

119 FERC ¶ 61,313  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

California Independent System Operator  
Corporation

Docket Nos. ER06-615-003  
ER06-615-005

ORDER ON COMPLIANCE FILINGS

(Issued June 25, 2007)

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1. In this order, the Commission accepts for filing, subject to further modifications, two compliance filings submitted by the California Independent System Operator Corporation (CAISO). The compliance filings were made in response to the Commission's directives in a September 21, 2006 Order conditionally accepting for filing, subject to modifications, the CAISO-proposed Market Redesign and Technology Upgrade (MRTU) Tariff.<sup>1</sup> In this order, we also direct further modifications to the CAISO's MRTU Tariff to be submitted in conjunction with compliance filings the CAISO will make on or before August 3, 2007, as discussed below.

### **Background**

2. On February 9, 2006, the CAISO filed its MRTU Tariff for Commission approval, requesting an effective date of November 1, 2007.<sup>2</sup> Significant components of the MRTU Tariff include: a day-ahead market for trading and scheduling energy; an hour-ahead scheduling process (HASP) allowing for schedule adjustment prior to the real-time market; a more effective congestion management system; improved market power mitigation measures; system improvements to increase operational efficiency and enhance reliability; a more transparent pricing system; the opportunity for demand resources to participate in the CAISO markets under comparable requirements as supply; and, lastly, a process that respects the resource adequacy<sup>3</sup> (RA or resource adequacy) requirements established by the states or Local Regulatory Authorities, with provisions to allow the CAISO to procure additional capacity to meet forecasted needs. In the September 2006 Order the Commission conditionally accepted for filing the MRTU

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<sup>1</sup> *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 (2006) (September 2006 Order).

<sup>2</sup> We note that the CAISO has requested that MRTU Tariff implementation date will be moved to January 31, 2008. See CAISO Jan. 2007 Status Report, Docket No. ER06-615-000, at 2 (Dec. 21, 2006).

<sup>3</sup> Resource adequacy is the availability of an adequate supply of generation, transmission and demand responsive resources to support safe and reliable operation of the transmission grid.

Tariff.<sup>4</sup> The Commission also ordered significant changes to be made to various aspects of the MRTU Tariff.

3. In response to the September 2006 Order's directives, the CAISO submitted two compliance filings on November 20, 2006 and December 20, 2006.<sup>5</sup> The CAISO is also expected to make further compliance filings on or before August 3, 2007.

### **Notice, Motions To Intervene And Responsive Pleadings**

4. Notice of the CAISO's November 20, 2006 compliance filing in Docket No. ER06-615-003 was published in the *Federal Register*, 71 Fed. Reg. 70,375 (2006), with comments, protests, or interventions due on December 8, 2006. Notice of the CAISO's December 20, 2006 compliance filing in Docket No. ER06-615-005 was published in the *Federal Register*, 72 Fed. Reg. 339 (2007), with comments, protests, or interventions due on January 8, 2007.

5. Global Energy Decisions filed a motion to intervene out-of-time. Given the lack of undue prejudice and the parties' interests, we find good cause to grant under Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), this unopposed, untimely motion to intervene.

6. Numerous parties submitted comments and/or protests to the CAISO's compliance filings. Several parties filed answers to comments and protests, as well as an answer to answers. Rule 213(a) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a), prohibits answers to protests and answers unless otherwise permitted by the decisional authority. We are persuaded to allow the CAISO's answer to comments and protests in Docket No. ER06-615-003, Bonneville Power Administration's (BPA), Modesto Irrigation District's, and Northern California Power Agency's (NCPA) answers to the CAISO's answer, and Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SoCal Edison) and San Diego Gas and Electric Company's (SDG&E) joint answer to Western Area Power Administration's (WAPA) comments to the extent they assisted us in our decision-making. We, however, are not persuaded to allow Cities of Anaheim, Azusa, Banning, Colton and Riverside's (collectively, Southern Cities) answer to California Department of Water Resources State Water Project's (State

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<sup>4</sup> Subsequently, the Commission issued an order on rehearing of the September 2006 Order. *See Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,076 (2007) (April 2007 Rehearing Order).

<sup>5</sup> The deadline for complying with certain Commission directives was extended until December 20, 2006. *See Notice of Extension of Time*, Docket No. ER06-615-000, *et al.* (Nov. 27, 2006).

Water Project) comments on demand response and State Water Project's answer to Southern Cities' answer.

### **Discussion**

7. We conditionally accept the CAISO's November 20 and December 20 compliance filings for filing, subject to further modifications, as directed in this order. Below are the Commission's discussion and findings that primarily address aspects of the CAISO's compliance filings that have been contested by various commenters. Our review of the proposed revisions to the MRTU Tariff that are not contested and not specifically discussed herein indicates that they comply with our prior order, and are hereby accepted for filing.

8. We also note that the CAISO's compliance filings request waiver of the requirements of Order No. 614.<sup>6</sup> The CAISO states that a waiver is justified because the portions of the currently effective tariff that serve as the basis of the MRTU Tariff are likely to be amended in the normal course of business between the filing date and the proposed January 31, 2008 MRTU implementation date. In light of the recent change in the MRTU implementation date and further modifications to the MRTU Tariff, we will grant waiver of the requirements of Order No. 614.

## **I. Adoption of an LMP-Based Market**

### **A. The Full Network Model**

9. In the September 2006 Order, the Commission directed the CAISO to submit revised tariff sheets to include: (1) a description of the process it intends to use when addressing changes in the topology of the grid and how the new information will be incorporated into the Full Network Model<sup>7</sup> and, (2) language that indicates the Full

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<sup>6</sup> Designation of Electric Rate Schedule Sheets, FERC Stat. & Regs., Regulations Preambles ¶ 31,096 (2000).

<sup>7</sup> The CAISO defines Full Network Model as a computer based model that includes all CAISO Control Area transmission network (load and generation) busses, transmission constraints, and interface between the CAISO Control Area and adjacent Control Areas. The CAISO models the transmission facilities internal to the CAISO Control Areas as elements of a looped network and models the CAISO Control Area interties with adjacent Control Areas in a radial fashion.

Network Model is available to market participants if they sign a non-disclosure agreement.<sup>8</sup>

10. In response to the Commission's directives in the September 2006 Order, the CAISO proposes to add a new section 27.5.4 (Accounting for Changes in Topology in Full Network Model) of the MRTU Tariff that specifies how the CAISO will incorporate certain information into the Full Network Model. Specifically, MRTU Tariff section 27.5.4 specifies that the CAISO will incorporate into the Full Network Model transmission expansions, generator interconnections, modifications to transmission and generating facilities, topology changes reported pursuant to section 9 (Outages) of the MRTU Tariff and topology changes detected by the State Estimator.<sup>9</sup> The CAISO also revised MRTU Tariff section 6.5.1.1 (Market Participants with Non-Disclosure Agreement) of the MRTU Tariff to make clear that the Full Network Model is available to all market participants that sign a non-disclosure agreement.

### **Comments**

11. WAPA states that it does not object to the revised tariff language in section 6.5.1.1 clarifying that the Full Network Model is available to all market participants that sign a non-disclosure agreement. However, WAPA contends that the CAISO's implementation of this tariff provision has unduly discriminated in favor of the IOUs and given them an unfair competitive advantage. WAPA alleges the IOUs have had access to the Full Network Model for many months, while other market participants have not been able to gain access to the information in a timely manner.<sup>10</sup>

12. According to WAPA, the non-disclosure agreement effectively prohibits WAPA and other similarly situated entities from accessing and evaluating the Full Network Model data because it: (1) restricts consultants from accessing the Full Network Model "off the premises" of the market participants; and (2) prohibits consultants from copying

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<sup>8</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 46.

<sup>9</sup> The state estimator is a computer software program that provides the CAISO with a near real-time assessment of system conditions within the CAISO Control Area, including portions of the CAISO Control Area where real-time information is unavailable.

<sup>10</sup> SMUD, NCPA and Indicated Parties (comprised of M-S-R Public Power Agency, the Cities of Santa Clara, Redding, and Alameda, California, Modesto Irrigation District, and Lassen Municipal Utility District) support WAPA's arguments with respect to the CAISO making the Full Network Model available to all market participants that sign a non-disclosure agreement.

the Full Network Model. WAPA contends that these restrictions are problematic because WAPA relies on the expertise of its consultants to analyze, test, and verify the data generated by the Full Network Model. In addition, WAPA argues that it does not have the facilities for consultants to test and run the proper models.

13. WAPA acknowledges that the CAISO recently issued a policy statement requiring outside consultants to pass a security clearance process, administered by the IOUs, to allow off-site consultant access to the model.<sup>11</sup> However, WAPA claims that even after executing the non-disclosure agreement with the CAISO, WAPA has not received notification from the CAISO as to the security clearance process. WAPA contends that the security clearance process should be clearly set forth in the tariff. WAPA also seeks a reciprocal opportunity to review and clear other market participants' access to WAPA's confidential data.

14. Since the CAISO administers the Full Network Model, WAPA believes that it should be the CAISO's responsibility to conduct the security reviews and ensure that non-discriminatory procedures are in place to gain access to the Full Network Model. WAPA contends that market participants should not have to contact IOUs to obtain security clearances because they are competitors in the CAISO market. WAPA also states that the IOUs obtained the Full Network Model data four months prior to other market participants.

15. Joint Parties<sup>12</sup> contend that there is no basis for WAPA's allegation because the CAISO's policy statement modified the criteria for consultants of market participants to gain access to the Full Network Model. Thus, Joint Parties argue that the accusations are now moot. Joint Parties also state that the security check review process was not the preference of the IOUs but instead was proposed by the CAISO. Joint Parties agreed to perform the process themselves through their security departments, while all access decisions ultimately reside with the CAISO.

16. Joint Parties further argue that WAPA erroneously claims that market participants are disadvantaged by the criteria that consultants must follow to obtain access to the Full Network Model. Joint Parties claim they also retain outside consultants that have to go through the same process as other entities to gain offsite access to the Full Network Model. Thus, Joint Parties claim that all market participants follow the same procedures.

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<sup>11</sup> See WAPA Comments, Ex. B, CAISO November 17, 2006 Market Notice. WAPA states the CAISO established this process to abide by the conditions the IOUs requested due to system security concerns over distribution of a power flow model that includes their transmission facilities to become effective November 27, 2006.

<sup>12</sup> Joint Parties consist of PG&E, SoCal Edison and SDG&E.

17. Contrary to WAPA's assertion of being unable to obtain the procedures for a security check, Joint Parties state that they recently submitted a summary of the security check process and security check form for consultants to the CAISO. Joint Parties claim that the CAISO has been forwarding the requests for security checks of consultants and all three companies have performed those security checks. To the extent that the Commission concludes that the CAISO should be responsible for the entire security process, Joint Parties have no objection.

18. Global Energy states that the CAISO has not justified restricting access of the Full Network Model to market participants, as defined in the MRTU Tariff,<sup>13</sup> and the Commission did not require this limitation in the September 2006 Order. Therefore, Global Energy argues that the Commission should direct the CAISO to adopt provisions that would ensure that non-market participants have access to the Full Network Model, subject to execution of a suitable non-disclosure agreement.<sup>14</sup>

19. NCPA<sup>15</sup> objects to paragraph 12 of the non-disclosure agreement.<sup>16</sup> NCPA believes that this provision is unreasonable because the signatory must pay all the CAISO's litigation costs regardless of the outcome. NCPA proposed that the CAISO add

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<sup>13</sup> The CAISO defines a market participant as "an entity, including a Scheduling Coordinator, who: (1) participates in the CAISO Markets through the buying, selling, transmission, or distribution of Energy, Capacity, or Ancillary Services into, out of, or through the CAISO Controlled Grid; or (2) participates in the allocation of or auctions for CRRs or hold CRRs."

<sup>14</sup> Global Energy submits that there are entities with legitimate business needs, such as price forecasting firms, power plant investors, banks, and consultants working for those entities, which must have access to the Full Network Model. Global Energy contends that access to the Full Network Model is critical to those entities that must update their own analytics models to forecast accurate LMPs.

<sup>15</sup> Indicated Parties also support NCPA's comments.

<sup>16</sup> Paragraph 12 of the non-disclosure agreement provides that "[r]eceiving Party agrees that, in addition to whatever other remedies may be available to the CAISO under applicable law, the CAISO shall be entitled to obtain injunctive relief with respect to any actual or threatened violation of this Agreement by Receiving Party or any third party. Receiving Party agrees that it shall bear all costs and expenses, including reasonable attorneys' fees that may be incurred by the CAISO in enforcing the provisions of this Paragraph."

the phrase “to the extent the CAISO prevails” but the CAISO declined.<sup>17</sup> NCPA also raises concern with the narrow scope of activities in which market participants can use the information.<sup>18</sup> According to NCPA, the non-disclosure agreement limits the use of the confidential information and the Full Network Model “solely in connection with the Receiving Party’s review and analysis of the CAISO’s CRR dry run simulation and the CRR markets.” NCPA contends that this narrow scope prevents it from discussing the results of any modeling it did with the Commission in this proceeding and with NCPA’s own members. NCPA urges the Commission to require the CAISO to revise the non-disclosure agreement to allow market participants to use the Full Network Model and related studies in pleadings before the Commission and confidentially filed if necessary.

20. PG&E contends that MRTU Tariff section 27.5.4 does not clearly state how the CAISO will incorporate operating procedures, loop flow and “other issues” into the Full Network Model. PG&E suggests that the CAISO modify the tariff to allow for the correction of errors or omissions in the Full Network Model. Thus, PG&E proposes that the CAISO modify section 27.5.4 to state as follows: “If the CAISO becomes aware of an error or omission in the F[ull] N[etwork] M[odel], it will make a timely correction to the model.” PG&E also suggests the following language to be included in the tariff: “In the Business Practice Manual for Managing [the] Model the CAISO will have a listing of operating procedures, nomograms, RAS schemes, and loop flow estimation procedures and a clear explanation of how these are used in the Model or in the conversion of the Model to the Direct Current (DC) model used in various market applications.” PG&E asserts that the proposed changes will ensure the Full Network Model accurately represents the operation of the transmission system. In addition, the CAISO should be required to make timely corrections when the CAISO recognizes an error or omission in the Full Network Model.

21. Williams Power Co., Inc. (Williams) contends that the tariff language proposed in section 27.5.4 defers certain things to the Business Practice Manual, which it argues, is contrary to both the Federal Power Act (FPA)<sup>19</sup> and the September 2006 Order. Specifically, Williams points to the CAISO’s proposal to defer to the Business Practice Manuals “the information required to be provided by Market Participants to address changes to the topology of the grid” and “the process by which the CAISO incorporates

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<sup>17</sup> NCPA also points out that paragraph 20 of the Commission’s model protective order provides that no party give up any legal rights it may have for equitable relief, which NCPA contends differs considerably from what the CAISO proposes.

<sup>18</sup> See Paragraph 1 of the non-disclosure agreement.

<sup>19</sup> 16. U.S.C. §§796, *et seq.* (2004).

this information in the [Model].”<sup>20</sup> Williams submits that the Commission has already found that this process will impact the LMPs and, as such, must be incorporated into the tariff.<sup>21</sup> Furthermore, Williams asserts that this section does not fully comply with the September 2006 Order’s directive that the CAISO “include in the MRTU Tariff a description of the process it intends to use when addressing changes in the topology of the grid in terms of the specifics on how the new information will be incorporated into the [Model].”<sup>22</sup> According to Williams, the “specifics on how the new information will be incorporated into the [Model]” are left to a Business Practice Manual.

22. Williams contends that the Commission should direct the CAISO to revise section 27.5.4 so that the specific process by which the CAISO incorporates changes to the topology of the grid into the Full Network Model is expressly stated in the tariff. Williams states that alternatively, to the extent that the CAISO believes that such changes to the Full Network Model do not significantly affect jurisdictional rates, terms and conditions of service, the CAISO should explain how such changes to the Full Network Model do not have such effect and how this position is consistent with the September 2006 Order.

23. In its answer, the CAISO states that it proposed a process for distributing the Full Network Model through a market notice dated August 15, 2006. It subsequently revised the process in response to concerns raised by the Investor Owned Utilities (IOUs) and other stakeholders at the MRTU preparedness meetings and teleconferences. The CAISO contends that the revised process results in a fair and equitable means of distributing the Full Network Model to market participants to assist them in preparing for the implementation of MRTU, while at the same time protecting the confidential and security-sensitive information that the Full Network Model contains.<sup>23</sup> The CAISO states that the current process, as set forth in the November 17, 2006 market notice, is as follows:<sup>24</sup>

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<sup>20</sup> Section 27.5.4 of the MRTU Tariff.

<sup>21</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 46.

<sup>22</sup> *Id.*

<sup>23</sup> The CAISO states that the Full Network Model contains information pertaining to transmission facilities that is similar to information that transmission owners annually submit to Commission on FERC Form 715, Annual Transmission Planning and Evaluation Report, which the Commission treats as critical energy infrastructure information.

<sup>24</sup> The CAISO posted the current process on its website.

- For market participants who are WECC members: The market participant must execute the CAISO's non-disclosure agreement and each employee who will have access to the Full Network Model must sign the non-disclosure statement attached as an exhibit to the non-disclosure agreement.
- For market participants who are not WECC members: The market participant and employees who will have access to the Full Network Model must execute the CAISO's non-disclosure agreement, as just described, and must submit a fully executed non-member confidentiality agreement with the WECC.<sup>25</sup>
- For consultants retained by a market participant: A consultant for a market participant may access the Full Network Model, but only through the market participant who retains the consultant's services. Each employee of the consultant who will have access to the Full Network Model must sign the nondisclosure statement that is an exhibit to the CAISO's non-disclosure agreement as executed by the market participant. The consultant will be permitted access to the Full Network Model on the premises of the market participant. The Full Network Model cannot be copied and provided to the consultant.
- Alternative for off-site access: A market participant who would like to obtain a copy of the Full Network Model for its consultant's off-site use may contact the California IOUs to request a security check for its consultant and approval for the consultant to receive the Full Network Model. The IOUs will forward documentation of each approval to the CAISO and the CAISO will provide a copy of the Full Network Model to the consultant. The security check process for consultants and the consultant security check request form are posted on the CAISO's website, the link for which was provided in the December 21, 2006 market notice.

24. The CAISO contends that WAPA has overlooked the fact that the CAISO's non-disclosure agreement, which allows the Full Network Model to be distributed prior to MRTU Tariff section 6.5.1 becoming effective, is not before the Commission in this proceeding. In addition, the CAISO asserts that neither the distribution process nor the terms of the non-disclosure agreement are at issue in this proceeding. As a result, the CAISO contends that WAPA's comments about the non-disclosure agreement are outside the scope of the compliance filing.

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<sup>25</sup> The CAISO explains the Full Network Model contains confidential information received from WECC. According to the CAISO, WECC has advised the CAISO that it has no objection to the CAISO providing the Full Network Model to WECC members since they are subject to existing WECC confidentiality provisions but that non-members must execute a WECC non-member confidentiality agreement in order to access the information.

25. To the extent the Commission does not find these arguments outside the scope, the CAISO contends that WAPA's claim of discrimination is unfounded. The CAISO states that WAPA ignores the fact that the CAISO has revised the distribution to allow consultants to have "off-site" access, subject to a security check and the execution of a non-disclosure statement.<sup>26</sup>

26. The CAISO disagrees with WAPA's allegations that market participants are disadvantaged by IOUs performing the security checks. The CAISO states that the security checks are performed by the IOUs' security personnel without input or contact with any other employees in the transmission or marketing departments of the companies. In addition, the CAISO contends the IOUs are better situated to determine whether access to their critical energy infrastructure information through the Full Network Model would present a security risk.

27. With respect to WAPA's assertion that the CAISO released the Full Network Model to IOUs before other market participants, the CAISO states that the IOUs did not receive the Full Network Model until November 2006.<sup>27</sup> The CAISO declares that SoCal Edison received the Full Network Model November 17, 2006 and PG&E received it November 27, 2006. The CAISO states that SDG&E has not yet requested a copy of the Full Network Model. Because the allegations are both inaccurate and unsubstantiated, the CAISO argues that the Commission should deny WAPA's request for an investigation.

28. In response to Global Energy's comments, the CAISO believes that Global Energy's request that the Full Network Model be released to *non-Market Participants* "threatens to upset that balance and compromise the CAISO's effort to implement a workable solution." In addition, the CAISO asserts that while the September 2006 Order does not capitalize the term "market participants," the CAISO asserts that the Commission intended the words to have the meaning set forth in the MRTU Tariff.

29. The CAISO also contends the Commission should deny NCPA's argument regarding various sections of the non-disclosure agreement because the agreement is not before the Commission in this proceeding. Notwithstanding, in response to NCPA's claims that Paragraph 1 of the non-disclosure agreement is too narrow, the CAISO makes clear that information provided under the agreement may be put to broad analytic use. Therefore, to the extent that NCPA seeks to use the confidential information for any further purpose, the CAISO declares that market participants may exercise this option

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<sup>26</sup> The CAISO also notes that the consultants of the PTOs are subject to the same requirement to undergo the same security check and sign the same statement.

