a party's discovery of the circumstances giving rise to that party's objection. Failure to provide such notice shall be deemed a waiver of such objection. If a party timely provides a notice of objection to the continuing use of the arbitrator the parties shall attempt to agree whether the arbitrator should be dismissed and replaced in the manner described in Section 13.3.1. If within ten (10) days of a party's objection notice the parties have not agreed how to proceed, the matter shall be referred to the American Arbitration Association~~CAISO ADR Committee~~ for resolution.

### **13.3.3 Arbitration Procedures**

-The CAISO ADR Coordinator~~Committee~~ shall compile and make available to the arbitrator and the parties standard procedures for the arbitration of disputes, which procedures (i) shall include provision, upon good cause shown, for intervention or other participation in the proceeding by any party whose interests may be affected by its outcome, (ii) shall conform to the requirements specified herein, and (iii) may be modified or adopted for use in a particular proceeding as the arbitrator deems appropriate, in accordance with Section 13.3.4. The procedures adopted by the CAISO ADR Coordinator~~Committee~~

shall be based on the latest edition of the American Arbitration Association Commercial Arbitration Rules, to the extent such rules are not inconsistent with this Section 13. Except as provided herein, all parties shall be bound by such procedures.

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### **13.3.11 Decision**

**13.3.11.1** Except as provided below with respect to "baseball" style arbitration, the arbitrator shall issue a written decision granting the relief requested by one of the parties, or such other remedy as is appropriate, if any, and shall include findings of fact and law. The arbitration decision shall be based on (i) the evidence in the record, (ii) the terms of the relevant CAISO Documents, (iii) applicable United States federal law, including the FPA and any applicable FERC regulations and decisions, and international treaties or agreements as applicable, and (iv) applicable state law. Additionally, the arbitrator may consider relevant decisions in previous arbitration proceedings. A summary of the disputed matter and the arbitrator's decision shall be published on the~~in a CAISO Website newsletter or electronic bulletin board~~ and any other method chosen~~adopted by the CAISO ADR Committee, and maintained by the CAISO ADR Coordinator. Committee.~~

**13.3.11.2** In arbitration conducted "baseball" style, the arbitrator shall issue a written decision adopting one of the awards proposed by the parties, and shall include findings of fact and law. The arbitration decision shall be based on (i) the evidence in the record, (ii) the terms of the relevant CAISO Documents, (iii) applicable United States federal law, including the FPA and any applicable FERC regulations and decisions, and international treaties or agreements as applicable, and (iv) applicable state law. If the arbitrator concludes that no proposed award is consistent with the factors enumerated in (i) through (iv) above, or addresses all of the issues in dispute, the arbitrator shall specify how each proposed award is deficient and direct that the parties submit new proposed awards that cure the identified deficiencies. A summary of the disputed matter and the arbitrator's decision shall be published on the~~in a CAISO Website newsletter or electronic bulletin board~~, and any other method chosen~~adopted by the CAISO ADR Coordinator. Committee.~~ An award shall not be deemed to be precedential.

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### **13.4.3 Procedures For Appeals**

**13.4.3.1** If a party to an arbitration desires to appeal an award, it shall provide a notice of appeal to the CAISO ADR Coordinator~~Governing Board~~, all parties and the arbitrator within fourteen (14) days following the date of the award. The ~~appealing party must likewise provide notice to the~~ CAISO ADR Coordinator ~~Committee~~, which shall publish notice of the appeal on the CAISO Website~~CAISO's secure communication system~~, and any other method chosen~~adopted~~ by the CAISO ADR Coordinator ~~Committee~~.

-Within ten (10) days of the filing of the notice of appeal, the appealing party must file an appropriate application, petition or motion with the FERC to trigger review under the FPA or with a court of competent jurisdiction. Such filing shall state that the subject matter has been the subject of an arbitration pursuant to the relevant CAISO Document.

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### **13.4.4 Award Implementation**

-Implementation of the award shall be deemed stayed pending an appeal unless and until, at the request of a party, the FERC or the court of competent jurisdiction to which an appeal has been filed, issues an order dissolving, shortening, or extending such stay. However, a summary of each appeal shall be published on the~~in a CAISO Website newsletter or electronic bulletin board~~, and any other method chosen~~adopted~~ by the CAISO ADR Coordinator ~~Committee~~.

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## CAISO Appendix A

### Master Definitions Supplement+

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#### **CAISO Alternative Dispute Resolution ~~Committee~~ Coordinator**

The individual designated ~~Committee~~ appointed by the CAISO CEO ~~Governing Board~~ pursuant to Article IV, Section 3 of the CAISO bylaws to perform functions assigned to the CAISO ADR Coordinator ~~Committee~~ in the CAISO ADR Procedures in Section 13.

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