

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

**California Independent System) Docket Nos. ER10-1524-000
Operator Corporation) and ER06-615**

**MOTION FOR LEAVE TO FILE ANSWER, AND ANSWER TO MOTIONS TO
INTERVENE, COMMENTS AND PROTESTS OF THE CALIFORNIA
INDEPENDENT SYSTEM OPERATOR CORPORATION**

I. INTRODUCTION

On June 22, 2010, the California Independent System Operator Corporation (“ISO”) filed proposed amendments to the effective ISO Tariff¹ in order to implement Phase 2 of the standard capacity product (“SCP”). At the direction of the Commission,² and in conformance with Tariff Section 40.4.5,³ the ISO’s SCP II filing will extend the SCP availability measure to resource adequacy (“RA”) resources with qualifying capacity determined by historical output. It will also establish a three-month advisory period for the settlement of non-availability charges and availability incentive payments applicable to these resources, and clarify or correct other existing SCP provisions in ISO Tariff.

¹ Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

² *Cal. Indep. Sys. Operator Corp*, 127 FERC ¶ 61,298 at P 56 and 58 (2009) (June 26 Order); *Cal. Indep. Sys. Operator Corp*, 131 FERC ¶ 61,148 (2010) (May 20 Order”); and *Cal. Indep. Sys. Operator Corp*, 116 FERC ¶ 61,3274 at P 1218 (2006) (September 21 Order).

³ Tariff Section 40.4.5 provides that: “No later than 12 months after the effective date of this Section 40, the CAISO will issue a report outlining a proposal with respect to performance criteria for Resource Adequacy Resources. The CAISO will collaborate with the CPUC and other Local Regulatory Authorities to develop the performance criteria to be submitted to FERC. The Scheduling Coordinator for a Resource Adequacy Resource shall provide or make available to the CAISO, subject to the confidentiality provisions of this CAISO Tariff, all documentation requested by the CAISO to determine, develop or implement the performance criteria, including, but not limited to, NERC Generating Availability Data System data.”

Pursuant to the Commission's June 23, 2010 notice of filing, 13 entities filed motions to intervene, comments and protests with respect to the ISO's SCP II filing.⁴

The ISO has no objection to the interventions requested in this proceeding. In this Answer, the ISO will respond to the comments and protests, and will commit to making certain tariff clarifications and modifications they recommend in a compliance filing if directed by the Commission. The ISO requests that the Commission accept this commitment. In addition, the ISO will explain why the remainder of the comments and protests provide no valid basis for the Commission to reject or significantly modify the ISO's proposal and will demonstrate that its SCP II proposal is fair and reasonable, and should be approved by the Commission.

II. MOTION TO FILE ANSWER

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2007), the ISO hereby requests leave to file this answer to the comments, protests and motions to intervene submitted in the above-referenced proceeding. To the extent necessary, the ISO requests waiver of Rule 213(a)(2)(18), C.F.R. § 385.213(a)(2), to permit it to answer the protests. Good cause for this waiver

⁴ The following entities submitted only motions to intervene: NRG Power Marketing LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo Power LLC, Long Beach Generation, and LLC NRG Solar Blythe LLC (collectively "NRG Companies"); Pacific Gas and Electric Company ("PG&E"); Golden State Water Company ("GSWC"); Modesto Irrigation District ("MID"); Alliance for Retail Energy Markets ("AReM"); Cogeneration Association of California ("CAC"); and California Public Utilities Commission ("CPUC").

The following entities submitted motions to intervene and comments: the City of Santa Clara, California ("Santa Clara"), doing business as Silicon Valley Power ("SVP"), and the M-S-R Public Power Agency ("M-S-R") (collectively "SVP-MSR"); California Department of Water Resources State Water Project ("SWP"); and Southern California Edison Company ("SCE").