<sup>27</sup> See CAISO Answer at 15.

under paragraph 2 of the non-disclosure agreement, with prior written consent by the CAISO.

30. With respect to NCPA's objection to Paragraph 12 of the non-disclosure agreement, the CAISO asserts that NCPA's argument is misplaced. The CAISO states that the language in paragraph 12 provides for the CAISO to seek injunctive relief with respect to any actual or threatened violation of the non-disclosure agreement by the receiving party in order to protect the transmission grid and the confidential information of every market participant that is included in the Full Network Model. The CAISO contends that this paragraph protects NCPA and other market participants from bearing the costs of other parties that breach the non-disclosure agreement.

31. The CAISO further states that Paragraph 12 has been a part of countless non-disclosure agreements in which the CAISO has never invoked that provision or sought injunctive relief. As a result, the CAISO submits that the Commission should not reform the terms of the current non-disclosure agreement in this proceeding, nor is it justified to address NCPA's concerns. The CAISO also argues that the Commission should reject PG&E's suggestions for further revisions to section 27.5.4 because they are beyond the scope of the compliance filing.

32. The CAISO points out that the "Business Practice Manual for Managing the Full Network Model" addresses many of the points raised by Williams and PG&E. The CAISO states that Williams and PG&E will have an opportunity to pursue their concerns during the Business Practice Manual review process, with the next versions of the Business Practice Manual.<sup>28</sup>

33. Finally, the CAISO states that the process for releasing the Full Network Model has been a "bumpy road" and states that it would welcome direction from the Commission as to how the process should be changed or could be improved to the extent the Commission finds that the matter should be further addressed.

### **Commission Determination**

34. In the September 2006 Order, the Commission directed the CAISO to submit revised tariff language that indicates the Full Network Model is available to market participants if they sign a non-disclosure agreement. We also recognize that the CAISO

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<sup>28</sup> The CAISO filed a motion on January 11, 2007 requesting that the April 2 version of the Business Practice Manuals trigger the compliance obligation set forth in paragraph 1370 of the September 2006 Order. According to the CAISO, paragraph 1370 required the CAISO to file any additional tariff language to support detail in the Business Practice Manuals. The CAISO notes that the Commission would subsequently schedule a technical conference for purposes of further discussion.

developed the procedures that market participants and consultants must follow to obtain the Full Network Model. Our review of the procedures indicates that revised section 6.5.1.1 generally complies with the Commission's directive. However, we believe the process for distributing the Full Network Model may provide unfair treatment to certain market participants. As a result, we find it necessary for the CAISO to modify the procedures to allow for an open and transparent release of the information, while protecting critical transmission data.

35. WAPA argues that the non-disclosure agreement effectively prohibits market participants from accessing and evaluating the Full Network Model because the CAISO restricts consultants from copying or obtaining the data "off the premises" of the market participant. WAPA suggests that the Commission initiate a full investigation of the discriminatory practices that are currently in place. We are not persuaded to initiate an FPA section 206<sup>29</sup> proceeding at this time because the CAISO has modified the non-disclosure agreement in a manner that affords WAPA and other similarly situated entities access to the data. Further, we believe that our directives, as discussed below, should adequately address WAPA's concerns.

36. We find to be reasonable the CAISO's proposal to make the Full Network Model available to consultants of market participants pending the completion of a non-disclosure agreement. We also find it appropriate to allow consultants of market participants to review the information "offsite" of market participants' facilities. We believe these modifications will prove beneficial to all market participants as they evaluate the need for outside consultants to review the Full Network Model and review how CRRs may provide financial protection from the risk of congestion charges.

37. With respect to the CAISO's security check process for consultants of market participants, the Commission will require the CAISO to modify this procedure. Currently, the CAISO requires consultants to complete a security check process with the three IOUs before gaining access to the Full Network Model. The IOUs will review each request and forward documentation of each approval to the CAISO, which will subsequently provide a copy of the Full Network Model to the consultant. While the CAISO imposed these safeguards in response to security concerns of IOUs, we believe the IOUs should not be responsible for conducting the security check of the other competitors. We find that this procedure may provide IOUs an unfair advantage to control or otherwise delay a party's access to information. The Commission also recognizes that market participants should have an equal opportunity to obtain the Full Network Model to prepare and evaluate their business interest in the CAISO market. As a result, we believe that the CAISO is the appropriate entity to conduct the security check process because the CAISO is independent of market participants, and we will require the

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<sup>29</sup> 16 U.S.C. § 824(e) (2000).

CAISO to modify its security check procedures accordingly and make a compliance filing in conjunction with other compliance filings it will make on or before August 3, 2007.

38. In response to WAPA's request that other IOUs should have an opportunity to review applications for release of the Full Network Model, we direct the CAISO to revise its Full Network Model release procedures to provide WAPA and other transmission owners included in the Full Network Model topology an opportunity to review the requests to ensure that the CAISO does not compromise their data prior to completing a security review. This modification must be submitted in conjunction with other compliance filings the CAISO will make on or before August 3, 2007.

39. We also find that firms with legitimate business interests in the CAISO market, such as Global Energy, should have access to the Full Network Model if they execute a non-disclosure agreement and pass a security check by the CAISO. We note that the September 2006 Order did not limit the release to market participants, as defined in the MRTU Tariff; rather the term was meant to apply somewhat broadly. Thus, we direct the CAISO to revise the MRTU in section 6.5 to include firms with legitimate business interests in the CAISO markets and submit this modification in conjunction with the compliance filings the CAISO will make on or before August 3, 2007.

40. With respect to NCPA's concerns regarding the CAISO's proposal to require the signatory of the non-disclosure agreement to pay all CAISO litigation costs regardless of the outcome, we find that the CAISO has provided insufficient justification for retaining this obligation under the non-disclosure agreement. This provision may unfairly penalize market participants that are innocent of any violations and may also encourage meritless litigation. We also find that there may be situations where matters cannot be supported at the Commission without the reliance on the Full Network Model. In addition, we see no harm in such usage so long as appropriate security measures are taken. Thus, we direct the CAISO to revise the non-disclosure agreement to reflect: (1) the CAISO receives litigation costs only if it prevails in litigation and, (2) market participants may use the Full Network Model and related studies in pleadings before the Commission and treated as privileged information if necessary. These tariff modifications must be submitted in conjunction with the compliance filings the CAISO will make on or before August 3, 2007.

41. We agree with PG&E that the Full Network Model should be a true representation of the transmission grid operation. We also agree that the CAISO has not provided a justifiable reason to correct the Full Network Model only during "periodic updates." We believe a more timely correction to the Full Network Model will prove beneficial to Load-Serving Entities (LSEs) that must plan, hedge and operate in the LMP market because market participants will have an accurate representation of the CAISO's transmission grid. As a result, the CAISO is directed to modify MRTU Tariff

section 27.5.4 to reflect that to the extent the CAISO becomes aware of errors or omissions in the Full Network Model, it will make a timely correction to the Full Network Model. This tariff modification must be submitted in conjunction with the compliance filings the CAISO will make on or before August 3, 2007. However, we reject PG&E's proposal to add certain language to the tariff regarding the operational details of the Full Network Model because these details will be identified in the Business Practice Manuals. We, however, believe that the tariff language should contain a cross-reference to the specific details reflected in the Business Practice Manuals. We, therefore, direct the CAISO to make this tariff revision in conjunction with other compliance filings it will make on or before August 3, 2007.<sup>30</sup>

42. We also deny Williams request. We find that William's seeks to include a level of detail in the MRTU Tariff that is unnecessary. The CAISO has revised the relevant section to indicate the process it intends to use when addressing changes in the topology of the grid. Specifically, section 27.5.4 states that "transmission expansion... and generation interconnection... will be incorporated into the network model database... which forms the basis for the F[ull] N[etwork] M[odel]." We find that the revised tariff language complies with our directive. Further, the CAISO states that many of the specific details of these issues are addressed in the Business Practice Manuals development process. As a result, Williams will have the opportunity to further pursue specific details through Business Practice Manual development process. Accordingly, we deny William's request to include further details in the MRTU Tariff.

43. Accordingly, we direct the CAISO to file revised tariff sheets that include the terms under which a market participant and consultants may obtain the Full Network Model, a summary of the security check process and the timeframe for completion of the security check process. In addition, we direct the CAISO to revise the non-disclosure agreement to reflect the revised terms under which a market participant and consultants may obtain the Full Network Model, as set forth in the November 17 Market Notice,

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<sup>30</sup> We note that PG&E stated that it was concerned that LMPs are mentioned in the "Billing and Settlements Business Practice Manuals as pre-calculations, however, there is no documentation of how they are to be determined and validated." PG&E's concern is premature because the CAISO has not filed any LMP pre-calculations with the Commission at this time. Consistent with the direction in the September 2006 Order, CAISO's filing is expected 180 days prior to the effective date of MRTU Release 1 and after the completion of the Business Practice Manuals stakeholder process. PG&E may raise its concerns at that time.

including those revisions directed herein. These tariff modifications must be submitted in conjunction with the compliance filings the CAISO will make on or before August 3, 2007.

## **II. Market Structure**

### **A. Day-Ahead Market**

#### **1. Scheduling Priorities for Exports**

44. In the September 2006 Order, the Commission found that in the Integrated Forward Market (IFM) optimization process, self-scheduled CAISO demand should have higher scheduling priority for resource adequacy resources than self-scheduled exports, to ensure that LSEs within the CAISO's Control Area can utilize resource adequacy resources when they are needed for the CAISO grid reliability.<sup>31</sup> The Commission also accepted the CAISO's proposal to treat export demand the same as CAISO demand if that export demand is not served by capacity reserved for resource adequacy or Residual Unit Commitment (RUC) use.<sup>32</sup>

45. In its compliance filing, the CAISO explains that in order to allow Scheduling Coordinators in both the day-ahead market and the HASP to self-schedule exports that are served by generation from non-resource adequacy capacity in the day-ahead market, or by non-RA/non RUC capacity from resource adequacy short start units in the HASP, it must create two types of self-schedules for exports with different types of priority levels in sections 31.4, 33.3 and 34.10 of the MRTU Tariff.<sup>33</sup> The CAISO states that it will automate its software to allow Scheduling Coordinators to identify the non-resource adequacy capacity used to support exports so that the exports that are not served by resource adequacy capacity will receive the same priority as CAISO demand bid into the IFM and forecasted CAISO demand in HASP. Further, the CAISO states that, the only procedural requirement to effectuate this priority is the requirement that the scheduling coordinator indicate whether or not the export is supported by generation from resource adequacy or RUC capacity as specified in the revised section 30.5.3.

46. Accordingly, the CAISO modified section 34.10.1 (Increasing Supply) to provide that "Self-Schedules for exports at Scheduling Points in HASP served by Generation from non-Resource Adequacy Capacity or from non-RUC capacity" are given higher

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<sup>31</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 116.

<sup>32</sup> *Id.* at P 217.

<sup>33</sup> The CAISO's November 20 Compliance Filing, at 10.

priority than “Self-Schedules for exports at Scheduling Points in HASP *not served* by Generation from non-Resource Adequacy Capacity or not served by Generation from non-RUC Capacity.”

47. The CAISO also modified section 30.5.3 to provide that

[i]f submitting Self-Schedules at Scheduling Points for export in the IFM, the Scheduling Coordinator shall indicate whether or not the export is served from Generation from Resource Adequacy Capacity, and if submitting Self-Schedules at Scheduling Points for export in HASP the Scheduling Coordinator shall indicate whether or not the export is served from Generation from Resource Adequacy Capacity or RUC Capacity.

The CAISO also added language to section 31.4 (Uneconomic Adjustments in the IFM), to provide that “Other Self Scheduled CAISO Demand reduction subject to section 31.3.1.2 (Reduction of LAP Demand) and Self-Scheduled exports at Scheduling Points explicitly sourced by non-Resource Adequacy Capacity” have higher priority for adjustment than “Self-Scheduled exports at Scheduling Points not explicitly sourced by non-Resource Adequacy Capacity.”

**a. Scheduling Priority for Increasing Supply**

48. Powerex Corp. (Powerex) states that the CAISO revised section 34.10.1 (Increased Supply) to spell out in greater detail the scheduling priority to be observed by the CAISO when it must increase supply to optimize the real-time market. Powerex further notes that section 34.10.1 grants the highest priority to non-participating load reduction and self-schedules for exports that are not served by resource adequacy or RUC capacity, and grants the lowest priority to economic bids in the HASP or real-time market. Powerex seeks clarification of the process and provides its interpretation of the CAISO’s actions under this provision. Powerex states that it appears the CAISO will seek first to dispatch based on economic bids submitted in the HASP or real-time market and then invoke contingency-only operating reserves if activated by the operator to provide energy. Second, according to Powerex, the CAISO will reduce the supply of self-schedules for exports at scheduling points in the HASP that are served by resource adequacy or RUC capacity. Third, Powerex continues, the CAISO will reduce the supply of non-participating load reduction and self-schedules for exports at scheduling points in the HASP that are not served by resource adequacy or RUC capacity. Powerex requests that the CAISO clarify if this is how the scheduling priority under section 34.10.1 will functionally operate.

### **Commission Determination**

49. We agree with Powerex's understanding of the scheduling priorities laid out in section 34.10.1 and therefore, direct the CAISO to provide an explanation of the process in conjunction with compliance filings it plans to make on or before August 3, 2007.

#### **b. Clarification of Double Negative**

50. Powerex contends that the use of double negative in section 34.10.1(b) is confusing. Powerex suggests that a more straightforward description would be to modify the proposed language from "Self-Schedules for exports at Scheduling Points in HASP not served by Generation from non-Resource Adequacy Capacity or not served by Generation from non-RUC Capacity" to "Self-Schedules for exports at Scheduling Points in the HASP that are served by Resource Adequacy or RUC capacity."

51. In its answer, the CAISO states that the Commission should reject Powerex's proposed revision because the double negative is appropriate. The CAISO explains that the availability of the scheduling priority for exports is contingent upon whether a Scheduling Coordinator demonstrates that an export is served by non-resource adequacy or non-RUC capacity. The CAISO states that the intent of its amendment to section 30.5.3 was to provide a mechanism for parties that want to avail themselves of the priority for export self-schedules as described in sections 31.4 and 34.10.1 to identify the non-resource adequacy and non-RUC capacity that supports such export self-schedules. The CAISO explains that to the extent the Scheduling Coordinator does not make this showing, the CAISO will not be able to provide the scheduling priority for exports served by non-resource adequacy capacity in the day-ahead market, or non-resource adequacy/non-RUC capacity in HASP.

52. The CAISO does suggest, however, a minor revision to section 34.10.1(b). The CAISO proposes to replace the word "served" with "offered" to clearly demonstrate that the showing is made through the submission of the self-schedule, which ensures that such capacity is available.

### **Commission Determination**

53. As the CAISO explains, exports that are not served by non-resource adequacy resources can be either resource adequacy resources or exports that are not explicitly identified as being served by resource adequacy or non-resource adequacy resources. We recognize and accept the CAISO's explanation that under these circumstances section 34.10.1(b) is appropriately worded. We also accept the CAISO's minor revision to the same section. Thus, we deny Powerex's request and hereby direct the CAISO to make the proposed modification to section 34.10.1(b) in conjunction with compliance filings the CAISO plans to make on or before August 3, 2007.

**c. Priority for Exports of Additional RA Capacity**

54. SoCal Edison states that section 34.10.1 requires additional clarification. SoCal Edison notes that under the California Public Utilities Commission' (CPUC) current resource adequacy counting rules, firm exports are considered part of a CPUC-jurisdictional LSE's resource adequacy load for year-ahead and month-ahead resource adequacy showing purposes. Thus, SoCal Edison explains that, from a resource adequacy perspective, CPUC LSEs must procure sufficient resource adequacy to cover these firm exports in the same way that they have to procure resource adequacy to cover internal load. As a result, SoCal Edison states, if an LSE has secured additional resource adequacy above and beyond that required for its internal California load, exports from this LSE should be entitled to the same priority to the energy as internal California load. SoCal Edison argues that the CAISO should revise, through either tariff changes or modifications to the Business Practice Manual, its proposal to allow firm exports for which an LSE has procured resource adequacy resources to have the same curtailment priority as internal CAISO area load for which an LSE has procured RA resources.

**Commission Determination**

55. We agree with SoCal Edison that an export from RA capacity procured in order to cover the export should have the same priority as internal California load because LSEs must procure sufficient resource adequacy resources to cover these firm exports in the same way that they have to procure resource adequacy resources to cover internal load. We direct the CAISO to work with SoCal Edison to submit appropriate modifications to the MRTU Tariff and/or Business Practice Manual in conjunction with the compliance filings the CAISO will make on or before August 3, 2007.

**d. Exports from Partial RA Resources**

56. Sacramento Municipal Utility District (SMUD) and Imperial Irrigation District (Imperial) contend that the tariff changes in the CAISO's compliance filing do not make clear that the priority for export demand not served by capacity reserved for resource adequacy or RUC use applies where the capacity derives from generating units that may also be partially dedicated to resource adequacy or RUC uses. SMUD states that the CAISO's tariff should make clear that the CAISO will allow exports from non-resource adequacy capacity to have the same priority as a CAISO demand bid into the integrated forward market and forecasted CAISO demand in the HASP even where the generating units also partially provide resource adequacy or RUC capacity. Imperial contends that the CAISO should be required to clarify how the priority or volume of a specific export will be impacted if the partial resource adequacy resource is reduced due to congestion in the IFM, HASP, or real-time market.

57. SMUD states that it is also unclear how, or whether, the CAISO will ensure that capacity sold on a firm basis to a hub and then resold to a third party external to the CAISO grid, has the same priority as CAISO demand. SMUD notes that under section 40.6.11 of the MRTU Tariff, the CAISO could cut the firm export to prevent a system emergency and argues that granting the CAISO authority to unilaterally cut its firm export schedules to serve internal loads is both inconsistent with firm rights and inconsistent with prudent utility practice. SMUD states that while the CAISO tariff offers a partial solution to ensure that firm exports are treated as firm, further clarification is needed to ensure that the ambiguities highlighted above are removed.

### **Commission Determination**

58. We note that SMUD and Imperial's concern regarding partial resource adequacy resources was addressed in the Commission's April 2007 Rehearing Order. The Commission found that the CAISO should not have curtailment authority over the entire capacity of an RA resource that offers capacity not under contract for resource adequacy. The capacity payment that an RA resource receives, and which justifies the authority to curtail exports from the RA resource, applies only to the capacity under contract and not to the RA resource as a whole.<sup>34</sup> We continue to support this conclusion and directed the CAISO to modify its tariff as set forth in the April 2007 Rehearing Order.<sup>35</sup> Therefore, SMUD's and Imperial's protests on this issue are dismissed as moot.

59. SMUD's concern regarding capacity sold on a firm basis to a hub and then resold to a third party external to the CAISO grid raises the issue of visibility within the CAISO's software system. To the extent that capacity resold to a third party external to the CAISO grid is non-RA capacity, that capacity will have the same priority as internal demand. In practice, this treatment is dependent upon the CAISO's ability to identify the capacity as non-RA capacity. We therefore direct the CAISO to work with SMUD to ensure that SMUD's concern is resolved and submit a report in conjunction with the compliance filings the CAISO will make on or before August 3, 2007

### **e. Minor Language Addition**

60. SoCal Edison contends that the language proposed in section 30.5.3, regarding indication of whether or not an export is from resource adequacy or RUC capacity, does not appear to be possible in the proposed MRTU design without also implementing additional tracking functionality. SoCal Edison states that the MRTU Tariff allows parties to submit unbalanced self-schedules and, as a result, a party with no generation

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<sup>34</sup> April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 617.

<sup>35</sup> *Id.*

can submit a self-scheduled demand bid at any of the interties. Because the MRTU market pools all generation, including resource adequacy and non-resource adequacy units, SoCal Edison argues that the demand bid will not know the source of the power. As a result, SoCal Edison states that the bidder will not have the ability to declare whether the power is sourced from resource adequacy, non-resource adequacy capacity, or RUC capacity. SoCal Edison states that the CAISO has proposed possible methods of tracking schedules tied to non-resource adequacy purchases for stakeholder review and contends that the CAISO should include the details of any additional proposed market features designed to make such tracking possible in its Business Practice Manual and revise its tariff language as follows:

If submitting Self-Schedules at Scheduling Points for export in the IFM, the Scheduling Coordinator shall indicate whether or not the export is served from Generation from Resource Adequacy Capacity, *as described in the Business Practice Manual*. If submitting Self-Schedules at Scheduling Points for export in HASP, the Scheduling Coordinator shall indicate whether or not the export is served from Generation from Resources Adequacy Capacity or RUC Capacity, *as described in the Business Practice Manual*.

61. In response to SoCal Edison's request that the CAISO include details of any additional market features designed for tracking of schedules tied to non-resource adequacy purchases in the Business Practice Manual, the CAISO agrees to add the following sentence to section 30.5.3: "The procedure for identifying the non-resource [adequacy] or non-RUC Capacity is specified in the Business Practice Manuals."

### **Commission Determination**

62. We find that the CAISO's proposed change adequately addresses SoCal Edison's concern, and hereby direct the CAISO to incorporate the proposed modification, as discussed above, in conjunction with compliance filings the CAISO plans to make on or before August 3, 2007.

## **B. Residual Unit Commitment Process**

### **1. RUC Procurement**

63. In the September 2006 Order, the Commission acknowledged the CAISO's commitment to resolve the issues surrounding the potential overprocurement of RUC and directed the CAISO "to incorporate any significant changes into section 31.5.3 (RUC

Procurement Target) of the MRTU Tariff.”<sup>36</sup> In order to comply with this directive, the CAISO has proposed to add several subsections under section 31.5.3 to address the calculated adjustments of the RUC procurement target. For instance, the CAISO proposes to adjust the RUC procurement target to account for the following conditions: (1) demand response; (2) Metered Subsystems (MSS) demand that opts-in to the RUC procurement process; (3) eligible intermittent resources; (4) quantity changes in supply resulting from self-schedules submitted in real-time; and (5) the deficiency of ancillary services in the day-ahead market.

### **Comments**

64. While the State Water Project supports these revisions, it contends that section 31.5.3.2 (Demand Response Adjustments) of the MRTU Tariff fails to include other categories of demand such as participating load. State Water Project states that the RUC process commits additional resources to meet the difference between the CAISO demand forecast and the demand that is bid in and scheduled in the IFM for each hour of the next trading day.<sup>37</sup> Because the CAISO uses the State Water Project’s bid in load schedules as its component of the CAISO demand forecast, the State Water Project contends that there can never be a difference between the CAISO’s demand forecast and State Water Project’s bid-in load. Fundamentally, the State Water Project contends that the CAISO does not acquire RUC for its load. Thus, State Water Project requests that the Commission require the CAISO to clarify MRTU Tariff section 31.5.3.2 to provide the same adjustment for participating load.<sup>38</sup>

65. Williams raises concern with MRTU Tariff section 31.5.3.5 (Real-Time Expected Incremental Supply Self Schedule Adjustment), which provides that, in order to avoid the over-procurement of RUC, the CAISO shall estimate the HASP self-schedules for resources that usually submit HASP self-schedules that are greater than their day-ahead schedules. After determining the estimate of real-time self-schedules, the CAISO will adjust the forecast of CAISO demand of a RUC zone based on the forecasted quantity changes of supply in the real-time market. Thus, Williams claims the estimated adjustments will have the effect of reducing RUC procurement.

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<sup>36</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 566.

<sup>37</sup> State Water Project refers to the CAISO Transmittal, Docket No. ER06-615-000, at 44 (Feb. 9, 2006).

<sup>38</sup> We note that State Water Project raised this same issue in its initial comments to the CAISO’s original tariff filing. *See* SWP Initial Comments, Docket No. ER06-615-000, at 34 (April 10, 2006).

66. Williams is concerned that this procedure may allow LSEs that also control supply resources to under-bid load into the day-ahead market to suppress day-ahead prices without consequence. Williams states that if the CAISO did not adjust RUC procurement to account for an estimate of supply self-schedules in the HASP, an under-bid LSE would face RUC charges for under-scheduled load, which would act as a natural economic deterrent to an LSE's under-bidding strategy. However, Williams contends that if the Commission permits the CAISO to subtract from its RUC procurement an estimation of incremental supply self-schedules in the HASP, an LSE could reduce procurement and the charges for which it would be liable by self-scheduling supply in the HASP to cover the unscheduled load in the day-ahead market. Williams contends that the CAISO should not adjust RUC procurement to account for an estimate of supply self-schedules in the HASP because it serves as a natural economic deterrent to an LSE's under-bidding strategy. Williams states that the Commission should not permit the CAISO to adjust its RUC procurement based on supply self-schedule estimates because LSEs will otherwise have an incentive to under-schedule demand in the day-ahead market.

67. In its answer, the CAISO states that it would be premature for the Commission to rule on Williams' request because the CAISO is planning a future stakeholder process to address interim measures for load underscheduling, as directed by the Commission.

### **Commission Determination**

68. We agree with the CAISO and find the arguments raised by State Water Project and Williams to be premature at this time. In the September 2006 Order, the Commission acknowledged that State Water Project raised a number of specific issues with respect to the treatment of participating load under the MRTU Tariff.<sup>39</sup> The Commission directed the CAISO to work with State Water Project to improve the mechanism for addressing unique constraints posed by participating load under MRTU, and to make a compliance filing revising the tariff accordingly.<sup>40</sup> We direct the CAISO to continue to work with State Water Project to resolve the treatment of schedule changes by participating load under the RUC process and provide any corresponding tariff changes in conjunction with the compliance filings it will make on or before August 3, 2007.

69. We also note that the September 2006 Order discussed the potential economic incentive for LSEs to underschedule in the day-ahead market. Specifically, the Commission acknowledged that convergence bidding could provide such benefits as improving day-ahead and real-time price convergence, as well as reducing the exercise of

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<sup>39</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 701.

<sup>40</sup> *Id.* at P 703.

market power.<sup>41</sup> While the Commission did not require the implementation of convergence bidding in Release 1, we determined that Release 1 must include provisions to offset LSEs' incentive to underschedule in the day-ahead market.<sup>42</sup> Thus, the Commission directed the CAISO to develop and file interim measures no later than 180 days prior to MRTU Release 1 to address the potential economic incentive of LSEs to underschedule in the day-ahead market until the CAISO has achieved convergence bidding.<sup>43</sup>

70. Because the CAISO has committed to conduct, in the near future, a stakeholder process to address interim measures to prevent incentives to underschedule in the day-ahead market, we find it inappropriate for the Commission to, at this time, address whether self-schedule adjustments under RUC encourages underscheduling in the day-ahead market. That is, to address the concerns raised by Williams, the Commission must first evaluate the CAISO's interim measures and the effects they may have on bidding behaviors in the day-ahead market. We encourage Williams to actively participate in the stakeholder process to address the concerns raised herein. We also direct the CAISO to submit, in a future compliance filing, any interim measures that develop from the stakeholder process.

## **2. Allocation of RUC Bid Costs**

71. In the September 2006 Order, the Commission found it inappropriate for the CAISO to allocate RUC costs to export schedules because the RUC process was not established to ensure that on-line capacity was made available to meet outside control area needs. Thus, the Commission directed the CAISO to modify, in a compliance filing within 60 days of the date of this order, section 11.8 of the MRTU Tariff to exclude the allocation of RUC costs to exports.<sup>44</sup>

72. Pursuant to this directive, the CAISO proposes to modify MRTU Tariff section 11.8.6.5 (Allocation of Net RUC Bid Cot Uplift) to provide that RUC uplift charges will be allocated to Scheduling Coordinators in proportion to their "metered CAISO demand," which consists of "power delivered to load internal to the CAISO Control Area" instead of "CAISO Measured Demand" which consist of metered CAISO demand "plus exports schedules." The CAISO also proposes to modify this section to

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<sup>41</sup> *Id.* at P 451.

<sup>42</sup> *Id.* at P 452.

<sup>43</sup> *Id.*

<sup>44</sup> *See id.* at P 171.

clarify that first tier RUC costs (which are based on net negative deviations) are calculated as a rate, rather than a fixed amount.

### **Comments**

73. State Water Project requests that the Commission require the CAISO to revise MRTU Tariff section 11.8.6.5 to include all loads within the CAISO grid. State Water Project argues that the CAISO should not allocate RUC cost based on CAISO metered demand because the methodology fails to encompass the Unaccounted for Energy attributed to Scheduling Coordinators. State Water Project asserts the CAISO should be required to allocate RUC uplift charges to Gross Demand, which would be defined as a Scheduling Coordinator's Metered Demand plus the Unaccounted for Energy attributed to that Scheduling Coordinator. State Water Project also contends that the CAISO should allocate any other charges to Metered Demand based on the concept of Gross Demand in the MRTU Tariff. State Water Project argues that this methodology is appropriate because it allows the CAISO to pass off costs to load with inadequate metering.

74. SMUD supports the CAISO's proposed modification to MRTU Tariff section 11.8.6.5 because the CAISO properly limits the allocation of RUC costs to metered CAISO demand.

75. In its answer, the CAISO asserts that its tariff language is consistent with the September 2006 Order where the Commission required the CAISO to remove the allocation of RUC costs to export schedules. Thus, the CAISO contends that no further changes are necessary.

### **Commission Determination**

76. State Water Project does not challenge the Commission's directive to remove the allocation of RUC cost to export schedules; rather State Water Project asserts that the CAISO should be required to modify the methodology for allocating RUC uplift charges to Scheduling Coordinators under the second tier allocation process. Specifically, State Water Project argues that the CAISO allocate RUC uplift charges to "gross demand" rather than "metered CAISO demand" to ensure that the CAISO assigns unaccounted for energy costs based on principles of cost causation. Our review indicates that State Water Project had the opportunity to challenge the justness and reasonableness of this provision when the CAISO first filed its MRTU Tariff. MRTU Tariff section 11.8.6.5, as originally proposed by the CAISO, stated that under the second tier allocation process, RUC uplift charges are allocated based on measure demand. All parties to this proceeding, including State Water Project, were therefore aware of the proposed allocation method at the time the Commission was reviewing the CAISO's MRTU Tariff proposal. However, State Water Project did not raise this issue in its comments and reply comments in the original proceeding or on rehearing of the September 2006 Order. For

this reason we find that State Water Project's protest on this issue constitutes a collateral attack on the Commission's prior order and that such changes can only be made pursuant to FPA section 206. We therefore reject State Water Project's requested modifications to the allocation of RUC costs.

### **C. Hour-Ahead Scheduling Process**

#### **1. Emergency Energy Settlements**

77. The September 2006 Order required the CAISO to submit tariff language addressing the settlement of emergency energy. The Commission also indicated that the new tariff language should not supersede any current contractual agreements that may exist.<sup>45</sup> The Commission directed the CAISO to make a compliance filing providing a provision addressing the settlement of emergency energy.

78. The CAISO, in its compliance filing, proposes to add a new section 11.5.8 to the MRTU Tariff (Settlement for Emergency Energy Assistance) to address the settlement for emergency assistance. Specifically, section 11.5.8 states that "[i]n any case in which the CAISO has entered into an agreement regarding emergency assistance, which agreement has been accepted by FERC, the provisions of the agreement shall prevail over any conflicting provisions of this Section 11.5.8." Under section 11.5.8.1, the CAISO provides that emergency energy purchased by the CAISO will be paid either:

“(i) a negotiated price agreed upon by the CAISO and the seller or  
(ii) a price established by the seller for such emergency assistance in advance. If no settlement price is established prior to the delivery of the emergency energy, the default settlement price shall be the simple average of the relevant dispatch interval LMPs at the applicable scheduling point, plus all other charges applicable to imports to the CAISO Control Area. If the default settlement price is determined by the seller not to compensate the seller for the value of the emergency energy delivered to the CAISO, then the seller shall have the opportunity to provide the CAISO with cost support information demonstrating that a higher price is justified.”

79. The CAISO also proposes MRTU Tariff section 11.5.8.2 to provide that “[t]he Settlement price for emergency Energy that is delivered by the CAISO to a utility in another Control Area in response to a request for emergency assistance shall be the simple average of the relevant Dispatch Interval LMPs at the applicable Scheduling Point...plus all other charges applicable to exports from the CAISO Control Area...”

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<sup>45</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 219.

### Comments

80. While the proposed tariff language provides for payment of a negotiated or seller dictated price, BPA contends that the default settlement payment does not guarantee that the seller can recover its costs. BPA states that the tariff provides that the receiving system will bear the costs of the transaction on the CAISO system; however, it does not ensure the receiving system will pay the costs of emergency energy deliveries that arise on the system supplying the energy. As a result, BPA argues, the supplying system runs the risk of not being made whole because the supplying system is obligated to pay its own system costs for emergency energy benefiting the receiving system. BPA argues that it is unreasonable for the supplying system to incur any costs for providing energy during an emergency. BPA argues that the CAISO should modify the MRTU Tariff to require the receiving system to pay all of the transaction costs, regardless of whether the CAISO is the supplying system or the receiving system.

81. In addition, BPA states that relying upon the LMP price requires the seller to assume the risk of not being fully compensated for supplying emergency energy.<sup>46</sup> BPA believes that it is unreasonable to allow sellers to assume this risk. BPA also argues that the seller-established or negotiated price options can sometimes be difficult to execute during the often chaotic periods surrounding the acquisition of emergency energy. BPA's proposed solution is to require the CAISO to amend section 11.5.8.1 to add "and the seller's tariff" at the end of the second sentence. Correspondingly, BPA proposes that the CAISO amend section 11.5.8.2 to add "and the purchaser's tariff" following "plus all other charges applicable to exports from the CAISO Control Area, as specified in the CAISO Tariff" in the first sentence. BPA also proposes that the CAISO delete and replace the sentence in section 11.5.8.1 providing the CAISO with discretion whether to pay a seller's documented costs above the default price with language requiring payment by the CAISO, subject to dispute resolution processes, to ensure that the CAISO fully compensates suppliers of emergency energy.

82. The CAISO responds that the September 2006 Order required the CAISO to incorporate into the MRTU Tariff a provision addressing the settlement of emergency energy. The CAISO claims that it went beyond that requirement and fully complied with the Commission's directive.<sup>47</sup> The CAISO argues that BPA's proposal to incorporate a blanket provision where the CAISO will pay for emergency assistance based on the terms of any supplying utility's tariff is too open-ended to be reasonable.

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<sup>46</sup> See BPA Dec. 6, 2006 Comments at 3.

<sup>47</sup> The CAISO explains that it not only consulted directly but also provided BPA with a draft of section 11.5.8, which incorporated virtually all of BPA's proposed revisions except for one.

83. The CAISO explains that the proposed default provisions of section 11.5.8 will only apply if the supplying utility: (1) has failed to enter into an agreement with the CAISO in advance regarding the price for its supply of emergency assistance to the CAISO; and (2) has failed to agree with the CAISO on a price for its supply of emergency assistance at the time of the supply. Moreover, the CAISO adds, even if the supplier has foregone both of those opportunities to establish a price for its service, BPA's concern only arises if the supplier is dissatisfied with the market price paid by the CAISO for all energy procured from the CAISO markets at this same time. The CAISO states that if the Commission requires it to incorporate the additional revision proposed by BPA, it would effectively remove any last incentive for a supplying utility to specify or negotiate a price for emergency assistance and leave the CAISO without any way of knowing in advance or at the time of purchase what price it will have to pay for such emergency assistance. The CAISO submits that this would be unreasonable.

84. The CAISO also states that BPA appears to seek not only the recovery of its "cost" for supplying the emergency assistance but also the "value" of that emergency assistance if that "value" is purportedly higher. The CAISO considers it unreasonable to require the CAISO to pay a "market-based" or value-based rate established by the supplier through provisions of its own tariff based on the conditions in some other market other than the CAISO markets. The CAISO states that if the supplier finds it uneconomical to offer emergency assistance to the CAISO, it always has the option to deliver its energy to another market with a higher price; the provision of emergency assistance is at the supplier's discretion.

85. BPA states that during an emergency, when the reliability of the interconnection may be threatened, and blackouts to load may be imminent, a supplier has little practical choice to refuse a request to supply emergency energy if it is physically capable of providing it and contends that no responsible supplier would risk an outage for economic reasons. Based upon experience, BPA claims that the CAISO operators are not typically entertaining alternative offers of emergency energy from a variety of suppliers; rather they are desperately seeking energy from any reliable source.

86. BPA believes that the CAISO should pay BPA its lost opportunity costs for emergency energy. If BPA foregoes other sales, it believes it should receive the same price that it would have received for those sales, typically the prevailing West Coast price. BPA argues that if emergency power is generated from flows stored to serve load, BPA should receive the price it must pay to purchase power to replenish the stored water. BPA explains that it would not be choosing among West Coast prices as the CAISO has suggested, and prices could be readily documented from BPA's trading.

87. Furthermore, BPA argues that if the CAISO calls upon a supplier for emergency energy, it must be willing to pay the applicable charges on all systems involved. BPA states that the CAISO's implication that an Interconnected Control Area Operating

Agreement (ICAOA) could remedy the defects of the proposed default compensation ignores the fact that, at least in BPA's case, the ICAOA is a decision for the transmission function, and emergency energy would be provided by the functionally separated and independent power function, which has no say in the decision to enter into such an agreement.

88. Lastly, BPA argues that contrary to the claims in its answer, the CAISO did not adopt "virtually all" of BPA's proposed revisions to the draft tariff language. Of the five substantive changes BPA proposed, BPA states that the CAISO adopted two, rejecting those that would have included payment of charges on systems outside the CAISO and allowed opportunity costs.

### **Commission Determination**

89. In response to BPA's concern that the CAISO's proposed tariff language will prevent it from recovering the full amount of costs incurred to provide emergency energy, we note that proposed section 11.5.8 will allow BPA to negotiate a price for the emergency energy prior to the transaction. Moreover, section 11.5.8 also provides that

[i]f the default settlement price is determined by the seller not to compensate the seller for the value of the emergency energy delivered to the CAISO, then the seller shall have the opportunity to provide the CAISO with cost support information demonstrating that a higher price is justified.

However, this section does not make clear the process and timeline to be followed by the CAISO and the seller in resolving the matter. Nor does it provide a clear procedure for resolving any disputes in the event the CAISO and the seller fail to agree. Accordingly, the CAISO should provide more detail on the process and timeline for addressing submittals of cost justification information, including details as to how any dispute regarding the cost justification will be resolved. The Commission, therefore, directs the CAISO to further revise section 11.5.8 in accordance with the above and to submit this tariff revision in conjunction with a compliance filing it will make on or before August 3, 2007.

90. We also note that the CAISO and BPA have an option of agreeing on the price of the emergency energy in advance. If the CAISO and BPA choose to enter into such an emergency energy agreement, then under the proposed tariff language, the contractual price term will supersede the tariff provision on the emergency energy settlement. If BPA and the CAISO enter into such agreement, the CAISO must file it for Commission review.<sup>48</sup>

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<sup>48</sup> As a general matter, BPA is not subject to the Commission's jurisdiction under FPA sections 205 and 206. *See* 16 U.S.C. § 824(f) (2000). The Commission, however,

## 2. Eligibility Restriction on the Payment of Excess Costs

91. The September 2006 Order required the CAISO to clearly define excess costs throughout the body of the MRTU Tariff, including all cases where excess costs are incurred, not just from condition 2 reliability must-run units.<sup>49</sup>

92. On compliance, the CAISO modified several sections to comply with the Commission's directive, including the following language to section 11.5.6.1.1 and 11.5.6.2.3: "A Resource must be operating within its Tolerance Band for the relevant Settlement interval in order to be eligible for Excess Cost Payment."

### Comments

93. Williams submits that the language in sections 11.5.6.1.1<sup>50</sup> and 11.5.6.2.3 is not only inconsistent with other directives contained in the September 2006 Order, but, also, is outside the scope of modifications directed by the Commission. Williams states that the CAISO, in its initial MRTU Tariff filing, proposed to condition the bid cost recovery payment on whether a unit operates within a tolerance band, but, consistent with prior orders, the Commission rejected that proposal.<sup>51</sup> Williams notes that the Commission instead held that the CAISO could limit bid cost recovery to the actual amount of energy delivered (if below the instruction) or the instruction, but could not simply reject paying any bid cost recovery if the unit operated outside the tolerance band.<sup>52</sup> Given that excess cost payments are similar to bid cost recovery, Williams contends that the Commission

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may analyze and consider the rates of non-jurisdictional utilities to the extent that those rates affect jurisdictional transactions. *See Pacific Gas and Electric Co. v. FERC*, 306 F.3d 1112 (D.C. Cir. 2002); *see also City of Vernon*, 93 FERC ¶ 61,103, at 61,285, *reh'g denied*, 94 FERC ¶ 61,148 (2000).

<sup>49</sup> *See* September 2006 Order, 116 FERC ¶ 61,274 at P 269.

<sup>50</sup> Williams notes that MRTU Tariff section 11.5.6.1.1 will calculate excess cost payments as the difference between the resource-specific settlement interval LMP and the resource's bid cost, default energy bid, or negotiated price.

<sup>51</sup> Williams refers to September 2006 Order, 116 FERC ¶ 61,274 at P 516. *See also Cal. Indep. Sys. Operator Corp.*, 111 FERC ¶ 61,342, at P 9-14 (2005) (Noting prior orders rejecting the CAISO's proposal to not compensate a must-offer generator for either minimum load costs or bid costs for energy dispatched above minimum load when it generates outside of a tolerance band, and reaffirming previous orders that rejected the CAISO's proposal to eliminate bid cost recovery payments for non-must-offer resources operating outside the tolerance band amount of the dispatch operating point).