The following entities submitted motions to intervene and protests: Calpine Corporation and Dynegy Morro Bay, LLC, Dynegy Moss Landing, LLC, Dynegy Oakland, LLC, and Dynegy South Bay, LLC, (collectively "Calpine/Dynegy"); the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside California (collectively, "Six Cities"); and the California Wind Energy Association ("CalWEA").

exists because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case.⁵

III. ANSWER

A. Summary

The ISO's SCP II proposal results from an extensive stakeholder process.⁶ These efforts produced tariff revisions that have received considerable support from stakeholders, as evidenced by the fact that, beyond intervention requests, only three comments and three protests were submitted in response to the ISO's filing.

The ISO submits that the comments stakeholders did submit are narrowly focused and primarily aimed at clarifying certain aspects of the SCP II proposal. The comments of SVP/M-S-R seek clarification whether the ISO's proposed modification to ISO Tariff Section 11.5.2.3 that will credit non-availability funds above the cap to metered ISO demand through the real-time neutrality charge will include the metered demand of metered sub-systems. As discussed below, the allocation of these funds to metered ISO demand will include metered sub-systems. SCE's comments pose several clarifications and revisions to the ISO's proposed tariff language that, as indicated below, the ISO in large part finds acceptable. SCE also suggests that the ISO not impose consequences on scheduling coordinators for failing to submit outage data for qualifying facilities that are RA resources under SCP II. As explained below, the ISO is

⁵ See, e.g., *Entergy Services, Inc.*, 116 FERC ¶ 61,286 at P 6 (2006); *Midwest Independent Transmission System Operator, Inc.*, 116 FERC ¶ 61,124 at P 11 (2006); *High Island Offshore System, L.L.C.*, 113 FERC ¶ 61,202 at P 8 (2005); *Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002); *Duke Energy Corp.*, 100 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Co.*, 93 FERC ¶ 61,098, at 61,259 (2000).

⁶ The stakeholder process is described in the ISO's Filing Letter, pp. 8-10.

not proposing to change any existing provisions in ISO Tariff Section 37, Rules of Conduct, that may apply to the submission of outage data. SWP's comments address a grandfathering provision for non-resource specific RA resources, which the ISO explains is consistent with an existing exemption in the tariff that has already been approved by the Commission.

The limited nature of stakeholders' opposition to the SCP II proposal is further highlighted by the narrow range of the protests. One of the three protests suggests only that the proposed modification to allocating excess non-availability funds to metered ISO demand be implemented earlier than the January 1, 2011 effective date contemplated by the ISO.⁷ The ISO has no objection to that suggestion. The Calpine/Dynegy protest objects to a single aspect of SCP II – the hourly availability determination for an RA resource with qualifying capacity based on historical output as the greater of the proportionally de-rated percentage of the resource's RA capacity to its nameplate capacity or the actual energy the resource produced each hour. Calpine/Dynegy support use of only the proportional de-rate measure. In response to this protest, the ISO explains that taking the energy production of these resources into account in determining SCP availability is warranted and non-preferential because their qualifying capacity is calculated based on their historical energy production, which is a fundamentally different approach than the qualifying capacity calculation for thermal resources. CalWEA's protest argues that SCP should not be extended to intermittent resources because it will result in duplicative penalties for non-availability of the resource. The ISO submits that this argument should be rejected as a collateral attack

⁷ Limited Protest by Six Cities, pp. 3-4.

on prior Commission Orders that require the extension of SCP to these resources.

Accordingly, while a few of the parties have filed comments or protests regarding a particular aspect(s) of the ISO's proposal, these complaints fail to withstand scrutiny. The CAISO proposal is just and reasonable⁸ and should be approved by the Commission.

B. Application of SCP to Intermittent Resources

In its protest, CalWEA argues against the proposed extension of SCP to RA resources with qualifying capacity determined by historical data on the ground that its application to intermittent resources, such as solar and wind generators, will result in duplicative penalties for non-availability of the resource. CalWEA claims that renewable portfolio standard purchased power agreements already contain incentives to maintain high availability and that applying SCP to intermittent renewable resources under such agreements will cause the generator to be penalized twice for the same forced outage.

CalWEA's argument is nothing more than a collateral attack on the Commission's prior order that approved the ISO's initial SCP proposal. On June 26, 2009, the Commission issued an order that approved the ISO's tariff modification to adopt the SCP and the ancillary service must-offer obligation for RA resources.⁹ As proposed by the ISO and approved in that order, certain RA resources were temporarily exempt from

⁸ *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984), *cert denied*, 469 U.S. 917 (1984) (utility need establish that its proposed rate design is reasonable, not that it is superior to all alternatives).

⁹ *Cal. Indep. Sys. Operator Corp*, 127 FERC ¶ 61,298 (2009) (June 26 Order). On August 10, 2009, the ISO submitted a compliance filing in Docket No. ER09-1064-003 to make certain modifications to the SCP mechanism required in the June 26 Order. On May 20, 2010, the Commission issued an Order on Compliance Filing that conditionally accepted the ISO's compliance filing subject to further modification to eliminate use of a separate formula in instances where the resource's monthly availability is less than the resource's minimum operating value. *Cal. Indep. Sys. Operator Corp*, 131 FERC ¶ 61,148 (2010).

the SCP availability charges and payments, including resources whose qualifying capacity value is determined by the CPUC or a local regulatory authority using historical output that has not been adjusted to correct for the possible double-counting of outages. In the June 26 Order, however, the Commission emphasized that the exemptions were temporary and directed the ISO to work with stakeholders, the CPUC, and local regulatory authorities toward ending the exemptions in a timely manner. The Commission further directed the ISO to post a biannual status report on its website as a means for FERC and market participants to monitor the progress of efforts to sunset the exemptions and assess whether the efforts are unreasonably delayed. Clearly, if CalWEA objects to extending SCP to renewable intermittent RA resources it should have challenged the June 26 Order that determined that such resources would only be temporarily exempt from that performance metric and availability incentive provisions.

CalWEA's argument also glosses over the reason why the temporary exemption was appropriate at that time, but no longer justifies treating the RA resources with qualifying capacity based on historical output differently than other RA resources. In the first phase of SCP, the ISO did not apply SCP to RA resources whose qualifying capacity is determined by the CPUC or a local regulatory authority based on historical energy output data but did not exempt thermal RA resources whose qualifying capacity is based on maximum or nameplate capacity. In the initial SCP filing, the ISO explained that it was inappropriate at that time to apply SCP to the historical based resources given the manner in which the CPUC rules determine a resource's RA qualifying capacity which could, in combination with SCP, result in double counting of the impact of forced outages. The CPUC bases the qualifying capacity values for wind, solar, and

qualifying facility (“QF”) resources on the historical hourly energy each such resource has delivered to the ISO grid. To the extent these resources experience forced outages or de-rates, such outages or de-rates will affect the resources’ hourly energy deliveries, which the CPUC methodology then reflects in reduced qualifying capacity values for these resources for the following RA compliance year. If the resources were also subject to SCP, their qualifying capacity value would be reduced for the following year under the CPUC rules and they could be assessed an SCP unavailability charge in the current year due to the same forced outage or de-rate, which would essentially result in a “double penalty.”

Importantly, this potential for a “double penalty” no longer exists. Consistent with the Commission’s June 26 Order, the ISO participated in the CPUC’s RA proceeding, *Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local Procurement Obligations*, Docket No. RM09-10-032, to support eliminating the double counting issue so that the resources with qualifying capacity based on historical data may be included in SCP. On March 12, 2010, the ISO submitted comments that recommended that the CPUC modify its counting rules for RA resources whose qualifying capacity for RA purposes is based on historical actual hourly output data either to (1) eliminate forced outage and de-rate hours from the calculation of an RA resource’s qualifying capacity, or (2) use proxy energy output values for those hours. On June 25, 2010, the CPUC issued its decision in that proceeding (Decision 10-06-036) which changed the CPUC’s qualifying capacity calculation in order to eliminate the potential of the double penalty occurring with the ISO’s SCP beginning in the 2011 compliance year. The decision eliminates the

historical outage and de-rate data from the qualifying capacity calculation for these RA resources for the same hours as those included in the SCP availability calculation.¹⁰