<sup>52</sup> Williams cites to September 2006 Order, 116 FERC ¶ 61,274 at P 516.

should not allow the CAISO to impose a restriction on the payment of excess cost. In addition, Williams argues that the Commission did not direct or authorize the CAISO to impose an additional eligibility restriction on the payment of excess costs, but instead required the CAISO to more clearly define the excess costs.

94. Accordingly, Williams states that the Commission should reject the proposed revisions to sections 11.5.6.1.1 and 11.5.6.2 as being outside the scope of the compliance filing.

95. In its answer, the CAISO believes the additional language to sections 11.5.6.1.1 and 11.5.6.2 fully complies with the Commission directive to more “clearly define excess costs throughout the body of the MRTU Tariff.” The CAISO further states that it has been working towards developing charge types for bid cost recovery payments.<sup>53</sup> Notwithstanding, the CAISO states that, at this time, it has become apparent that the CAISO will be required to settle the energy bid cost recovery amounts based on actual delivered energy, limited by what was instructed, as opposed to deemed delivered energy. Accordingly, the CAISO believes that the same logic should apply to exceptional dispatches. Therefore, the CAISO proposes to eliminate the references to the application of tolerance bands in sections 11.5.6.1.1 and 11.5.6.2.3. The CAISO notes that this does not mean, however, that the CAISO will be incorporating the excess cost payment recovery into the bid cost recovery netting mechanism; rather, the CAISO believes that it is appropriate to apply the same logic for using the delivered energy approach to the excess cost payments settlement.

### **Commission Determination**

96. Williams raises concerns about the CAISO’s addition of language to sections 11.5.6.1.1 and 11.5.6.2.3 regarding the application of a tolerance band to settlements for excess cost payments. In its answer, the CAISO proposes to eliminate such references, because, it intends to settle excess cost payments based on actual energy delivered, similar to bid cost recovery amounts. Because the CAISO commits to eliminate the tolerance band language from sections 11.5.6.1.1 and 11.5.6.2.3, we find that the CAISO’s answer adequately addresses Williams’ concerns and therefore no further discussion is needed. We hereby direct the CAISO to file the appropriate tariff sheets in conjunction with compliance filings it plans to make on or before August 3, 2007, to reflect the removal of the tolerance band language from sections 11.5.6.1.1 and 11.5.6.2.3.

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<sup>53</sup> *Id.* at P 516.

### 3. Unaccounted for Energy

97. In the September 2006 Order, the Commission required the CAISO to clarify export schedules in the context of MRTU Tariff section 11.5.3 (Unaccounted for Energy).<sup>54</sup>

98. In response to the Commission's directive, the CAISO explains that the term "export schedule" pertains to the entire phrase "Real-Time Interchange Export Schedules," which is one element of Measured Demand. The CAISO also proposes to add a definition to MRTU Tariff Appendix A, which defines Real-Time Interchange Export Schedule as: "[a]n agreement to transfer energy from the CAISO Control Area to a[n] interconnected control area at a Scheduling Point based on agreed-upon size (megawatts), start and end time, beginning and ending ramp times and rate, and type required for delivery and receipt of power and Energy between the source and sink control areas involved in the transaction."<sup>55</sup>

#### Comments

99. Powerex contends the CAISO does not explain how it formed the definition for Real-Time Interchange Export Schedule. Powerex states that the CAISO Master Definitions Supplement in Appendix A of the Tariff currently defines Real-Time Export, Interchange, and Schedules. Powerex contends that it is not clear why the CAISO did not make use of these existing definitions to define the term "Real-Time Interchange Export Schedule." Powerex states that the CAISO should consider reducing the uncertainty in its proposed definition, which stems from the reference to an "interconnected control area." Powerex argues that the CAISO does not clearly indicate whether exports that sink in directly interconnected control areas (as opposed to those exports that sink in external control areas that are not directly interconnected with the CAISO, such as the BC Hydro control area) would constitute real-time interchange export schedules. Thus, Powerex requests that the CAISO clarify that export schedules that sink in control areas outside of those directly interconnected with the CAISO are considered real-time interchange export schedules, and revise the definition as follows:

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<sup>54</sup> *Id.* at P 279.

<sup>55</sup> The CAISO notes that in section 11.5.3, Real-Time Interchange Export Schedules for UFE are based on the Real-Time Interchange Export Schedules from the relevant utility service area. Therefore, in allocating unaccounted for energy, the Real-Time Interchange Export Schedules are based on the location of the applicable Scheduling Point on a UDC.

An agreement to transfer energy from the CAISO Control Area to an ~~interconnected-external~~ control area at a Scheduling Point based on agreed-upon size (megawatts), start and end time, beginning and ending ramp times and rate, and type required for delivery and receipt of power and energy between the source and sink control areas involved in the transaction.

100. SoCal Edison also objects to the CAISO's proposed definition for Real-Time Interchange Export Schedule, because defining a real-time interchange export schedule as an "agreement" creates inherent confusion in the definition. SoCal Edison argues that the term is not an agreement, but a schedule of exports between two control areas. Further, SoCal Edison argues that, although "Real-Time" is a part of the term being defined, there is nothing in the definition that specifies its relevance. SoCal Edison believes the word "Real-Time" could be interpreted as the final schedule between the control areas rather than some schedule that is subsequently modified. SoCal Edison, therefore, suggests that the CAISO include the word "final" in the definition. Thus, SoCal Edison states that the proposed definition should read as follows:

An final agreed-upon~~ment~~ schedule of energy to be transferred energy from the CAISO control Area to an interconnected control area at a Scheduling Point based on agreed-on size (megawatts), start and end time, beginning and ending ramp times and rate, and type required for delivery and receipt of power and Energy between the source and sink control areas involved in the transaction.

101. SMUD argues that the CAISO's proposed allocation of unaccounted for energy to load outside its control area is unjust and reasonable. SMUD contends that the September 2006 Order directed the CAISO to clarify its tariff consistent with SMUD's objection to the CAISO allocating unaccounted for energy costs to wheel-throughs.<sup>56</sup> SMUD believes the CAISO's clarification violates the Commission's directive because the CAISO defines real-time interchange export schedules to include both exports and wheel-throughs. SMUD argues that wheel-throughs and exports, by definition, serve load in non-CAISO control areas and as such, these separate control areas are responsible for their own Unaccounted for Energy (UFE)-type costs. Accordingly, SMUD urges the Commission to reject this segment of the compliance filing and order the CAISO to revise its tariff to exempt wheel-throughs from the allocation of unaccounted for energy costs.

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<sup>56</sup> SMUD refers to September 2007 Order, 116 FERC ¶ 61,274 at P 279.

102. In its answer, the CAISO agrees with SoCal Edison's change regarding the definition of Real-Time Interchange Schedule. The CAISO proposes to make the change in a future compliance filing.

103. The CAISO disagrees with SMUD's assertion that the Commission required the CAISO to state that unaccounted for energy costs would not be allocated to wheel-throughs. The CAISO argues that the Commission simply agreed that the CAISO has not defined or clarified "export schedules" in section 11.5.3 and therefore "direct[ed] the CAISO to make a compliance filing to clarify export schedules in this context," but said nothing about prohibiting the allocation of unaccounted for energy costs to wheel-throughs. As a result, the CAISO contends that the Commission should reject this argument because SMUD relies on a faulty premise.

### **Commission Determination**

104. We agree with Powerex that the CAISO should revise the definition of Real-Time Interchange Export Schedule in order to clarify that such schedules can include any external control area, not just an interconnected control area because we see no reason to limit such schedules only to interconnected control areas. We also agree with SoCal Edison's requested change to the definition, which the CAISO has also agreed to. Therefore, we direct the CAISO to make the changes suggested by Powerex and SoCal Edison, as discussed above, to the definition of Real-Time Interchange Export Schedule.

105. With regard to SMUD's concern about wheel-throughs being subject to UFE costs, we defer to our findings in the April 2007 Rehearing Order. In the April 2007 Rehearing Order, the Commission found that the CAISO should not allocate unaccounted for energy costs to a customer for exports or wheel-throughs. Therefore, SMUD, whose load is outside the CAISO Control Area and who is responsible for matching delivered energy with load is not allocated UFE costs for exports or wheel-throughs.<sup>57</sup> The Commission explained that unaccounted for energy charges are more relevant to customers with load within the CAISO Control Area. Similarly, the Commission stated that wheel-throughs and exports would be subject to possible unaccounted for energy charges in the control areas they sink in.<sup>58</sup> The Commission subsequently required the CAISO to make a compliance filing to modify the tariff accordingly.<sup>59</sup> Therefore, since the Commission has already addressed SMUD's concern regarding the allocation of unaccounted for energy to wheel-throughs and exports, the issue is moot.

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<sup>57</sup> April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 307.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

#### 4. Scheduling of Exports

106. The Commission accepted the CAISO's proposed modifications to treat export demand the same as CAISO demand if that export demand is not served by capacity reserved for resource adequacy or RUC use, and directed the CAISO to confer with commenters and submit amended tariff sheets reflecting the proposed modifications.<sup>60</sup>

107. The CAISO, in its compliance filing, proposes to modify section 33.3 (Treatment of Self Schedules in HASP), which provides that Scheduling Coordinators may submit self-schedules for supply of energy to the HASP, by adding the following statement: "Scheduling Coordinators may submit Self-Schedules for exports at Scheduling Points including but not limited to exports that utilize TORs [transmission ownership rights] and ETC [existing transmission contract] rights that have post-Day-Ahead scheduling rights, and including Self-Schedules for wheel-throughs."

#### Comments

108. While Six Cities<sup>61</sup> understand the intent of these revisions, they contend that the reference to "including but not limited to" creates unnecessary ambiguity as to whether other types of self-schedules for exports may be disallowed in the HASP. In order to eliminate that ambiguity, Six Cities contend that section 33.3 should be modified to provide that "Scheduling Coordinators may submit Self-Schedules for exports at Scheduling Points that do not rely on Resource Adequacy or RUC capacity."

109. The CAISO explains that it included the phrase "including but not limited to" in section 33.3, because of the changes to allow submission of self-schedules for exports at scheduling points to ensure that it was clear that TORs and ETCs could also be submitted for exports at scheduling points. However, the CAISO found that because self-schedules are defined to include TOR and ETC self-schedules, it is best to reduce the entire sentence to "Scheduling Coordinators may submit Self-Schedules for exports at Scheduling Points." Additionally, the CAISO clarifies that self-schedules for exports in HASP are not restricted to self-schedules supported by non-resource adequacy or non-RUC capacity. The CAISO explains that Scheduling Coordinators may submit self-schedules for exports and not indicate that they are served by non-resource adequacy or non-RUC capacity, but if this is done, then such submission will not receive the scheduling priority specified in section 34.10.1(b).

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<sup>60</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 217.

<sup>61</sup> Six Cities are comprised of the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California.

### **Commission Determination**

110. We accept the CAISO's proposal to reduce the referenced sentence and its explanation of self-scheduled exports in the HASP. We hereby direct the CAISO to revise section 33.3, as discussed above, and submit the directed revision in conjunction with a compliance filing it will make on or before August 3, 2007.

### **5. Minor Language Changes**

111. In the September 2006 Order, the Commission found acceptable the CAISO's proposal to remove the language from section 34.10.2, which states that the dispatch priorities will be incorporated into a Business Practice Manual, and to keep the dispatching priorities that it will follow in section 34.10. The CAISO also agreed to remove the term "slack" from section 34.10.1, as it believes that the term does not add any additional clarity.<sup>62</sup> The Commission accepted this CAISO proposal.<sup>63</sup> Thus, the CAISO modified section 34.10.2 to read "These dispatch priorities as defined in the RTM optimization may be superseded by operator actions and procedures."

### **Comments**

112. SoCal Edison contends the revised language in section 34.10.2 provides the CAISO operators with an overly broad discretion by effectively allowing operators to take whatever action necessary. SoCal Edison argues that the Commission should require the CAISO to amend the language to include the following clause at the end of the sentence: "permitted and described elsewhere in the tariff."

113. The CAISO does not agree with SoCal Edison's suggested language revision, but instead states that it will amend section 34.10.2 to add "as necessary to ensure reliable operations" to the end of the sentence at issue.

### **Commission Determination**

114. We understand that SoCal Edison is concerned that the CAISO's broad discretion might allow it to supersede the tariff dispatch priorities; however, we believe the CAISO must have some flexibility to maintain reliable operation of the transmission grid. While the tariff outlines such procedures for handling certain problems, the CAISO cannot predict or include in the tariff every action, because an unknown number of unique issues might arise and the CAISO must be able to use its discretion, when needed, to ensure

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<sup>62</sup> See September 2006, 116 FERC ¶ 61,274 at P 281.

<sup>63</sup> *Id.* at P 282.

reliable operations. We, therefore, direct the CAISO to add “as necessary to ensure reliable operations” to section 34.10.2 of the MRTU Tariff as proposed above. This revision must be made in conjunction with compliance filings the CAISO will make on or before August 3, 2007.

#### **D. Ancillary Services**

##### **1. Interruptible Imports**

115. In the September 2006 Order, the Commission directed the CAISO to explain how it handles sales of interruptible imports in the day-ahead market.<sup>64</sup> The Commission sought clarification of this issue because Scheduling Coordinators are responsible for an operating reserve obligation equal to 100 percent of interruptible imports.<sup>65</sup> Unless the interruptible import is a self-schedule, however, the CAISO will not know how much additional operating reserve to procure to cover the interruptible import prior to simultaneous optimization of the energy and ancillary services markets.

116. In its compliance filing, the CAISO proposed changes to MRTU Tariff sections 11.10.3.2, 30.5.2.4, and 34.16.2, as well as to the definition of “Interruptible Imports.”<sup>66</sup> The proposed language provides that interruptible imports may be submitted as self-schedules in the day-ahead timeframe. Further, the CAISO states that the Scheduling Coordinator submitting the self-schedule will be responsible for 100 percent of the operating reserves obligation based on the MWh quantity reflected in the self-schedule. The CAISO also clarifies the MRTU Tariff will not permit any incremental increase in the HASP or real-time market over and above the quantity reflected in the day-ahead schedule for interruptible imports.

##### **a. Interruptible Imports from Resource Adequacy Capacity**

117. Powerex states that the CAISO added several provisions intended to provide more detail to section 30.5.2.4 (Supply Bids for System Resources), including bidding

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<sup>64</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 388-389.

<sup>65</sup> The CAISO defines Interruptible Imports as “Non-firm Energy sold by a generator or resource located outside the CAISO Controlled Grid which by contract can be interrupted or reduced at the discretion of the seller. Interruptible Imports must be submitted through Self-Schedules in the day-ahead market.”

<sup>66</sup> On November 20, 2006, the CAISO posted the proposed tariff language for stakeholders to provide comments no later than December 5, 2006. The CAISO subsequently made additional modifications in response to stakeholder comments.

requirements for system resources that are resource adequacy resources.<sup>67</sup> Powerex argues that the Commission should not permit system resources to provide interruptible imports for capacity that is resource adequacy capacity because it would undermine the purpose of resource adequacy requirements.

118. The CAISO agrees with Powerex's argument that section 30.5.2.4 should not allow system resources counted as resource adequacy resources to submit interruptible imports. Notwithstanding, the CAISO asserts that the proposed tariff language is consistent with this position. In addition, the CAISO states that Powerex does not indicate where in section 30.5.2.4 system resources sold as resource adequacy capacity have the ability to provide interruptible imports. It further notes that section 40.6.5 of the MRTU Tariff provides the framework in which system resources must be available in the CAISO market.

### **Commission Determination**

119. We find that section 30.5.2.4 does not suggest that resource adequacy resources may provide interruptible imports but rather states, "if the Resource...is a Resource Adequacy Resource, the Resource is obligated to make itself available to the CAISO market as prescribed by Section 40.6." Because this section makes clear that resource adequacy resources are not allowed to provide interruptible imports, we find it unnecessary for the CAISO to make any further modifications to this section.

#### **b. "Non-Firm" Versus "Interruptible Import"**

120. Powerex contends that including the term "non-firm" in the definition of interruptible imports is redundant and may cause confusion. Powerex states that the CAISO revised the definition to provide that interruptible imports are "Non-firm Energy sold by a Generator or resource located outside the CAISO Controlled Grid which by contract can be interrupted or reduced at the discretion of the seller." Powerex notes that non-firm is not a defined term in the MRTU Tariff, but is a term often used for transmission services. Accordingly, Powerex urges the Commission to require the CAISO to replace the term "non-firm" with "interruptible" in the definition and scheduling software for consistency.

121. In its answer, the CAISO notes that its scheduling template uses the term "non-firm" while the current tariff uses the term interruptible imports. In order to provide further transparency without the potential for delay created by a software change, however, the CAISO states that it will add language in the applicable Business Practice

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<sup>67</sup> Powerex refers to the CAISO's November 20 Compliance Filing, Attachment A, at 40.

Manual clarifying that the “non-firm” term in the scheduling template corresponds to the term interruptible import in the MRTU Tariff.

### **Commission Determination**

122. We find acceptable for Release 1 the CAISO’s proposal to explicitly state in the Business Practice Manual that “non-firm” in the scheduling template corresponds to “interruptible import” in the MRTU Tariff. While consistency in the tariff language is ideal, we do not find that the proposed changes, at this time, warrant the risk of potentially delaying MRTU. We also note that Powerex does not imply that this inconsistency will cause any operational concerns going forward. However, we direct the CAISO to make the terminology consistent by the earlier of: (1) any subsequent software changes; or (2) Release 2 of MRTU.

#### **c. Software Function for Self-Schedules of Interruptible Imports and Related Tariff Language**

123. Powerex contends that the MRTU Tariff is inconsistent in regard to self-schedules for interruptible imports. For example, Powerex notes that section 30.5.2.4 provides that interruptible imports “*can only be* submitted through Self-Schedules in the Day-Ahead Market...”<sup>68</sup>; while elsewhere the MRTU Tariff provides that interruptible imports “*must* be submitted through Self-Schedules in the Day-Ahead Market.”<sup>69</sup> Powerex contends that market participants could interpret the latter language as allowing Scheduling Coordinators to choose a self-schedule, as one of the alternative options. Thus, Powerex states that the CAISO should revise other references to interruptible imports to match the language in section 30.5.2.4 to ensure that interruptible imports “can only be submitted through self-schedules in the day-ahead market.”

### **Commission Determination**

124. We agree with Powerex that the description of how the CAISO schedules interruptible imports in the day-ahead market should be consistent throughout the MRTU Tariff and accurately reflected in the CAISO’s software. Accordingly, we will direct the CAISO to modify the tariff and software, if necessary, to ensure that interruptible imports

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<sup>68</sup> The CAISO’s December 20 Compliance Filing, Attachment A.

<sup>69</sup> *Id.* § 11.10.3.2 and Appendix A.

“can only be” submitted as self-schedules.<sup>70</sup> We also note that the CAISO does not suggest that this modification will cause a delay in MRTU Release 1. This modification must be submitted in conjunction with compliance filings the CAISO will make on or before August 3, 2007.

**d. Consistency Between Sections – 11.10.3.2 and 11.10.4.2**

125. In the September 2006 Order, the Commission directed the CAISO to address SoCal Edison’s concern regarding the formula for non-spinning reserves in section 11.10.4.2 and to clarify the titles of sections 11.10.2.1.3, 11.10.2.2.2, 11.10.3.2 and 11.10.4.2.<sup>71</sup> Powerex notes that in the initial comments on the operating reserves for interruptible imports, SoCal Edison cited to 11.10.4.2 “Hourly Net Obligation for Non-Spinning Reserves” as containing an invalid formula and suggested that the appropriate formula should be similar to section 11.10.3.2 “Hourly Net Obligation for Spinning Reserves.”<sup>72</sup> Powerex states that in the compliance filing, the CAISO only proposes clarifying changes to section 11.10.3.2 and provides no explanation for the failure to revise section 11.10.4.2 to make it consistent. Powerex states, for consistency, the CAISO should modify section 11.10.4.2 to reflect section 11.10.3.2.

126. In its answer, the CAISO agrees and commits to make this change in any further compliance filing ordered by the Commission.

**Commission Determination**

127. We find that the additional language added to section 11.10.3.2, regarding interruptible imports, should also be included in section 11.10.4.2. We hereby direct the CAISO to make section 11.10.4.2 consistent with section 11.10.3.2 and submit this modification in conjunction with compliance filings the CAISO will make on or before August 3, 2007.

**e. Tariff Language Clarification**

128. Powerex states that, during stakeholder discussions on interruptible imports, the CAISO agreed to clarify that Scheduling Coordinators responsible for scheduling

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<sup>70</sup> We note that the difference between “can only be” and “must” is that “must” can be interpreted to imply that participants have some option other than self-scheduling for interruptible imports, but they “must” choose self-scheduling. However, “can only be” suggests that there is no other option and that the software does not offer such an option or require the participant to make some sort of choice when scheduling.

<sup>71</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 370.

<sup>72</sup> *Id.* at P 367.

interruptible imports will be allocated the operating reserve costs associated with interruptible imports, regardless of whether that Scheduling Coordinator is a load-serving entity or a non-load-serving entity. Powerex contends that the CAISO did not include this clarification in the tariff and suggests that the CAISO modify the tariff accordingly.