Accordingly, ending the exemption for these resources is just and reasonable because it will: 1) ensure that there is no undue discrimination among or unduly preferential treatment for certain types of RA resources; 2) move toward the ultimate development and implementation of a long-term RA framework in which there is a uniform availability standard applicable to all RA resources; 3) align with a fundamental principle underlying both the RA program and SCP that the full amount of every resource's RA capacity should be available to the ISO, unless the resource is on a forced equipment outage or de-rate that diminishes its ability to provide the full amount of its RA capacity; 4) improve the availability of RA capacity by applying SCP, as a financial incentive measure, to these currently exempt RA resources; and 5) be consistent with the Commission's June 26 Order that made clear that the exemptions were temporary and directed the ISO to work with stakeholders, the CPUC and local regulatory authorities toward ending the exemptions in a timely manner.

The ISO submits that, to the extent the renewable portfolio standard purchased power agreements contain availability incentive measures similar to SCP, then the appropriate remedy for the resources is to seek grandfathering of those contracts, not a total exemption from SCP. Under SCP II, the purchased power contracts for the resources with qualifying capacity based on historical data supply RA capacity may be grandfathered from application of the SCP non-availability charges and availability incentive payments, provided that they meet criteria set forth in existing tariff provisions

¹⁰ D.10-06-036 , pp. 31-35.

and were executed or submitted for approval to the local regulatory authority prior to the date of the Commission order approving the SCP II proposal in this proceeding. Use of that date as the deadline for the grandfathering provisions for these resources is consistent with the deadline date the Commission established for grandfathering in the initial implementation of SCP.

C. Grandfathering Non-Resource Specific RA Resources

Under existing ISO Tariff Section 40.9.2(2), a resource specific power supply contract may be exempted from application of the SCP non-availability charges and availability incentive payments if it meets the specific criteria set forth in that provision. The ISO's SCP II proposal does not change that policy, The proposed SCP II tariff amendment to Section 40.9.2(2) is limited to extended eligibility to the existing exemption to the RA resources with qualifying capacity based on historical output data and changing the deadline date for those resources to be eligible for exemption.

SWP's comments request that the Commission direct the ISO to modify ISO Tariff Section 40.9.2 to expand the provision to allow non-resource specific power supply contracts, as well as resource specific power supply contracts, to be grandfathered for all types of resources, not just the RA resources with qualifying capacity based on historical output data. In support of this request, SWP claims that the ISO has not advanced a valid reason to support denial of SCP grandfathering to non-resource specific power supply contracts.

The ISO contends that one valid reason for rejecting SWP's request is that it represents a collateral attack on the Commission's June 26 Order that approved the initial adoption of SCP and the ancillary service must-offer obligation for RA resources.

In that decision, the Commission found the ISO's proposal to exempt existing contracts to be just and reasonable and allowed the grandfathering provision to become effective on June 28, 2009.¹¹ If SWP disagreed with that finding, it was incumbent on SWP to pursue its issue through an application for rehearing of the order. It failed to do so. As a result, SWP's request in this proceeding to expand that grandfathering provision to non-resource specific power supply contracts is an impermissible end-run on the prior Commission's prior order.

A second valid reason for rejecting SWP's request is that it exceeds the scope of this proceeding and seeks to introduce a tariff modification that is outside the subject matter in the filing before the Commission. The SCP II proposal and attendant tariff amendments proposed in the ISO's filing extend existing SCP provisions (with some modification) to RA resources with qualifying capacity determined by historical output and revise miscellaneous provisions to clarify or correct them. This is a narrow scope and subject matter. SWP, however, would have the Commission expand the grandfathering provision to non-resource specific power supply contracts for all types of RA resources. In essence, SWP is attempting to use this filing as a means to reverse Commission-approved policy, even though no change to that policy is included in the ISO's filing, and then apply that policy change to resources that are not covered by the filing and have no notice of a potential tariff change that would affect them. Such action is improper and should not be permitted by the Commission.

A third valid reason for rejecting SWP's request is that it ignores the rationale provided by the ISO during the initial SCP stakeholder process that explained why it

¹¹ June 26 Order, P 65.

was appropriate to grandfather only resource-specific power supply contracts that meet the specified criteria. The grandfathering provision was proposed as a transitional measure in an effort to avoid duplicative or potentially conflicting availability standards under SCP and existing contractual arrangements for RA capacity. The ISO limited eligibility for grandfathering to resource-specific power supply contracts, where a single RA resource has no recourse to avoid duplication or conflicting availability standards or non-availability penalties. In contrast, RA resources under multiple-resource power supply contracts have the means to avoid duplicative or conflicting availability standards simply by offering RA capacity from one of the other resources under the contract or in the portfolio. It is unnecessary to go so far as to exempt multiple-resource power supply contracts from application of SCP non-availability charges and availability incentive payments since they already have a ready means of maintaining availability by using another resource under the contract or in the portfolio in order to avoid such duplicate or conflicting provisions,

D. Availability Calculation

The SCP II proposal modifies the formula that will be applied to determine the SCP availability of RA resources with a qualifying capacity based on historical output. The proposal adds proportional de-rated capacity as a component of the calculation to recognize that any forced outage or temperature-related ambient de-rate that reduce the resource's capacity below its maximum or nameplate capacity during an SCP assessment hour will proportionately reduce its ability to fully deliver its net qualifying capacity in that hour. The use of this methodology for resources with qualifying capacity based on historical hourly energy output is necessary to account for the fundamental

difference between them and the thermal resources covered by the original SCP proposal, whose qualifying capacity is calculated based on their maximum or nameplate capacity. The SCP II proposal also adds a component to the availability determination to consider whether the resource's actual energy delivered to the ISO grid in each availability assessment hour equals or exceeds the resource's RA capacity as designated in its supply plan for the month. In hours where the energy delivered to the ISO grid by a resource with qualifying capacity based on historical data equals or exceeds the resource's RA capacity designated in the supply plan, the resource will be considered 100% available, irrespective of the result of the proportional de-rate calculation.

Calpine/Dynegy object to what they refer to as the "better of energy or capacity" approach. They claim that incorporating energy production into the calculation of availability for intermittent resources introduces a systematic bias and that SCP availability should be based on mechanical availability alone.

The Calpine/Dynegy argument misses the point. The purpose of the "better of energy or capacity" approach is to recognize the fundamental difference between the calculation of qualifying capacity for a thermal generating unit and that of an intermittent resource. A thermal generating unit experiencing a partial outage below the capacity level of its RA commitment will be mechanically unable to provide the full RA capacity requirement for the duration of the de-rate, i.e., it will be impossible for the resource to deliver more energy in an hour than its de-rated capacity allows. An intermittent resource experiencing a partial outage, on the other hand, may or may not be able to deliver actual energy to grid that exceeds the resource's RA capacity designated in its

supply plan, depending on several factors the most important of which is the availability of the primary energy resources (e.g., wind or solar radiation for an intermittent renewable resource) or, for a QF, the energy requirements of the generating resource's host facility. For such a resource, the proportional de-rate calculation is the best estimate of the RA capacity that the resource is capable of delivering, consistent with the methodology and assumptions that went into the resource's qualifying capacity calculation, in particular the use of historical output data for hours when the resource's nameplate capacity was fully operational. It is appropriate to augment this calculation, however, by comparing it to the resource's actual energy delivery for the hour because the proportional de-rate is only an estimate of the resource's capability, not a definitive limitation as it is for the thermal resource. Thus, the proportional de-rate for the SCP II resources and the capacity de-rate for a thermal resource are two conceptually different measures based on – and consistent with – two fundamentally different approaches to calculating qualifying capacity. The Calpine/Dynegy allegation of preferential treatment is therefore misplaced and should be rejected.