129. In its answer, the CAISO agrees and commits to modify the MRTU Tariff in any further compliance filing directed by the Commission in order to clarify that the Scheduling Coordinator scheduling an Interruptible Import will be responsible for operating reserves associated with the Interruptible Import, regardless of whether the Scheduling Coordinator is a load serving entity or non-load serving entity.

### **Commission Determination**

130. We accept the CAISO's proposed clarification and direct the CAISO to submit tariff sheets containing the proposed modification in conjunction with compliance filings it will make on or before August 3, 2007.

### **f. Scheduling Priority for Interruptible Imports**

131. Powerex argues that the CAISO's proposal to require self-schedules for all Interruptible Imports may lead to unintended consequences with respect to economic bids. Specifically, Powerex states that the CAISO could give self-scheduled Interruptible Imports a higher scheduling priority than economic bids for imported energy that is not interruptible.<sup>73</sup> Powerex requests that the CAISO clarify whether it intends interruptible imports to receive a higher priority than economic bids for imported energy, and describe how the CAISO will evaluate these transactions.

132. In its answer, the CAISO states that it intends to give interruptible imports a higher priority than economic bids. The CAISO believes that this outcome is appropriate because the CAISO will procure, and Scheduling Coordinators submitting self-schedules for interruptible imports will be responsible for, operating reserves equal to 100 percent of the quantity of interruptible imports.

133. Powerex states that the CAISO has not addressed the relative priority of an interruptible import self-schedule and firm import self-schedule when the interties are constrained and the CAISO cannot accept both the interruptible import and firm import self-schedules. Powerex submits that the CAISO should give firm imports that are self-scheduled a higher priority than interruptible imports that are self-scheduled when the CAISO must make uneconomic adjustments because it provides incentives for firm transactions. Powerex contends that it is both appropriate and necessary to afford firm

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<sup>73</sup> See section 31.4 of the MRTU Tariff.

import self-schedules priority over interruptible import self-schedules to minimize production costs, while preserving system reliability.

134. Powerex contends that the CAISO should treat all interruptible imports with the lowest priority on constrained interties in order to preserve reliability. Powerex proposes an evaluation and adjustment process, which it states would achieve the objective of allowing interruptible import self-schedules only to the extent that there is ATC available after accepting firm import self-schedules and economic bids at or below the locational marginal price at the scheduling point of any given intertie. Powerex explains that this substitution process should not change the locational marginal prices within the CAISO-controlled grid because it would simply equalize the locational marginal price on both sides of the intertie based on the LAP locational marginal price, while maximizing the use of firm resources and, thus, lowering the risk of costly reliance on quick-start resources close to or in real-time.

135. The CAISO contends that Powerex's comments should be rejected because they go beyond the scope of the December 20 Compliance Filing. The CAISO notes that the Commission did not direct the CAISO to justify the priority of interruptible imports relative to firm imports or economic bids. Instead, the CAISO states that the Commission directed the CAISO to clarify the process for handling interruptible imports in the MRTU Tariff because the Commission agreed with SoCal Edison that the CAISO needed to provide more detail on the treatment of the 100 percent operating reserve requirement associated with interruptible imports.

136. The CAISO notes that interruptible imports are authorized under the current CAISO Tariff and interruptible imports do not receive a lower scheduling priority than other "firm" imports. Further, the CAISO explains, under the current tariff, day-ahead and hour-ahead schedules involving transactions over the interties do not receive a higher priority than interruptible imports. Thus, the CAISO argues that Powerex has not met the burden of demonstrating that the existing scheduling practices for imports are rendered unjust and unreasonable under MRTU. The CAISO contends that Powerex's proposal to establish a new (lower) priority for interruptible imports does not address the potential impact of interruptible imports on the day-ahead optimization, it simply alters the priority of self-schedules on a particular transmission path.

137. The CAISO adds that the software changes needed to add such a pre-processing design feature, as suggested by Powerex's proposal, cannot be accommodated under the current scope of MRTU Release 1. However, the CAISO believes that the proposal to establish a different scheduling priority for interruptible imports relative to non-interruptible imports and economic bids may have some merit and warrants consideration as a potential future enhancement to the MRTU design. The CAISO therefore commits to present this proposal for further development and comment as part of the ongoing stakeholder process considering post-Release 1 enhancement to the MRTU design.

### **Commission Determination**

138. In the September 2006 Order, the Commission directed the CAISO to explain how it will handle sales of interruptible imports in the day-ahead market.<sup>74</sup> We note the Commission did not direct the CAISO, in this compliance filing, to address the scheduling priority of interruptible imports because the Commission has already approved the scheduling priority provisions for uneconomic adjustments in the integrated forward market.<sup>75</sup> Specifically, the Commission did not previously disagree that self-scheduled supply should have higher priority than economic supply bids when the CAISO must administer uneconomic adjustments.<sup>76</sup> As the CAISO points out, this is similar to the current priority construct. We find that this is still true with regard to self-scheduled interruptible imports and also note that such imports are supported by 100 percent operating reserves, and thus, do not impose an additional reliability threat as Powerex suggests.

139. We note that if, however, the CAISO encounters unforeseen circumstances that may require the CAISO to reconsider the scheduling priority of interruptible imports or otherwise desires to change the scheduling priority, the CAISO should conduct stakeholder meetings to discuss and analyze various options for modification and file such changes with the Commission under section 205 of the FPA.<sup>77</sup>

#### **g. Interruptible Imports in the HASP**

140. Powerex states that the CAISO has proposed to allow sales of interruptible imports only in the day-ahead market. Powerex contends that this may be a reasonable accommodation for the initial implementation of MRTU, but the CAISO should consider allowing interruptible import sales in the HASP. Powerex contends that making this change would be consistent with policy objectives of inducing additional energy imports to California when needed to meet load, because the CAISO may not become aware of demand increases (or supply decreases) until after the day-ahead market closes. In those circumstances, Powerex states, the market would be best served by allowing the widest possible type of energy supplies to help meet demand, rather than erecting barriers to any types of potential energy supplies. Among these potential supplies, Powerex notes, are interruptible imports, which could participate through bidding in the HASP market.

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<sup>74</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 389.

<sup>75</sup> The Commission generally accepted the priority of self-scheduled resources over economic bids.

<sup>76</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 389.

<sup>77</sup> 16 U.S.C. § 824d (2000).

### **Commission Determination**

141. We find that Powerex's suggestion to consider interruptible import sales in the HASP is not before the Commission in this compliance filing, and thus outside the scope of the instant proceeding. Powerex should have raised the proposition during the CAISO's initial filing, but failed to do so. Powerex can also raise this issue in the stakeholder process or in a proceeding under section 206 of the FPA. Accordingly, we will not address it here, as the proposal does not relate to whether the CAISO properly implemented the Commission's directives in its compliance filing.

#### **h. Market Monitoring and Reporting of Interruptible Imports**

142. Powerex states that the CAISO should perform additional oversight and market monitoring regarding self-scheduled interruptible imports because the incremental level of reserves needed to support an interruptible import can represent a significant amount of the total reserves required for the system. Powerex contends that the impact of an interruptible import self-schedule on the operating reserves market will be 14 to 20 times greater than the impact on the energy market. To provide effective monitoring of the cross-market impacts of the use of interruptible import self-schedules, Powerex states that the CAISO should collect, calculate, and post publicly the following data in a timely manner:

- (a) Total MWh of interruptible import self-schedules accepted;
- (b) Total MWh of interruptible import self-schedules interrupted;
- (c) Average real-time energy price in hours in which an interruption occurred in (b), above;
- (d) Average price of operating reserves during hours describe in (a), above;  
and
- (e) Total cost of operating reserves allocated to Scheduling Coordinators submitting accepted self-scheduled interruptible imports.

143. The CAISO argues that its compliance obligation has nothing to do with the monitoring of potential market impacts of interruptible imports and thus, the Commission should reject Powerex's comments as outside the scope of this compliance filing.<sup>78</sup> Absent evidence of specific market concerns that will not be addressed by the currently approved market monitoring provisions in Appendix P of the MRTU Tariff, the CAISO contends there is no basis to impose on the CAISO or its Department of Market Monitoring (DMM) the specific requirements proposed by Powerex.

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<sup>78</sup> *Id.*

### **Commission Determination**

144. We find that Powerex's request for additional market monitoring and information posting related to interruptible imports is outside the scope of this compliance proceeding. However, we note that if unforeseen issues arise following the implementation of MRTU, and the monitoring of interruptible imports in the CAISO market is a solution, then the CAISO should submit such a proposal to the Commission at that time.

### **E. Cost Recovery and Allocation Issues**

#### **1. Allocation of Peak Load Reliability Costs**

145. In the September 2006 Order, the Commission found that the CAISO had not justified the "socialized allocation" of real-time uplift costs and directed the CAISO to modify the tariff to allocate real-time bid cost recovery costs in a two-tier cost allocation method similar to day-ahead bid cost recovery.<sup>79</sup>

146. The CAISO, in its compliance filing, explains that it did not modify the allocation mechanism for real-time bid cost recovery in accordance with the Commission's directive because there is no practical method to allocate these costs consistent with cost causation. The CAISO states that it objected to the two-tiered cost allocation mechanism in its Request for Clarification and Rehearing of the September 2006 Order. The CAISO states that in the event that the Commission opts not to grant rehearing, that the Commission should provide clarification on how to comply with this aspect of the September 2006 Order.

### **Comments**

147. State Water Project protests the CAISO's failure to follow cost causation principles for real-time bid cost recovery allocations and provides a recommendation for compliance. State Water Project states that the Commission should direct the CAISO to base the first tier of real-time bid cost recovery costs on the total real-time bid cost recovery amount incurred by the CAISO divided by the sum of the absolute value of the uninstructed demand deviations of all Scheduling Coordinators. State Water Project states that this would be the divisor the CAISO had difficulty envisioning. State Water Project argues that the rate cap for tier 1 would then be calculated as the real-time bid cost recovery amount incurred by the CAISO divided by the sum of the absolute values of instructed incremental and decremental generation MW amounts of all Scheduling Coordinators. State Water Project posits that the second tier for real-time bid costs

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<sup>79</sup> *Id.* at P 539.

recovery should take any remaining real-time bid cost recovery dollar amount that remains after tier 1, and allocate costs to Gross Demand, which includes measured demand and unaccounted for energy. State Water Project claims that the current proposal by the CAISO allocates substantial costs to Scheduling Coordinators that are not at fault for the costs in question.

### **Commission Determination**

148. We disagree with State Water Project's comments regarding the appropriate allocation of real-time bid cost recovery costs. As we found in the April 2007 Order:

[t]he disparities between the forecast and real-time demand are problematic and could lead to costs which cannot accurately be attributed to a specific market participant. We agree that cost causation principles are difficult to follow in situations where procurements are made in order to assure grid reliability. We recognize that the CAISO and State Water Project have had some discussion regarding this issue and believe an alternative approach may be feasible. However, the proposals before the Commission at this time are incomplete and may be based on assumptions that have not been thoroughly analyzed. As such, we grant the CAISO rehearing and accept the language in section 11.8.6.6 as originally filed. Furthermore, we direct the CAISO to work with stakeholders to develop a proposal for two-tiered allocation of real-time bid cost recovery costs that could be included in MRTU Release 2.<sup>80</sup>

149. We are not persuaded by State Water Project to reverse our finding in the April 2007 Order, or require the CAISO to make any particular changes to this aspect of the tariff. We reiterate, in this proceeding, that the CAISO must continue to work with other stakeholders on this issue to determine whether a superior cost allocation method could be included in MRTU Release 2. Thus, we reject State Water Project's request. We further note that, as stated above, the Commission granted the CAISO's request for rehearing on this issue in the April 2007 Request for Rehearing. Therefore, we find no further clarification is necessary.

## **III. Demand Issues**

### **A. LAP Settlement**

150. In the September 2006 Order, the Commission found the parameters that govern

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<sup>80</sup> April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 309.

the CAISO's use of MRTU Tariff section 31.3.1.2 (Reduction of LAP Demand)<sup>81</sup> could significantly impact rates and determined that the CAISO should provide further details on those parameters in MRTU Tariff section 31.3.1.2.<sup>82</sup> While the CAISO anticipates using these provisions only under rare conditions, the Commission directed the CAISO to revise this section to include the parameters that would govern relaxation of transmission constraints in the context of Load Aggregation Points (LAP).<sup>83</sup> Thus, the Commission directed the CAISO to revise this section to include the parameters that would govern its use of MRTU Tariff section 31.3.1.2.

151. In its compliance filing, the CAISO revised MRTU Tariff section 31.3.1.2 to include the parameters that will govern the CAISO's relaxation of transmission constraints if economic bids cannot clear the market. For example, the CAISO proposes, among other things, the following rules in relaxing the transmission constraints: (1) no constraints on the Western Electricity Coordinating Council rated paths or interties with adjacent control areas will be relaxed, (2) only those transmission constraints that can be managed in the real-time market run or real-time operation can be relaxed; (3) candidate constraints will be relaxed by assigning a high priority for constraint violations; and (4) the higher of the facility rating or the pre-IFM flows through the facility with relaxed constraints will be used as hard limits in the IFM. The CAISO further submits that, to avoid unwarranted price impacts in the IFM, a constraint violation penalty equal to three times the prevailing energy bid cap will be applied to the constraints relaxed between their operating limit and the relaxed limit determined in this process.

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<sup>81</sup> Currently, the tariff states that "the CAISO will evaluate the validity of the binding constraints and if it is determined that the constraint can be relaxed based on the operating practices, the CAISO will relax the constraint consistent with operating practices" and "the CAISO may 'soften' the Load Distribution Factor constraints on a node or sub-LAP basis, *i.e.*, adjust load at individual nodes or, in aggregate, a group of nodes to relieve the constraint in such a way that minimizes the quantity of load curtailed."

<sup>82</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 618.

<sup>83</sup> The CAISO defines LAP into three pricing zones that correspond to the service territories of the three major California IOUs: PG&E, SoCal Edison and SDG&E. For each pricing zone, the CAISO calculates an average zonal price based upon the weighted average of the nodal LMPs within that zone. The use of LAP zone pricing also serves to protect consumers in load pockets from high nodal LMPs and ensures that most consumers pay an average zonal price for energy regardless of their location on the grid.

### Comments

152. SoCal Edison, Six Cities, CPUC, Bay Area Municipal Transmission Group (Bay Area), and Williams generally contend that the CAISO's proposed revisions to this section are unclear and require further clarification. For example, SoCal Edison points out that the penalty of three times the price cap is a new revision, and it is unclear how the CAISO will integrate the procedures into the optimization, and what impact it will have on actual prices. SoCal Edison states that section 31.3.1.2(e) sets forth the following:

To avoid unwarranted price impact in IFM, a constraint violation penalty equal to three times the prevailing Energy Bid cap as specified in Section 39.6 will be applied to the constraint relaxed in Step 2 between their operating limit and the relaxed limit determined.

153. According to SoCal Edison, if the step described in section 31.3.1.2 (e) is invoked, it is unclear whether the price at the impacted nodes will: (1) remain at three times the cap after relaxing the constraint, (2) return back to unconstrained levels, or (3) be somewhere in between. SoCal Edison also contends that if the CAISO invokes step (e), it is unclear whether the CAISO will relax all transmission constraints, or just those constraints that violate the criteria. Thus, SoCal Edison requests additional clarification on how the CAISO will formulate section 31.3.1.2 (e) in the optimization.

154. The CPUC believes that the penalty factor is excessive and may result in unjust and unreasonable or otherwise discriminatory rates. The CPUC contends that because the CAISO and market participants lack experience with LMP, they may not have an understanding about how frequently the LMP calculation process would be unable to resolve a non-competitive transmission constraint utilizing economic bids. As a result, the CPUC recommends that the Commission require the CAISO to examine this issue in the spring of 2007 as the CAISO and market participants gain experience with the MRTU dry run and market simulation process.

155. Six Cities argue that step 3 of the proposed rules is not clear and requires further explanation. Currently, the provision points out that the CAISO will "soften" load distribution factor constraints by "adjustment and renormalization of applicable load distribution factors." However, Six Cities contend that there is no explanation for how the "adjustment and renormalization" process will function, who the affected parties are, or how they are affected.<sup>84</sup> Accordingly, Six Cities contend that the Commission should require the CAISO to provide further detail and explanation with respect to this section.

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<sup>84</sup> Bay Area, Williams and the CPUC generally raised similar concerns regarding who will be responsible for paying the constraint violation penalty, if applied. See Bay Area Protest at 10-11; Williams Protest at 11-15; and CPUC Protest at 15.

156. Williams states that it does not understand the meaning behind proposed section 31.3.1.2 step 2 (b)(3).<sup>85</sup> Williams argues that the CAISO has not fully defined the rules outlined in step 2 for relaxing transmission constraints. Williams is concerned that the CAISO may be relying on authority in the Participating Generator Agreement to compel a unit that the CAISO did not designate as being needed for reliability, and therefore not under contract, to resolve the constraint that could not be resolved in the day-ahead time frame. Williams states that if the CAISO cannot resolve a constraint through any other means except by reducing LAP demand, then the CAISO should treat and price this occurrence as a scarcity.

157. In its answer to protests, the CAISO contends that Bay Area fails to explain how the rules in section 31.3.1.2 are unclear with respect to financial settlements. In addition, the CAISO clarifies that it will settle Scheduling Coordinators based upon their final day-ahead schedules as set forth in section 11 of the MRTU Tariff (Settlement and Billing). In response to Bay Area's contention that the rules for relaxing transmission constraints are unclear, the CAISO argues that Bay Area has a misunderstanding of the constraint violation penalty. The CAISO states that the constraint violation penalty is not a financial penalty in the traditional sense that one party is charged and another party or parties receive a discrete financial benefit. Instead, the CAISO explains that the penalty is a mathematical device used in conjunction with an optimization program to ensure the optimization resolves correctly. Thus, the CAISO contends that it will not charge Scheduling Coordinators a penalty under these rules.

158. In response to the CPUC's comments, the CAISO asserts that it is premature to change the level of the penalty price used in the optimization. However, the CAISO commits to conduct market simulations and LMP studies that will provide further information on the effectiveness of the penalty price. If the studies and simulations indicate that the penalty is excessive, the CAISO will modify the tariff to reflect the new penalty.

159. With respect to Williams' request that the CAISO define what constitutes "effective" economic bids, the CAISO argues that no additional tariff language is necessary. The CAISO explains that "effective bids" are the bids submitted to the CAISO that it is unable to use to relieve the constraint without reducing the LAP level load. The CAISO notes that this presumes that the CAISO utilized all economic bids that

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<sup>85</sup> Proposed section 31.3.1.2 step 2 (b)(3) provides that: "The criteria used to assess whether or not the constraint can be mitigated in real-time can include, but are not limited to, the following . . . (3) there are non-RA Resources and non-RMR Units within the constrained Load pocket that did not participate in the day-ahead market but can be called upon under their Participating Generator Agreement before CAISO curtails firm Load."

were effective before having to move LAP load. The CAISO states the second threshold that determines the process for relaxing the constraints is set forth in the new sub-sections added under step 2 of MRTU Tariff section 31.1.3.2. According to the CAISO, the effective resources will be those resources where the shadow price will be less or equal to the penalty price, because that result is what determines which constraints will be relaxed.

160. Generally, the CAISO believes that Williams misunderstands how the procedures operate under MRTU Tariff section 31.3.1.2. The CAISO makes clear that the procedures do not enable the CAISO to dispatch any resources in the day-ahead market. Instead, the CAISO states the procedures provide a mechanism for relieving constraints in the optimization, without the CAISO excessively curtailing LAP load in the IFM. The CAISO asserts that this requires assumptions that certain conditions are in place for real time to ensure that the CAISO appropriately relieve constraints and does not overly burden the real-time market in its ability to meet load. Thus, the CAISO states that in relying on the criterion that “there are non-RA Resources and non-RMR Units within the constrained load pocket that did not participate in the day-ahead market but can be called upon under their Participating Generator Agreement before CAISO curtails firm Load” the CAISO is verifying that resources are available in real time. Contrary to Williams’ assertion, the CAISO is unable to commit these resources day ahead. However, to the extent there is a system emergency, the CAISO contends that section 4.2 of the Participating Generator Agreement allows the CAISO to call upon participating generators to alleviate such conditions in real time.

161. Finally, the CAISO argues that it is inappropriate for Williams to attempt to compel the CAISO to develop scarcity pricing through this compliance filing given that the Commission has already found the CAISO’s current scarcity pricing proposal reasonable. The CAISO states that Williams should have raised its opposition to the Commission’s overall approval of section 31.3.1.2 in its request for rehearing.

### **Commission Determination**

162. We agree with parties’ contention that the proposed tariff language is unclear and requires further clarification. For example, several parties raised concerns on the use of penalties for constraint violations. We share those concerns. While the CAISO attempts to explain the penalty as a mathematical device for relaxing constraints, we believe the CAISO should give further details about the impact of the proposed penalty levels in the IFM.

163. In addition, we note that the CAISO has failed to respond to certain issues raised by commenting parties. For example, the CAISO’s answer does not address Six Cities or SoCal Edison’s concerns relating to how the rules will function, who are the affected parties, how they are affected, or the impact it will have on market prices. We believe the

parties raise legitimate concerns that the CAISO must address in a subsequent compliance filing directed in this order. Accordingly, we direct the CAISO to resubmit revised tariff language that clearly indicates that the penalty is not a financial penalty in the traditional sense and clarify what constitutes an effective economic bid. In addition, we direct the CAISO to clearly articulate in the compliance filing transmittal letter: (1) what the revised provision does; (2) how the provision works in practice; (3) the practical and financial effect of the provision on the market participants; and (4) detailed answers to the questions raised by commenters.

164. We hereby direct the CAISO to resubmit revised tariff sheets in conjunction with the compliance filings it will make on or before August 3, 2007. We also accept the CAISO's commitment to conduct the market simulation which will better inform us on the performance of the proposed penalty and direct the CAISO to propose modifications if necessary.

165. We also deny Williams' request to revisit scarcity pricing. Williams' assertion that scarcity pricing should apply when the CAISO is unable to relax a constraint is not the subject of the compliance filing. We note that the limited purpose of this compliance filing, with respect to the LAP provisions, is to gather more information from the CAISO on how it will relax the constraints so that load is not curtailed. Thus, Williams' request is hereby rejected as outside the scope of the compliance filing.

## **B. Metered Subsystems**

### **1. Internal Congestion and Transmission Losses**

166. The September 2006 Order directed the CAISO to modify MRTU Tariff section 31.3.3 (Metered Subsystems)<sup>86</sup> to remove a duplicative sentence, which states as follows: "Costs associated with internal Congestion and Transmission Losses in the Metered Subsystem (MSS) will be the responsibility of the MSS operator."<sup>87</sup>

167. On compliance, the CAISO removed the duplicative sentence from MRTU Tariff section 31.3.3. However, Bay Area<sup>88</sup> indicates that the CAISO erroneously deleted both

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<sup>86</sup> The CAISO defines a Metered Subsystem as "a geographically contiguous system located within a zone which has been operating as an electric utility for a number of years prior to the CAISO operations date as a municipal utility, water district, irrigation district, State agency or Federal Power Administration subsumed in the CAISO control area . . ."

<sup>87</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 675

<sup>88</sup> Bay Area Comments at. 6-7.

the original sentence and the duplicative sentence from this section. Bay Area requests that the Commission require the CAISO to explain whether its compliance filing is accurate. In its answer, the CAISO recognized this error, and stated that it will restore the original sentence in an upcoming MRTU Tariff filing.<sup>89</sup>

### **Commission Determination**

168. The Commission recognizes the error identified by Bay Area, and directs the CAISO to modify MRTU Tariff section 31.3.3 to reinstate the sentence, which states: “Costs associated with Congestion and Transmission Losses in the MSS will be the responsibility of the MSS operator.” We direct the CAISO to provide this modification in conjunction with the compliance filings it will make on or before August 3, 2007.

## **2. MSS and Default LAP**

169. In the September 2006 Order, the Commission found that, while the CAISO has adequately defined the process by which MSS-LAPs will be developed, the Commission indicated that CAISO has not sufficiently explained the process in the tariff. Thus, the Commission required the CAISO to provide a more thorough explanation of the MSS-LAP development process in its tariff.<sup>90</sup> The CAISO, in its compliance filing, modified section 27.2.1 of the MRTU Tariff to state:

The CAISO shall define specific MSS-LAPS for each MSS. The MSS LAP shall be made up the PNodes within the MSS that have Load served off those Nodes. The MSS-LAPS have unique Load Distribution Factors that reflect the distribution of the MSS Demand to the network nodes within the MSS. These MSS LAPs are separate from the Default LAPs, and the load distribution factors of the Default LAP do not reflect any MSS Load.<sup>91</sup>

170. Bay Area opposes the CAISO’s proposed revisions under section 27.2.1. Bay Area states that the last sentence of the proposed revisions could be misleading because while this section may be intended to refer to bidding and/or scheduling MSS Load (*i.e.*, having MSS Scheduling Coordinators schedule their load at a sub-LAP), this sentence may have an alternative interpretation. Bay Area states that market participants could interpret this sentence to apply to settlements of MSS Load. Bay Area requests that the

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<sup>89</sup> CAISO Answer at 79.

<sup>90</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 630.

<sup>91</sup> CAISO Compliance Filing, Appendix A at 16.

Commission direct the CAISO to modify the last sentence to alleviate the latter interpretation.

171. The CAISO agrees with Bay Area's remarks and clarifies that gross-settling MSS's Load will be settled at the default LAP. The CAISO proposes to modify this section accordingly in a subsequent MRTU filing.

### **Commission Determination**

172. The Commission accepts the CAISO's answer, and proposal to modify section 27.2.1 to clarify that gross-settling MSS load will be settled at the default LAP. The Commission directs the CAISO to provide this modification in conjunction with the compliance filings it will make on or before August 3, 2007.

### **3. Capacity Nominations**

173. The September 2006 Order required the CAISO to modify tariff language in MRTU Tariff section 30.5.2.5 (Supply Bids for Metered Subsystems) to prevent an MSS from designating an RMR as a load following resource. The Commission found that: "local reliability concerns justify the CAISO's decision not to allow an MSS to designate an RMR resource as a load-following resource."<sup>92</sup>

174. In its compliance filing, the CAISO explains that it failed to comply with the Commission's directive because the CAISO found through further stakeholder discussion that "the designation of RMR units as load-following may be permissible with certain rules in place to ensure that such designation does not jeopardize the CAISO's ability to dispatch the RMR unit for local reliability."<sup>93</sup> The CAISO further explains that it is working with stakeholders to develop a solution, and will conduct a stakeholder process to solicit comments from other market participants. The CAISO will subsequently file tariff sheets to reflect the outcome of the stakeholder process regarding the designation of RMR units as load-following.

### **Commission Determination**

175. The Commission accepts the CAISO's rationale for noncompliance of the September 2006 Order as set forth in P 671. We note that the CAISO has determined, after further discussion with stakeholders, that it may have the ability to allow MSS resources to designate RMR as load-following. Thus, we direct the CAISO to submit,

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<sup>92</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 671.

<sup>93</sup> CAISO Transmittal at 19.

upon completion of the stakeholder process, revised tariff sheets in conjunction with the compliance filings it will make on or before August 3, 2007, to reflect such accommodations.

#### **4. Identification of Resources**

176. In the September 2006 Order, the Commission found that the MRTU Tariff may be too restrictive in its rules regarding the designation of resources as load-following in MRTU tariff section 4.9.13.2 (Load-Following or Non Load-Following Elections). Given the lack of a sufficient record to determine the appropriate frequency, the Commission required the CAISO to submit tariff language that provides for more frequent changes in MSS elections, or, in the alternative, provides an explanation as to why changes in MSS designations were infeasible.<sup>94</sup>

177. The CAISO, in its compliance filing, provides two explanations for why frequent changes are infeasible. First, the CAISO argues that frequent changes to the Master File are infeasible because of the need for CAISO staff to review and implement such changes, which requires three to five days. Second, while the CAISO does not intend for MSSs to change the Master File frequently, the CAISO explains that this does not unduly limit the flexibility of load-following MSSs. Once an MSS designates the pool of resources that it intends to draw from for load-following purposes, the CAISO states that the resource has the ability to designate on an hourly basis the amount of capacity of each load-following resource that will be used for load-following. The CAISO has therefore modified section 4.9.13.2 to allow market participants to make modifications, consistent with the timing requirements of the Master File as outlined in the Business Practice Manuals.

#### **Commission Determination**

178. We find that the CAISO's proposed modifications and explanation regarding MSS load-following resource designations adequately address the concerns outlined in the September 2006 Order. The proposed modifications to section 4.9.13.2 are therefore accepted.

### **C. Participating Load**

#### **1. Participating Load and Exceptional Dispatch**

179. In the September 2006 Order, the Commission directed the CAISO to include in its compliance filing tariff language clarifying that it will dispatch participating load in

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<sup>94</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 673.

accordance with bids, or in accordance with applicable tariff provisions for an exceptional dispatch.<sup>95</sup> The Commission further directed the CAISO to clarify MRTU Tariff section 30.5.3.2 to indicate that participating load will be scheduled and settled at the nodal level.<sup>96</sup>

180. In its compliance filing, the CAISO modifies MRTU Tariff section 30.5.3.2 regarding the exceptions to requirements for submission of demand bids and settlement at the LAP. Specifically, the tariff language attempts to clarify that the CAISO will dispatch participating load in accordance with bids or in accordance with applicable tariff provisions for exceptional dispatch.<sup>97</sup> The tariff section also provides three exceptions to the requirement that demand bids be submitted and settled at the LAP instead of stating circumstances in which Scheduling Coordinators should not submit bids and the CAISO should not settle such bids at the LAP.

### **Comments**

181. State Water Project, in general, supports the requirement that the CAISO dispatch participating load in accordance with bids or in accordance with the applicable tariff provisions for an exceptional dispatch. Nonetheless, State Water Project states that the Commission should direct the CAISO to ensure that it dispatches participating load to increase consumption only when State Water Project voluntarily agrees to such an increase. State Water Project contends that its pump loads must be coordinated to move water over an aqueduct spanning most of the length of California and that arbitrarily increasing one pump unit could cause flooding or dewatering and thus damaging of the aqueduct. Thus, State Water Project requests clarification that its load may be incrementally dispatched only as bid or agreed to by it. State Water Project further argues that such clarification comports with extant tariff limits restricting the CAISO's ability to dispatch resources to ensure compliance with environmental and water management requirements.

182. Regarding the CAISO's clarification that all participating load will be settled nodally, State Water Project states that further tariff amendments are needed to ensure that all energy associated with participating load will be settled at the nodal level and that corresponding revisions should be made to MRTU Tariff sections 11.5.2 and 11.5.2.2, which govern settlements in the imbalance energy/real-time market. It notes that in contrast with the revision accomplished in sections 30.5.3.2, 11.5.2, and 11.5.2.2 use

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<sup>95</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 697.

<sup>96</sup> *Id.*

<sup>97</sup> The CAISO's November 20 Compliance Filing, Attachment A, at 23.

LAP pricing – rather than nodal pricing- to allocate imbalance energy costs to a portion of the participating load. State Water Project states that sections 11.5.2 and 11.5.2.2 of the MRTU Tariff should be revised to ensure that participating load—whether it is bid into the CAISO markets as supply or as demand—is either paid or charged on a nodal basis.

183. In its answer, the CAISO states that no additional clarification is necessary to ensure that it dispatches participating load to increase consumption only when State Water Project voluntarily agrees to such an increase in order to avoid damage to water-management equipment. The CAISO notes that the MRTU Tariff already includes a provision making clear that “[n]othing in this CAISO Tariff is intended to permit or require the violation of Federal or California law concerning hydro-generation and Dispatch, including but not limited to fish release requirements, minimum and maximum dam reservoir levels for flood control purposes, and in-stream flow levels.”<sup>98</sup> Thus, the CAISO contends that there is no need to add additional language to the MRTU Tariff on this point.

184. The CAISO agrees with State Water Project’s proposed amendments to sections 11.5.2 and 11.5.2.2 and commits to make these changes in an upcoming MRTU Tariff filing intended to capture a group of changes to section 11 as proposed in its January 11, 2007 Motion for Extension of Time to Submit Compliance Filings.<sup>99</sup>

### **Commission Determination**

185. We accept for filing the CAISO’s revision to MRTU Tariff section 30.5.3.2, which clarifies the exceptions to requirements for submission of demand bids and settlement at the LAP.

186. We also find that section 22.13 of the MRTU Tariff sufficiently ensures that the CAISO will dispatch State Water Project’s participating load to increase consumption only when State Water Project voluntarily agrees to such an increase in order to avoid damage to water-management equipment. Therefore, no further clarification is needed.

187. On rehearing of the September 2006 Order, we directed the CAISO to remove from the MRTU Tariff language, including in sections 11.5.2 and 11.5.2.2, that results in participating load being settled on a LAP basis and to make a compliance filing, in conjunction with the compliance filings it will make on or before August 3, 2007,

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<sup>98</sup> See MRTU Tariff section 22.13.

<sup>99</sup> The CAISO’s Answer at 24-25.

reflecting these changes.<sup>100</sup> We hereby reiterate this Commission's directive in this order.

## **2. Participating Load and Demand Response Adjustments**

188. The September 2006 Order directed the CAISO to modify the definition of "Supply" in MRTU Tariff section 33.3.<sup>101</sup>

189. The CAISO, in its compliance filing, modified section 33.3 to indicate that Scheduling Coordinators may submit self-schedules for supply of energy to the HASP by participating load that is submitting bids as a negative generator. The CAISO also modified the definition of "Supply" to include participating load.

### **Comments**

190. SoCal Edison claims that the CAISO failed to modify the definition of "Supply" in section 33.3 to include participating load. State Water Project supports the CAISO's revision of its tariff to permit certain participating loads to self-schedule in the HASP. However, State Water Project states that section 33.3 requires additional development. It contends that MRTU should continue to ensure participating load's ability to respond to price signals with at least the same functionality as currently available, including demand response adjustments in the post day-ahead timeframe.

191. State Water Project states that a preferred amendment to section 33.3 would permit participating load to schedule fully in the HASP. It asserts that to the extent that the participating load demand schedules are not allowed in the HASP under MRTU Release 1, full functionality for demand response in the HASP to CAISO price signals should be included in Release 2.

192. State Water Project states that, in the meantime, MRTU Release 1 should not discourage demand response with costs allocated based on deviations from the day-ahead schedules from participating in the HASP. State Water Project suggests that these demand response resources should be settled as supply. State Water Project states that participating load that can respond to price signals by incrementing consumption (equivalent to decrementing generation) or decrementing consumption (equivalent to incrementing generation) in the HASP should be treated as supply for demand-related costs such as bid cost recovery and ancillary services. It argues such treatment would avoid the charges based on deviation from day-ahead schedules, which thwart the ability

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<sup>100</sup> April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 347.

<sup>101</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 697.

of participating load to respond to HASP price signals.

193. The CAISO disagrees with SoCal Edison's assertion regarding MRTU Tariff section 33.3. While the section does not contain a definition of Supply, the CAISO notes that Appendix A to the MRTU Tariff reflects the modification and therefore complies with the Commission's directive.

194. The CAISO does not support State Water Project's proposed modification to MRTU Tariff section 33.3 to remove the prohibition on the submission of self-schedules of CAISO demand in HASP. The CAISO believes the modification is unnecessary because the MRTU Tariff already requires the functionality requested by State Water Project.

195. Regarding, State Water Project's request that it be permitted to adjust its demand in HASP/real time without being exposed to costs allocated based on deviations from day-ahead schedules, the CAISO argues that even if the CAISO allowed submissions of self-schedules of demand in HASP, State Water Project's demand adjustments would still be treated as deviations from the day ahead and therefore subject to RUC uplift costs. The CAISO recommends that State Water Project's modification be rejected.

### **Commission Determination**

196. We disagree with SoCal Edison. We find that the CAISO has adequately modified the definition of "Supply" in Appendix A to the MRTU Tariff to read: "The Energy delivered from a Generating Unit, System Unit, Physical Scheduling Plant, System Resource or the Curtailable Demand provided by a Participating Load."<sup>102</sup> We believe the CAISO's modification removes the barrier for participating load to partake in the CAISO markets.

197. We accept the CAISO's modification to MRTU Tariff section 33.3 and find State Water Project's proposed modification unnecessary. We agree with the CAISO that the MRTU Tariff already provides the functionality requested by State Water Project. State Water Project and other Scheduling Coordinators can increase their demand in response to price signals by simply deviating in real time, and paying the real-time price for energy.

198. Regarding, State Water Project's request that it be permitted to adjust its demand in the HASP without being exposed to costs allocated based on deviations from day-ahead schedules, we agree that, even if the CAISO allowed submissions of self-schedules of demand in the HASP, State Water Project's demand adjustments would still be treated

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<sup>102</sup> See the CAISO's November 20 Compliance Filing, Attachment A, at 5.

as deviations from the day-ahead schedule and therefore subject to RUC uplift costs. However, given that RUC occurs before HASP, adjustments in HASP will not affect RUC procurement and any associated uplift costs. Thus, we find that the CAISO has satisfied the Commission's directive and no further modifications are required.

#### **D. Demand Response Program**

199. The September 2006 Order directed the CAISO to work with LSEs and account for expected demand response within RUC procurement. It also directed parties interested in further developing demand resources in the CAISO markets to provide proposals to the Commission that detail new avenues for incorporating price-responsive demand into MRTU.<sup>103</sup>

200. On Compliance, the CAISO reported on its efforts to work with interested parties to develop demand response proposals.<sup>104</sup> Specifically, the CAISO reported on a November 2, 2006 demand response workshop that it facilitated with stakeholders. The CAISO also committed to investigating the formation of a California Demand Response Initiative (CADRI), similar to the New England Demand Response Initiative and Mid-Atlantic Distributed Resources Initiative.

201. The CAISO also outlined its plan to ultimately support dispatchable demand response (DDR) in MRTU. The CAISO explained that price-responsive demand will be able to participate in the day-ahead energy market under MRTU. Such resources will be able to submit price-sensitive bids at load aggregation points and then settle any deviations from the final day-ahead schedule at the real-time imbalance energy price for that LAP. The CAISO also explained that participating loads, i.e., loads that participate in the CAISO's imbalance energy and ancillary services markets as well as pumped storage facilities – are types of DDR resources that the CAISO models with added functionality in its MRTU software. In MRTU software Release 1, the CAISO states that participating load will be able to participate in the wholesale energy and ancillary services markets with certain limitations based on software functionality. The CAISO also reports that it is working to address some of these limitations in the Release 1 software and that it intends to develop a more robust and comprehensive integrated solution for the participation of DDR resources in Release 2 of its MRTU software.

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<sup>103</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 690.

<sup>104</sup> Docket No. ER06-615-003.

202. The CAISO noted that it is engaged in ongoing efforts with the investor-owned utilities (IOUs) to refine DRBizNet.<sup>105</sup> The CAISO states that by establishing a communications infrastructure/network and standardized protocols, DRBizNet will increase demand response business transactions through the low-cost and easy exchange of information among multiple parties engaged in demand response. The CAISO presents that it and the IOUs, along with utility end-use customers, will pilot DRBizNet over the summer of 2007.

### **Comments**

203. Nine parties also filed comments.<sup>106</sup> Overall, commenters recognized the need for more time and collaborative discussion to develop specific demand response proposals, given the technical uncertainties surrounding MRTU software releases and the market questions that remain. Nonetheless, some parties filed specific proposals.

204. The CPUC stated that, through CADRI, the CAISO should incorporate in MRTU Release 1 the ability to account for existing day-ahead demand response programs when procuring RUC. The CPUC submits that this will prevent the CAISO from procuring resources when the LSEs have already procured demand response to meet the same requirements. The CPUC states that in the interim between Release 1 and Release 2, the CAISO can work with stakeholders, including the CPUC, to shape the future proposals on how to better integrate demand response into CAISO's markets as fully qualifying resources and to shape MRTU software accordingly. Regarding scarcity pricing, the CPUC alerted the Commission that under active demand response programs, scarcity pricing can encourage load to drop demand as scarcity conditions increase prices significantly. Therefore, the CPUC requested that the Commission delay the requirement for scarcity pricing until price responsive demand response products are fully integrated into the CAISO energy markets.

205. The California Energy Commission highlighted the need for aggregated load to be able to participate in the CAISO's markets to encourage customers in California to be on time-dependent rates and allow customers to respond to price. It emphasized that load

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<sup>105</sup> DRBizNet is a research and development project aimed at enabling and facilitating business transactions among demand response participants and providers in California. The California Institute for Energy & Environment manages DRBizNet on behalf of the California Energy Commission.

<sup>106</sup> CPUC, California Energy Commission, Joint Parties, Large Energy Consumer Association (CLECA), State Water Project, Metropolitan, EnerNOC and Energy Curtailment Specialists. Southern Cities filed a response to the State Water Project's November 20, 2006 comments.

aggregators will need a method to present load reduction into the CAISO markets. Another concern that the California Energy Commission identified is that demand response resources that meet a portion of the CPUC's forward contracting obligation fit into the CAISO's market structure and settlements. In addition, the California Energy Commission endorsed the formation of CADRI especially as it considers adopting a requirement for programmable communicating thermostats in new building efficiency standards for 2008 and how to include such demand response resources (possible due to the programmable communicating thermostats) into the CAISO markets.

206. Joint Parties recommended that the Commission direct the CAISO to work with market participants and the CPUC to develop protocols for the operation, recognition, and integration of an LSE's existing demand response programs and contracts in MRTU by June 1, 2007. Joint Parties argued that this effort is necessary to assure that the demand response programs that customers fund are accounted for in the day-ahead (including the RUC) markets.<sup>107</sup> Appendix A of their filing describes the existing CPUC approved demand response programs that each member of the Joint Parties currently has in place. Joint Parties state that such programs will need to be reviewed to determine how they can be incorporated into MRTU.<sup>108</sup> Joint Parties sustain that demand response programs that meet the CPUC's resource adequacy requirements should continue to count as resource adequacy requirements.