E. Submission Of Outage Data For QFs

The SCP II proposal will eliminate the exemption of RA resources with qualifying capacity determined by historical output and those resources will be fully subject to existing SCP provisions in the ISO Tariff. Except for the methodology for calculating hourly availability, discussed above, these resources will be subject to the same provisions that were approved by the Commission and applied to non-exempt resources in the first phase of SCP. This includes the outage reporting requirements set forth in existing ISO Tariff Section 40.9.5. With the exception of a minor amendment to that

section to remove non-ambient de-rates as a reportable outage category, the SCP II proposal does not alter any of the substantive outage reporting requirements in that section, including the requirements for 1) RA resources with a maximum output capability of 1 MW or more which do not meet the requirement to provide information on forced outages in accordance with Section 9.3.10 to provide equivalent availability-related information and 2) RA resources with maximum output capability of 10 MW or more to report outage-related information in accordance with Section 9.3.10.

SCE claims that the contracts it has with QFs for the most part do not contain provisions that can be used to compel a QF to make outage data available or verify its accuracy. SCE commits that it will do its best to obtain the outage data from QFs, but requests that the Commission formally recognize that the scheduling coordinators for QF RA resources should not face any consequences for failing to provide the data.

What SCE is essentially requesting is that the Commission give scheduling coordinators an advance pass either to ignore or to violate the outage reporting requirements of the ISO Tariff for QF RA resources and then waive any applicable penalties or sanctions for such non-compliance. The ISO does not support this approach. Although contractual obligations may not exist in SCE's contracts that can compel QFs to disclose outage information to SCE as the scheduling coordinator, there are provisions in the ISO Tariff that establish general qualifications for RA resources to supply net qualifying capacity, which include the submission of designated information by all RA resources. Specifically, Section 40.4.3 requires all RA resources included in an RA plan submitted by a scheduling coordinator on behalf of a load serving entity serving load in the ISO balancing authority area to, *inter alia*, provide any information

requested by the ISO to apply the performance criteria adopted pursuant to Section 40.4.5.¹² Section 40.4.3 also requires all RA resources to be subject to sanctions for non-performance as specified in the ISO tariff. The ISO submits that these provisions establish sufficient obligation for all RA resources, including QF RA resources, to provide the outage information required by the ISO. As experience is gained following implementation of the SCP II proposal, if it appears to the ISO that QF RA resources are not submitting required outage information, the ISO will consider remedial action, which could include tariff amendments to suspend availability incentive payments to the non-compliant units or terminating their eligibility as RA resources.

The ISO also stresses that participation in the RA program is voluntary. If a resource voluntarily chooses to participate as an RA resource, it must bear both the burdens and the benefits of being an RA resource. It should not be able to receive only the benefits, and avoid the requirements attendant to its RA status. If a unit is an RA resource and receives all of the benefits of being an RA resource, it should accept the corresponding obligations of being an RA resource, obligations that are being borne by other RA resources. Those obligations include submitting the outage information required by the ISO.

Further, the ISO is concerned that a policy indifferent to the availability of RA capacity would remove any incentive for these resources to be available as it is necessary for all RA capacity. If QF RA resources lack availability – especially in specified local capacity areas – this could cause the ISO to have to procure backstop

¹² Section 40.4.5 required the ISO to develop performance criteria for RA resources and requires scheduling coordinators for RA resources to provide or make available to the ISO all documentation the ISO requests to determine, develop, or implement the performance criteria. Based on this section, the ISO developed and implemented SCP.

capacity to meet its reliability needs.

The ISO urges the Commission to reject SCE's request for these reasons. The importance of QF RA resources complying with the requirements of the ISO tariff, fulfilling the same obligations imposed on all RA resources, and being available when needed as RA capacity far outweigh the inconvenience a scheduling coordinator might experience in obtaining outage information from these units.