207. Further, Joint Parties suggested that the CAISO establish and conduct a stakeholder process to advance demand response in the MRTU and report back to the Commission by June 1, 2007 on the product standards and markets that could be served by demand response as part of the ongoing improvements to MRTU. Joint Parties provided specific topics, in order of priority, which the stakeholder group should

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<sup>107</sup> PG&E recognized that a modification of its current demand response programs would take time and would require the collaboration of the participants as well as the CPUC. In the interim, PG&E proposes that the CAISO create procedures that will recognize the contribution of programs such as the existing critical peak pricing (CPP) and demand bidding programs (DPB) to eliminate a potential double payment. PG&E suggest that one way it can be done is to allow PG&E to net out any anticipated demand response from the CPP and DPB programs when it provides its day-ahead load bid. PG&E would advise the CAISO with the amounts and zonal locations of the hourly demand response that has been netted out of its load bid. The CAISO would recognize the demand response in its RUC process.

<sup>108</sup> Joint Parties noted that an example of an IOU retail program that has been redesigned to meet the CAISO's grid needs is SCE's Schedule I-6 and Time of Use Base Interruptible Programs' 15- minute response option, recently approved by the CPUC, which better aligns with the CAISO's grid reliability needs.

address.<sup>109</sup> Joint Parties stated that proposals for incorporating price-responsive demand in MRTU can be submitted to the Commission after the CAISO files its report.

208. Joint Parties argued that the Commission should establish, as a principle, that demand response should come from the LSEs and not through procurement programs conducted by the CAISO. Joint Parties explained that LSEs are the preferred parties to provide structured demand response capabilities and that, if the CAISO competes with LSEs, it would have the potential to unnecessarily increase demand response procurement costs.

209. Similarly, CLECA supported a collaborative process involving the CAISO, LSEs and end-use customers to address the expansion of demand response. CLECA stated that the CAISO should define which demand response efforts/products in addition to the existing utility demand response activities would be of most use to the CAISO and work with the utilities and the customers including aggregators to develop programs that meet the mutual needs of the parties. CLECA agreed that the treatment of demand response within RUC is a matter that still needs to be addressed.

210. State Water Project, as supported by Metropolitan Water District of Southern California (Metropolitan), stated that the Commission should take immediate steps to remove unnecessary barriers to demand response by: (1) ensuring that all non-market, Commission-approved CAISO rate designs for transmission, reliability and administrative costs send appropriate price signals, as with coincident peak or marginal pricing; and (2) directing the CAISO not to decrease current functionality for participating load to respond to market signals, particularly in the day-ahead time frame.

211. State Water Project also proposed that the Commission encourage the CAISO to develop and continually expand a larger demand response portfolio that encompasses: (1) reliability price signals through consistent time-sensitive ratemaking, to enable long-term investment in demand response capability; (2) demand response capacity products comprising annual or monthly demand response commitments with compensation akin to capacity payments for generation; (3) fully functional day-ahead and hour-ahead/real-time demand response opportunities for participating load; and (4) demand-based reliability services, such as under frequency load shedding and remedial actions schemes.

212. Furthermore, State Water Project asked the Commission to provide the CAISO with the same kind of demand response guidance and oversight it has applied to other ISOs/RTOs, which have led to the establishment of permanent demand response programs. The guidance that State Water Project described includes a biannual reporting

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<sup>109</sup> Joint Parties Nov. 20, 2006 Demand Response Comments, Docket No. ER06-615-003, at 6-7.

requirement and a demand response suggestion box with proposals and CAISO-responses to be included in the periodic reports.<sup>110</sup>

213. EnerNOC encourages the Commission to direct the CAISO to take a more active role in California's demand response markets and to go further with shaping the product requirements for demand resources that best meet the CAISO's operational needs, i.e., the CAISO can foster the role of third-party aggregators. EnerNOC encouraged the Commission to direct the CAISO to promote automation and demand response that is more responsive and to continue to shape demand response product requirements in California to develop consistent protocols that allow responsive demand to command higher market values commensurate with the value that it provides to the system.<sup>111</sup>

214. Finally, EnerNOC stated that the Commission should direct the CAISO to require metering and communications technology capable of providing visibility into demand response availability and performance on a near-real-time basis, which would enable demand response to better address the CAISO's needs. EnerNOC suggested that the CAISO utilize ISO New England Inc.'s (ISO-NE) protocols for its internet-based communication system. EnerNOC stated that ISO-NE's internet-based communication system produces near-real-time interval data from customers' electrical meters, which supports a high level of accuracy and provides system operators with accurate data on the availability and performance of demand resources, comparable to the data that is received from supply resources such as peaking power plants.

215. Energy Curtailment Specialists recommended that the following issues be incorporated into a demand response program to obtain maximum participation levels and to provide critical peak load reduction resources: (1) incentive payments significant enough to provide maximum demand response (shut-down costs and opportunity costs);

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<sup>110</sup> *Citing PJM Interconnection, LLC*, 99 FERC ¶ 61,227 (2002) (PJM); *N.Y. Indep. Sys. Operator, Inc.*, 97 FERC ¶ 61,095 (2001); *ISO New England, Inc.*, 102 FERC ¶ 61,202 (2003); *Southwest Power Pool, Inc.*, 116 FERC ¶ 61,289 (2006); and *Midwest Indep. Trans. Sys. Operator, Inc.*, 116 FERC ¶ 61,292 (2006).

<sup>111</sup> EnerNOC stated that through automation of demand response it is able to participate in the PJM Synchronized Reserve Market, alongside power plants. For example, EnerNOC has an agreement with a large industrial customer to remotely shut down, within 10 minutes, upon EnerNOC's receiving a signal from the PJM controller. The signal is sent to EnerNOC's network operations center (similar to a utility's control room) from the PJM controller, just as it would be sent to a power plant. The network operations center sends a signal to the building management system at the customer site, which activates a flashing red light in the furnace building alerting the staff of the interruption, and then remotely shuts off.

(2) two types of demand response products, energy and reliability; (3) a broadened definition of which demand response counts toward resource adequacy (i.e., not just automated control demand response); (4) an opportunity for aggregators to aggregate load and participate; (5) demand response programs that are triggered from CAISO Stage 2 and 3 events, in order to provide transparency into events; (6) a program that provides participants with day-ahead notice; and (7) clear and uncomplicated demand response markets.

216. In response, the CAISO argued that it is unable to include any increased functionality in MRTU Release 1 and that any further directives are premature. Through CADRI, however, the CAISO proposes to: (1) in the near term, assess the inventory of existing demand response programs offered by LSEs; (2) in future MRTU releases, modify the existing demand response programs and/or tariff and software to integrate the demand response programs into the CAISO markets; and (3) develop new demand response products that would be later integrated into the CAISO markets. The CAISO also agrees with several stakeholders that it should file a joint status report by June 2007 that details the progress toward these efforts, provides a future action plan and documents the results of at least one additional CAISO-sponsored stakeholder forum.

217. The CAISO assured the Commission and interested parties that a June 2007 report would not decelerate the demand response efforts and that it intends to allocate resources to demand response issues in the coming months. The CAISO clarified that its most productive near-term effort will focus on the treatment of demand response under MRTU Release 1. For example, the CAISO is working with State Water Project to better document how the CAISO will model and facilitate participating load under MRTU Release 1.

### **Commission Determination**

218. As the Commission noted in the September 2006 Order, we believe that demand response is an important component to the effective operation of energy markets.<sup>112</sup> The Commission, in the September 2006 Order, directed the CAISO to work with market participants to present additional opportunities for demand response resources to participate in the CAISO market and to work with LSEs to develop methods for the accounting of expected demand response within RUC procurement.<sup>113</sup> The Commission also directed parties interested in further developing demand resources in the CAISO markets to submit proposals to the Commission that detail ways to include price-

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<sup>112</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 689.

<sup>113</sup> *Id.* at P 689-90.

responsive demand into MRTU.<sup>114</sup> We fully support the CAISO and stakeholders' efforts to establish a collaborative process to address questions on how to develop and integrate demand response resources into MRTU. We accept the CAISO's proposal that, through CADRI, it will: (1) assess the inventory of existing demand response programs offered by LSEs; (2) in future MRTU releases, modify the existing demand response programs, tariff and software to integrate the demand response programs into the CAISO markets; and (3) develop new demand response products to be integrated into the CAISO markets.

219. We agree with the CPUC that integrating demand resources into the MRTU market design is an important objective. As a result, we direct the CAISO to file a status report, within 60 days of the date of this order, which details the progress made toward these efforts, includes a future action plan for increased demand response participation in MRTU and documents the results of at least one additional CAISO-sponsored stakeholder forum. The Commission believes that the CAISO's report should identify actions accomplished and measurable milestones in incorporating demand response into its markets. The action plan should include goals and benchmarks to define the CAISO's progress, along with a timeline within which the CAISO commits to accomplish these goals. Further, we note that commenters have provided the Commission with a number of actions that the CAISO can take in order to speed the incorporation of demand response into its markets. Therefore, we direct the CAISO to report on, but not be limited to, its progress in: (1) promoting automation and demand response; (2) shaping requirements for demand resources that would best meet its operational needs; and (3) developing cost-effective metering and communication protocols for demand response. We note that the CAISO recently announced a stakeholder process in which it will explore how existing demand resources can participate under MRTU Release 1.<sup>115</sup> We believe that this forum can provide a good opportunity for the CAISO and stakeholders to discuss demand response issues that we are directing the CAISO to report on in its 60-day status report.

220. We find, however, that the CAISO did not directly address the September 2006 Order's directive to work with LSEs to account for existing demand response programs within RUC.<sup>116</sup> The Commission recognizes the balance that the CAISO must achieve in addressing market participants' concerns about the treatment of demand response,

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<sup>114</sup> *Id.* at P 690.

<sup>115</sup> See CAISO Market Notice: Demand Response Participation in MRTU Release 1 Working Group and Meeting (June 19, 2007), <http://www.caiso.com/1c02/1c02c59a4ea62.html>.

<sup>116</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 690.

compliance with reliability standards, and the potential for double procurement of demand response resources and over-procurement in RUC to meet the same requirements. However, as the CAISO works to integrate existing demand response programs and new demand response products into its market design, we direct the CAISO in the interim to create procedures that recognize existing demand response programs in RUC by MRTU Release 1. To this end, we direct the CAISO to address the following two concerns. First, the CAISO must have the capability in place to receive communications from the LSE regarding the amount of demand response that the LSE is relying upon when it submits its day-ahead load bid.<sup>117</sup> PG&E suggests that the LSE could advise the CAISO of the amounts and zonal locations of the hourly demand response that has been netted out of its load bid, which the CAISO would then recognize in the RUC process. There may be other work-arounds that the CAISO can deploy in order to utilize the existing demand response programs in MRTU Release 1.

221. Second, the CAISO must be able to verify the amount of demand response that is expected to actually occur. This is necessary so that the CAISO, as the balancing authority, can procure any additional capacity in RUC to maintain the required levels of reserves. Given that some day-ahead demand response programs in California are economic, i.e., price-responsive and involve voluntary load reductions, it may be difficult to assess with absolute accuracy the amount of demand response accounted for in the day-ahead market that will actually occur. However, we note that the CAISO, CPUC and Joint Parties have already begun to determine the efficacy of the demand response programs. According to a recent CAISO report, the CAISO reduces to 75 percent the values of demand response and interruptible program amounts for the three California investor-owned utilities, based on the CAISO's experience of actual load reductions when these programs were called upon.<sup>118</sup> CPUC staff has reported that actual load reductions were 44 percent of the total enrollment in day-ahead price responsive demand programs during July of 2006.<sup>119</sup> These reports suggest that the CAISO can reliably incorporate at least a portion of the total amount of demand response programs within the RUC process.

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<sup>117</sup> We note that this is also a mandatory reliability requirement under TOP-002-2, Normal Operations Planning for LSEs. *See Mandatory Reliability Standards for the Bulk-Power System*, Order No. 693, 72 Fed. Reg. 16,416 (Apr. 4, 2007), FERC Stats. & Regs. ¶ 31,242, at 1590-1600 (2007), *reh'g pending*.

<sup>118</sup> *See* CAISO 2007 Summer Load and Resources Operations Assessment Report at 16 (Mar. 8, 2007), <http://www.caiso.com/1b95/1b95abb649df4.pdf>.

<sup>119</sup> *See* 2006 CPUC Resource Adequacy Report at 40 (Mar. 16, 2007), <http://www.cpuc.ca.gov/PUBLISHED/REPORT/65960.htm>. We note that load reductions for price-responsive demand that qualified as resource adequacy capacity reached 79 percent of total enrollment during July, 2006.

222. We believe that the CAISO's ability to determine the amount of demand response that will occur will increase as it gains experience with any differences between the amount of demand response communicated by the LSEs along with their day-ahead load bid and the demand response amount that is actually triggered. Additionally, any demand reductions reflected in RUC must meet any applicable technical feasibility standards and be held to the same performance standards as generation<sup>120</sup> (*e.g.*, requirements for demand response in mandatory reliability standards BAL-002<sup>121</sup> and WECC-BAL-STD-002-0,<sup>122</sup> Operating Reserves). At the same time, we note that LSEs communicating anticipated demand reductions to the CAISO must be accountable for submitting accurate information consistent with the recently approved mandatory reliability standard MOD-021.<sup>123</sup> Accordingly, we direct the CAISO to include in its 60-day status report how it will incorporate demand response within the RUC process by MRTU Release 1 or explain why such work-arounds cannot be deployed in MRTU Release 1. To the extent that the CAISO believes it cannot incorporate demand response resources into RUC in MRTU Release 1 for reliability or other reasons, it may reflect its concerns in its 60-day status report.

223. Regarding the CPUC's request that the Commission delay the requirement for scarcity pricing until price responsive demand response products are fully integrated into the CAISO energy markets, as stated in September 2006 Order and reaffirmed on rehearing, we will not delay implementation of scarcity pricing. We believe scarcity pricing is a necessary market element that complements other market elements and should be implemented within 12 months of MRTU Release 1.<sup>124</sup> This timing of scarcity pricing implementation provides an opportunity for continued development and deployment of demand response products. As stated in the April 2007 Rehearing Order, we expect that the price levels implemented as part of any scarcity pricing proposal would be subject to stakeholder debate and review. We also believe that there is more than adequate timing provided for a significant stakeholder process as well as for consideration of market conditions under MRTU.<sup>125</sup>

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<sup>120</sup> See Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 330-35.

<sup>121</sup> *Id.* at P 316-21.

<sup>122</sup> See N. Am. Elec. Reliability Corp., 119 FERC ¶ 61,260 (2007).

<sup>123</sup> See Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1290-1301.

<sup>124</sup> See September 2006 Order, 116 FERC ¶ 61,274 at 1078-79; *see also* April 2007 Rehearing Order, 119 FERC ¶ 61,076 at 511;

<sup>125</sup> See April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 520.

224. In response to Joint Parties' suggestion that the Commission establish, as a principle, that demand response should come from the LSEs and not through CAISO-sponsored procurement programs, we find that LSEs and the CAISO should work together to design and deploy effective demand response products consistent with the direction herein.

225. Joint Parties suggest that the CAISO report back to the Commission on the product standards and markets that could be served by demand response, so that, after the CAISO files its report, commenters can submit proposals for incorporating price-responsive demand in MRTU. We recognize that the CAISO is uniquely positioned to identify and define needs for demand response. We also find that the MRTU Tariff should not bar market participation by demand response resources aggregated through LSEs, or through third-party aggregators. In general, third-party aggregators can complement demand response programs offered through the LSEs to maximize the potential of demand response resources. Further, we highlight that such information is necessary to bridge wholesale and retail demand response efforts. As stated above, we direct the CAISO, through CADRI, to take a leadership role on defining the standards for demand response products and how demand response is measured and monitored. Therefore, we direct the CAISO to report on its efforts to the Commission within 60 days of the date of this order.

226. Finally, we direct the CAISO to file annual reports evaluating its demand response programs, including the amount of demand response it has elicited. The CAISO should file the first report January 15, 2008. At a minimum, the CAISO's report must include: (a) information on customer enrollment for each demand response program in terms of the number of customers and total potential in load reduction in MWs; and (b) information on total load reductions achieved per program per event during the prior year, including the CAISO's system load at time of curtailments, total MWs reduced, total payments for reductions and effects of the demand response programs on wholesale prices.<sup>126</sup>

227. With respect to State Water Project's suggestion that the Commission direct the CAISO to file biannual reports on demand response developments, we believe an annual report would provide sufficient information and guidance. We find that an annual report balances the need to gather data for baseline assessments and oversight without overburdening the CAISO with reporting requirements at the initial stages of MRTU.

228. We reject State Water Project's proposal to encourage demand response participation by ensuring that all non-market, Commission-approved rate designs for transmission and other services are based on time-of-use. The Commission has

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<sup>126</sup> See, e.g., *ISO New England, Inc.*, 102 FERC ¶ 61,202 (2003).

previously rejected this ratemaking approach for specific services and State Water Project's related arguments.<sup>127</sup> We find that State Water Project has not provided new support for its proposal that it has not already offered in prior proceedings that the Commission has addressed.

#### **IV. Transmission Rights**

##### **A. Congestion Revenue Rights**

##### **1. CRR Allocation to Participating Load**

229. In the September 2006 Order, the Commission directed the CAISO to clarify tariff language regarding the participation of State Water Project in the CRR allocation.<sup>128</sup> In accordance with the Commission's directive, the CAISO modified section 36.8, regarding Load Eligible for CRRs and Eligible CRR Sinks and Appendix A of the MRTU Tariff.

##### **Comments**

230. State Water Project supports the compliance filing as it clarifies that the CAISO will settle the allocation of CRRs to participating loads nodally. Notwithstanding, State Water Project contends that the CAISO fails to address the priority nomination process of CRRs to participating load. State Water Project believes that the CAISO's intent is to ensure that participating loads receive priority grandfathered CRRs. State Water Project suggests that the CAISO should modify section 36.8.3.5(a) regarding eligibility for the CRR priority nomination process to read as follows: "CRRs whose CRR sink is a sub-LAP are not eligible for nomination in the [priority nomination process], but participating load CRRs whose sinks may be Custom Load Aggregation Points or PNodes are eligible."

231. The CAISO agrees with State Water Project that the tariff fails to address participating load in the priority nomination process and proposes to reflect the information in a future compliance filing or in the CAISO's proposed changes to section 36 (Congestion Revenue Rights) following the CRR Dry Run report later in the first quarter of 2007.

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<sup>127</sup> *Cal. Indep. Sys. Operator Corp.*, 111 FERC ¶ 61,337 (2005).

<sup>128</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 777.

### **Commission Determination**

232. We accept the CAISO's commitment to address participating load in the priority nomination process and require the CAISO to coordinate efforts with the State Water Project to develop tariff language that addresses this issue. Accordingly, we direct the CAISO, upon completion, to submit tariff sheets in conjunction with compliance filing it will make on or before August 3, 2007.

### **2. Load Migration**

233. In the September 2006 Order, the Commission required the CAISO to clarify why the payment to LSEs acquiring load is based on the current CRR holdings of the LSE losing load and not the quantity of CRRs awarded to the LSE losing load in the annual allocation process.<sup>129</sup>

234. On compliance, the CAISO explains that it intended to implement the latter approach and believes that the language in MRTU Tariff section 36.8.5.1.1 would result in such an outcome. Nevertheless, the CAISO modified this section to acknowledge that the CAISO will base the value transferred on the quantity of CRRs awarded to load-losing LSE. Specifically, section 36.8.5.1.1 states that "if an LSE loses load through load migration to another LSE at any time between annual CRR allocations, the load-losing LSE must compensate the load-gaining LSE in one of two manners: 1) First, the load-losing LSE can transfer a percentage of its CRR holdings . . . or 2) the LSE who loses load can make cash payments. . . based on the quantity of CRRs awarded to the load losing LSE."

### **Comments**

235. SoCal Edison argues that the modifications to MRTU tariff section 36.8.5.1.1 do not appropriately address the original issue raised in its original comments. SoCal Edison believes that it is inappropriate to require LSEs to transfer either CRRs or the value, in proportion to its CRR holdings. First, SoCal Edison asserts that many LSEs will likely acquire holdings of CRRs through allocations, auction purchases, or bilateral transactions. SoCal Edison contends that it is inappropriate to require an LSE to transfer CRRs that it purchased simply because load has migrated. Second, SoCal Edison contends that the transfer of holdings could insulate LSEs from ever losing any CRRs by selling allocated CRRs bilaterally. Thus, when load migrates, SoCal Edison argues, the LSE could claim that no transfer of CRRs or their value is required, as it no longer holds CRRs. SoCal Edison proposes specific tariff language to modify section 36.8.5.1.1 to read:

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<sup>129</sup> *Id.* at P 791.