F. Miscellaneous Tariff Clarifications And Revisions

SCE's comments offer several clarifications and revisions to the ISO's proposed tariff language. The ISO has considered these suggestions and agrees that the following changes are appropriate: 1) revise Sections 40.9.2(2) and 40.9.2(3) to de-capitalized the word "Capacity" and delete "a" before the term Resource Adequacy Resources; 2) revise Section 40.9.4.2 to de-capitalized "Each", capitalized "hour", and correct a clerical error that inadvertently included duplicate language in that provision; and 3) clarify Section 40.9.6 so it provides that "For Resource Adequacy Resources whose Qualifying Capacity is determined by their historical output, the CAISO will calculate but not apply through the settlements process the Non-Availability Charges or Availability Incentive Payments to Trading Days within three months of the effective date of the tariff provisions that apply SCP applies to those Resources." The ISO has no objection to these edits and will make the changes in a compliance filing if directed by the Commission.

The ISO does not agree with SCE that Section 40.9.4.2 should be amended to reconfigure the paragraphs in that section. The paragraph placement and numbering is consistent with the ISO's Tariff structure and, when viewed in that format, does not

substantiate SCE's concern that subsection (2) may not be distinguishable from the subsequent paragraph.

G. Allocation Of SCP Non-Availability Charge Funds Above The Cap To Metered ISO Demand

Under existing ISO Tariff Section 40.9.6.3, any SCP non-availability charge funds that exceed the cap (three times the non-availability charge rate) will not be distributed as availability incentive payments but will be credited against the real-time neutrality charge for that trade month in accordance with Section 11.5.2.3. As explained in the SCP II filing, the ISO has determined that the reference to Section 11.5.2.3 does not result in the correct allocation of these funds. The ISO, therefore, proposed to modify Section 40.9.6.3 to eliminate the reference to Section 11.5.2.3 and to provide that non-availability charge funds above the cap should be credited against the real-time neutrality charge to metered ISO demand for that trade month. The ISO proposed an effective date of January 1, 2011 for this amendment as well as other SCP II tariff provisions, except for Section 40.9.2(2), 40.9.4.1, and 40.9.4.2.1(1) for which the ISO requested that the effective date be the date of the Commission's order approving SCP II because these tariff sections contemplate ISO or market participant action prior to January 1, 2011.

The limited protest of the Six Cities urges the Commission to waive the sixty-day notice requirement with respect to the revision of Section 40.9.6.3 and make that amendment effective as of June 22, 2010, the date of the ISO's SCP II filing in this proceeding. The Six Cities argue that, because the revision corrects an unintended and improper mis-allocation of the non-availability charge funds in excess of the cap, the

effective date of the correction should be not be delayed until SCP II becomes effective on January 1, 2011.

The ISO is not opposed to an earlier implementation of the revision to Section 40.9.6.3, whether that effective date for that amendment be the date of the ISO's SCP II filing or the date of the Commission's order in this proceeding which would coincide with the early effectiveness of specified tariff changes requested by the ISO.

In its comments, SVP/M-S-R support the ISO's proposal, but request clarification that the metered ISO demand referred to in the ISO's proposed revision to Section 40.9.6.3 includes the demand within metered sub-systems.

The ISO in response confirms that the demand of metered sub-systems is included in metered ISO demand as that term is used in Section 40.9.6.3 and that metered sub-systems are eligible to receive an allocation of non-availability charge funds distributed under that tariff provision. Since metered ISO demand is used in other existing tariff provisions, the ISO believes that this clarification adequately responds to SVP/M-S-R's comments and that a further tariff revision is not warranted.

IV. CONCLUSION

The ISO respectfully requests that, consistent with this answer, the Commission approve the proposed SCP II proposals, without modification, suspension, or hearing on

or about August 23, 2010 so they can be implemented to become effective on the dates requested herein.

Respectfully submitted,

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July 28, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-captioned docket.

Dated at Folsom, California on this 28th day of July, 2010.

/s/ Anna Pascuzzo