### 36.8.5.1.1 Mid-Year Adjustments in Seasonal CRR Allocations ~~Holdings~~

If an LSE loses Load through Load migration to another LSE at any time between annual CRR allocations, the load-losing LSE must compensate the Load-gaining LSE in one of the following two manners: 1) using the SRS, the Load-losing LSE may transfer a percentage of its Seasonal CRRs that were allocated including any adjustments to that allocation pursuant to prior load migration for that year holdings, for the remainder of the annual CRR cycle and for both on-peak and off-peak periods, to the Load-gaining LSE in a quantity proportionate to the percentage of its Load lost to the other LSE through migration; or 2) the LSE who loses Load through Load migration to another LSE may make cash payments to the relevant Load-gaining LSE in a value commensurate with the hourly CRR payment stream that would have accrued to the CRRs transferred, based on the quantity of CRRs awarded to the Load-losing LSE. If the current holdings of the Load-losing LSE are not sufficient to allow for option 1 above, then the Load losing LSE must utilize option 2 above.

236. The CAISO states that it agrees with SoCal Edison's modification, and commits to make this change in a future MRTU Tariff filing.

### **Commission Determination**

237. We accept the CAISO's commitment to make the changes, as discussed above, and direct the CAISO to submit the revised tariff sheet in conjunction with compliance filings it will make on or before August 3, 2007.

### **3. Priority Nomination Process**

238. In the September 2006 Order, the Commission required the CAISO to provide additional support for the proposed eligible quantity of CRRs to be nominated in the priority nomination process and direct the CAISO to submit a compliance filing to justify this percentage, specifically, why the percentage increases after the first year of the priority nomination process.<sup>130</sup> The Commission also recognized that the Long-Term Firm Transmission Rights rulemaking proceeding could further impact how and whether the CAISO wishes to retain its proposed priority nomination process. Thus, the Commission deferred the deadline for the compliance filing justifying the priority nomination process until 30 days following the deadline for submission of tariff sheets in compliance with the Long-Term Firm Transmission Rights Final Rule.

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<sup>130</sup> *Id.* at P 805.

### **Commission Determination**

239. As noted above, the Commission recognized that the Long-Term Firm Transmission Rights rulemaking proceeding could further impact how and whether the CAISO wishes to retain its proposed priority nomination process.<sup>131</sup> Given the overlap of this issue and the fact that the CAISO proposes certain modifications to the priority nomination process in the Long-Term Firm Transmission Rights proceeding, we find it more appropriate to resolve this issue in that proceeding when the Commission acts on the CAISO's compliance filing in the rulemaking docket.<sup>132</sup>

#### **4. Release Process for Intertie Capacity**

240. In the September 2006 Order, the Commission required the CAISO to further evaluate whether its proposal to set aside 50 percent of the intertie capacity<sup>133</sup> needs to be modified and to make a compliance filing, if necessary.<sup>134</sup>

241. In its compliance filing, the CAISO references a request for an extension of time included in its request for rehearing of the September 2006 Order, to complete its evaluation of whether it was necessary to modify the proposal to set aside 50 percent of the intertie capacity for the CRR auction until the end of the CRR dry run. Because the CAISO requested additional time to address this issue, the CAISO did not explain whether it was necessary to modify the proposal in this compliance filing.

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<sup>131</sup> See *Long-Term Firm Transmission Rights in Organized Electricity Markets*, Order No. 681, 71 FR 43564 (Aug. 1, 2006), FERC Stats. & Regs. ¶ 31,226 (2006); and Order No. 681-A, 117 FERC ¶ 61,201 (2006) (Final Rule on Long-Term Transmission Rights).

<sup>132</sup> On January 29, 2007, in compliance with the Commission's Final Rule, the CAISO filed its preliminary proposal to make long term firm transmission rights available under the MRTU Tariff in Docket No. ER07-475-000. It significantly amended that filing on May 7, 2007 in Docket No. ER07-869-000. We note the CAISO addresses, among other things, the priority nomination process for years beyond the initial allocation of CRRs.

<sup>133</sup> Specifically, the CAISO proposes that 50 percent of the residual intertie capacity will be reserved in the CRR allocation to make it available in the CRR auction. According to the CAISO, this will ensure that marketers and other entities participating in the CRR auction will have an opportunity to obtain CRRs associated with imports.

<sup>134</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 830.

### **Commission Determination**

242. We note that on rehearing of the September 2006 Order, the Commission recognized that the results of the CRR Dry Run may assist the CAISO and market participants in determining whether the proposal to set aside 50 percent of intertie capacity for the CRR auction should be adjusted.<sup>135</sup> As a result, the Commission accepted the CAISO's proposal to file for any such modification at the same time it files the results of the CRR Dry Run. On March 7, 2007, the CAISO submitted the results of its CRR Dry Run. The CAISO subsequently submitted for filing modifications to its conditionally approved MRTU proposal in Docket No. ER07-869-000. In that proceeding, the CAISO addresses, among other things, whether changes to the rules for reserving capacity at the interties, as directed in the September 2006 Order, are necessary at this time. Accordingly, the Commission will address matters relating to intertie capacity in that proceeding.

#### **5. Modeling of CRRs**

243. In the September 2006 Order, the Commission found that the CAISO's proposal to allocate CRRs to sponsors of merchant transmission project lacked sufficient details and directed the CAISO to submit a compliance filing to specify how CRRs will be provided for the sponsors of merchant transmission projects.<sup>136</sup> Additionally, the Commission required the CAISO to clarify the term "fixed CRRs."

244. The CAISO, in its compliance filing, revised section 36.4.1 of the MRTU Tariff to indicate that CRRs awarded to sponsors of merchant transmission projects in accordance with section 36.11 will be modeled as fixed injections and withdrawals on the DC full network model to be used in the allocation and auction of CRRs. According to the CAISO, these fixed injections and withdrawals are not modified by the simultaneous feasibility test. The CAISO explains that this is what it intended to communicate in this section, and need not have used the confusing term "fixed CRRs." The CAISO also states that since the term "fixed CRRs" is not used anywhere else in the tariff, the CAISO does not find it necessary to define the term. With regards to the Commission's directive requiring the CAISO to provide more details on the allocation of CRRs to sponsors of merchant transmission projects, the CAISO states that a request for extension of time was requested by the CAISO on rehearing of the September 2006 Order. In its request, the CAISO acknowledged that it would be more appropriate to submit these details in

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<sup>135</sup> See April 20 Rehearing Order, 119 FERC ¶ 61,076 at P 401.

<sup>136</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 844 and 873.

conjunction with a compliance filing directed by the Final Rule on Long-Term Transmission Rights.<sup>137</sup>

### **Commission Determination**

245. We accept the CAISO's modification to section 36.4.1, which removes the term "fixed CRRs" and clarifies that the CAISO will distribute CRRs to sponsors of merchant transmission projects based on fixed injections and withdrawals. We also find it unnecessary for the CAISO to define the term "fixed CRRs," since the CAISO has removed the term from all parts of the MRTU Tariff. With regard to the allocation of CRRs to sponsors of merchant transmission projects, we note that the Commission on rehearing allowed the CAISO to file additional details concerning the allocation of CRRs to sponsors of merchant transmission projects on a schedule consistent with the timing requirements set forth in the Final Rule on Long-Term Firm Transmission Rights.<sup>138</sup> The Commission also noted that given the overlap of this issue with the Long-Term Firm Transmission Rights Final Rule, and in light of our decision to resolve all issues surrounding the CAISO's provision of long-term FTRs in the rulemaking proceeding, the Commission would consider the merits of CRRs to merchant projects when we act on the CAISO's compliance filing in the rulemaking docket, or soon thereafter.<sup>139</sup> We, therefore, will not require the CAISO to make any further compliance filings in this proceeding related to the allocation of CRRs to merchant projects.

## **6. Revenue Adequacy/Balancing Account**

246. In the September 2006 Order, the Commission found that the CAISO did not sufficiently explain its proposal to "forgive" outstanding debt in the yearly balancing account. As a result, the Commission required the CAISO to submit a compliance filing to further explain its reasoning, and what, if any, subsequent restrictions will be imposed on entities that fail to pay their debt. In addition, the Commission required the CAISO to make the proposed changes to MRTU Tariff section 11.2.4.5.<sup>140</sup>

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<sup>137</sup> The CAISO's November 20 Compliance Filing at 4 and 5, n. 3.

<sup>138</sup> April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 421.

<sup>139</sup> On May 7, 2007, the CAISO submitted proposed tariff amendments to implement the initial CRR allocation and auction process under MRTU in Docket No. ER07-869-000. We note that the CAISO addresses, among other things, in that filing the additional detail on the allocation of CRRs to sponsors of merchant transmission projects in compliance with the September 2006 Order and the Long-Term Transmission Rights Final Rule Order No. 681 and 681-A.

<sup>140</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 854.

247. The CAISO, in its compliance filing, clarifies that the only situation in which the CAISO would forgive the debt of a counterflow CRR holder is when the CRR Balancing Account is short at the end of the year; as a result, the CAISO will prorate all payments and charges to CRR holders.<sup>141</sup> The CAISO notes, however, that in order to complete the task of explaining how the CAISO will forgive outstanding debt, the CAISO must clarify for the Commission how the default procedures in section 11.29 of the MRTU Tariff would work in relation to the yearly balancing account.<sup>142</sup> In addition, the CAISO believes it would be appropriate to provide stakeholders an opportunity to comment prior to filing on any proposed changes to the default provisions of the tariff as these provisions have been carefully drafted to ensure creditor and debtor rights are adequately balanced. As a result, the CAISO submitted a motion requesting a 120-day extension of time in order to comply with the Commission's directive.

### **Commission Determination**

248. Because the Commission granted the CAISO's requests for extensions of time to comply with requirements set forth in paragraph 854 of the September 2006 Order,<sup>143</sup> the Commission will consider the merits of this issue when the CAISO makes the compliance filing on or before August 3, 2007.

### **B. Existing Transmission Contracts**

#### **1. ETC Schedule Changes**

249. In the September 2006 Order, the Commission found that section 16 of the MRTU Tariff (Existing Contracts) does not provide a process by which the CAISO will notify and permit the Scheduling Coordinator to correct any errors. Given the importance of accurate scheduling and the consequences that ensue from inaccurate scheduling, the Commission determined that the tariff should provide the ETC Scheduling Coordinator a timely means to correct a Scheduling error. Consequently, the Commission directed the

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<sup>141</sup> The CAISO argues that the Commission expressly found this approach reasonable in September 2006 Order, 116 FERC ¶ 61,274 at P 853.

<sup>142</sup> The CAISO's November 20 Compliance Filing, at 21.

<sup>143</sup> The Commission granted the following extensions regarding Revenue Adequacy/Balancing Account in Paragraph 854 of the September 2006 Order: (1) February 20, 2007; (2) May 2, 2007; and (3) August 3, 2007. *See* Notice of Extension of Time, Docket No. ER06-615-000 (November 27, 2006); and Notice of Extension of Time, Docket No. ER06-615-000 (January 19, 2007).

CAISO to submit a compliance filing revising the MRTU Tariff to: (1) timely notify Scheduling Coordinators whether the ETC schedule is valid or invalid; and (2) provide the Scheduling Coordinator a reasonable opportunity to correct identified errors prior to the close of the day-ahead market.<sup>144</sup>

250. In its November 20 compliance filing, the CAISO proposes to add new section 16.6.4 to the MRTU Tariff clarifying that the CAISO's scheduling system will notify a Scheduling Coordinator whether its ETC self-schedule is valid or invalid to the extent practicable after the validation, thereby leaving the Scheduling Coordinator the opportunity to correct any errors. Specifically, the CAISO explains that its scheduling system will provide an automated notice to Scheduling Coordinators of whether its ETC self-schedule is valid and fully balanced immediately after the receipt of the ETC schedule.<sup>145</sup> As a result, the CAISO believes the automated response system will provide Scheduling Coordinators as much time as possible to correct any errors in its submittal before the close of the day-ahead market.

### **Comments**

251. Six Cities, State Water Project and Bay Area all contend that the CAISO's proposed language requiring notification "to the extent practicable" is unreasonably vague and does not provide Scheduling Coordinators with a timeline for submitting ETC and TOR schedules to ensure that Scheduling Coordinators have adequate time to correct any error. In the event that the CAISO has difficulty in notifying a Scheduling Coordinator of any validation problems, State Water Project and Bay Area contend the CAISO must quickly attempt to resolve the problem. They state that the CAISO must provide a reasonable opportunity to correct identified errors prior to the close of the day-ahead market. Six Cities proposes that the Commission require the CAISO to revise sections 16.6.4 and 17.3.4 to provide that a schedule utilizing rights under an ETC, TOR or Converted Right is valid if the schedule is submitted to the CAISO no later than thirty minutes prior to the relevant scheduling deadline.<sup>146</sup>

252. In its answer, the CAISO states there are two aspects of the ETC self-schedule validation process that the CAISO cannot control: (1) the timing of the ETC self-schedule submittal and (2) the response time of a notice of invalidity. The CAISO makes clear that if a single Scheduling Coordinator is submitting the entire chain of fully balanced

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<sup>144</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 920.

<sup>145</sup> The CAISO will specify the timeline in which its automated response system will notify Scheduling Coordinators in the Business Practice Manual.

<sup>146</sup> Six Cities Comments at 3.

sources and sinks associated with a particular ETC, then the automated notice provided by the CAISO's scheduling system will provide that Scheduling Coordinator as much time as reasonably possible to correct any errors in its submittal. However, the CAISO states that if a single Scheduling Coordinator is not submitting an ETC self-schedule for the entire chain of fully balanced sources and sinks associated with a particular ETC, the CAISO's scheduling system will find the ETC self-schedule invalid and not fully balanced. Subsequently, the CAISO's scheduling system will immediately provide an automated notice to all Scheduling Coordinators associated with this particular ETC to indicate that the ETC self-schedule is not fully balanced for the Trading Hour for which the first Scheduling Coordinator submits an ETC self-schedule in the chain of ETC self-schedules. The CAISO explains that it is not until the Scheduling Coordinator submitting the last ETC self-schedule in the chain of sources and sinks submits its ETC self-schedule for a particular Trading Hour that the CAISO will be able to confirm and notify all Scheduling Coordinators whether the full chain of ETC self-schedules is valid and fully balanced.

253. The CAISO notes, however, that its scheduling system is only configured to make this final validation notice available for viewing by other Scheduling Coordinators that submitted their ETC self-schedules earlier when they are monitoring their interfaces with the CAISO's scheduling system. Consequently, the CAISO states that Scheduling Coordinators submitting ETC self-schedules in a chain of sources and sinks must take the initiative to monitor their interfaces with the CAISO's scheduling system in order to become aware immediately of the final validation notice for the entire chain of ETC self-schedules.

254. The CAISO acknowledges the concerns raised by intervenors and commits to clarify in a further compliance filing that its scheduling system will notify a Scheduling Coordinator whether its ETC self-schedule is valid or invalid promptly through automated notices through the scheduling system interface after the validation. The CAISO is also willing to remove the phrase "to the extent practicable" to which the commenters object as part of this compliance filing. The CAISO also proposes to revise section 17.3.4 regarding TORs to reflect the same notification standards.

### **Commission Determination**

255. Our review indicates that the CAISO has satisfactorily complied with the Commission's directive to timely notify Scheduling Coordinators whether the ETC schedule is valid or invalid, and to provide the Scheduling Coordinator a reasonable opportunity to correct identified errors prior to the close of the day-ahead market. We agree with the CAISO that if a single Scheduling Coordinator submits the entire chain of fully balanced sources and sinks associated with a particular ETC significantly in advance, the CAISO will have the ability to provide Scheduling Coordinators sufficient time to correct any errors in its submittal. In circumstances where an ETC has multiple

Scheduling Coordinators, we note that it is incumbent upon Scheduling Coordinators to notify the other parties in the event one of them receives notice that the chain of ETC self-schedules is invalid immediately. We believe the burden is on the Scheduling Coordinator to ensure that ETC self-schedules are fully balanced and promptly submitted to the CAISO for validation to ensure adequate time for corrections if necessary. We also believe that Scheduling Coordinators must take the initiative to monitor their interfaces with the CAISO's scheduling system in order to become aware of the final validation notice for the entire chain of ETC self-schedules.

256. The Commission will also accept the CAISO's commitment, as stated in its answer, to raise section 16.6.4 and in section 17.3.4 in a further compliance filing: (1) that the CAISO will make an automated notice available to the Scheduling Coordinator indicating whether the ETC Self-Schedule is valid or invalid and (2) to remove the phrase "to the extent practicable." The CAISO is directed to revise section 16.6.4, as well as section 17.3.4 regarding TORs, accordingly, and to make these modifications on or before the CAISO's August 3 Compliance Filing.

**2. Exemption from Application of the Uninstructed Deviation Penalty Multiplier**

257. In the September 2006 Order, the Commission directed the CAISO to clarify section 11.23 of the MRTU Tariff, regarding penalties for uninstructed imbalance energy. Specifically, the Commission sought an explanation of how the CAISO will exempt ETCs from the application of the uninstructed deviation penalty multiplier, consistent with the terms of the ETCs.<sup>147</sup>

258. In its compliance filing, the CAISO amended section 11.23 of the MRTU Tariff to clarify that: "valid changes to the ETC self-schedules or TOR self-schedules submitted after the close of the HASP or the RTM shall not be subject to Uninstructed Deviation Penalties."

**Comments**

259. State Water Project appreciates and supports this clarification, but suggests that other related clarifications are required. Specifically, State Water Projects asserts that section 16.12 of the MRTU Tariff currently states:

"Changes to ETC self-schedules that occur during the CAISO's Real-Time processes that do not involve changes to CAISO Control Area imports or exports with other Control Areas (that is, intra-

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<sup>147</sup> See September 2006 Order at P 967.

Control Area changes to Schedules) will be allowed and will give rise to Imbalance Energy deviations. These Imbalance Energy deviations will be priced and charged to the Scheduling Coordinator representing the holder of Existing Rights in accordance with the Real-Time LMP.”

260. State Water Project contends that this provision seems to imply that Scheduling Coordinators will incur imbalance energy charges or payments for exercising valid post-day ahead ETC scheduling rights. While the intent may be to impose and then reverse the charges described in MRTU Tariff section 16.12, State Water Project asserts that the tariff does not clearly explain that the CAISO will not allocate any deviation charges for valid post day-ahead ETC schedules. Rather than undertake elaborate charging and crediting procedures that the CAISO should catalogue and described in the tariff, State Water Project believes a simpler and direct approach would be to recognize that the balanced portion of ETC schedules should incur no CAISO costs other than transmission losses. In addition, because ETC demand schedule adjustments are not permitted in the post day-ahead market timeframe, State Water Project suggests that the CAISO should automatically use any post day-ahead ETC supply-side adjustment to create an equal demand-side adjustment to serve as a proxy demand schedule.<sup>148</sup>

261. In its answer, the CAISO states that the MRTU Tariff already provides for such a reversal of imbalance energy changes through the perfect hedge mechanism previously accepted by the Commission<sup>149</sup> and therefore, the CAISO contends that no further revisions are necessary.

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<sup>148</sup> Because ETC demand schedule adjustments are not permitted in the post day-ahead market timeframe, State Water Project suggests a simple solution for the CAISO to consider. State Water Project states that the CAISO should automatically use any post-day ahead ETC generation-side adjustment to create an equal amount of demand-side adjustment to serve as a proxy demand schedule. In other words, even though demand schedules would not be submitted in the post-day ahead period, an automatic demand schedule, equal to the post-day ahead generation schedule, would be used. In this way, the ETC schedules are kept balanced.

<sup>149</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 920. Under the CAISO’s ETC proposal, the CAISO will apply an exact reversal in settlements of the congestion charges associated with valid ETC schedules in the day-ahead market or a valid post day-ahead schedule change. Because of this exact reversal, the CAISO has named the proposed mechanism the “perfect hedge.” *See, e.g., Cal. Indep. Sys. Operator Corp.*, 110 FERC ¶ 61,113, at P 58, P 60 (2005).

### **Commission Determination**

262. As noted above, section 16.12 applies imbalance energy charges to those ETC self-schedule changes that occur during the CAISO's real-time process. We note, however, that section 11.5.7 of the MRTU Tariff, regarding congestion credits for ETCs and TORs reverses congestion charges, including imbalance energy charges, associated with these schedule changes in the CAISO's HASP and real-time markets.<sup>150</sup> Although State Water Project disagrees with the CAISO's assessment and reversal of such charges, we decline to adopt new tariff provisions that are inconsistent with previous Commission findings.<sup>151</sup> We also conclude that State Water Project's proposed automatic proxy demand schedule is beyond the scope of this proceeding and therefore. We deny State Water Project's request to modify the MRTU Tariff in this regard.

### **C. Transmission Ownership Rights**

#### **1. Background**

263. A Transmission Ownership Right (TOR) is the right to use transmission facilities that are located within the CAISO control area but are either wholly or partially owned by an entity that is not a Participating Transmission Owners (non-PTO).<sup>152</sup> The current CAISO Tariff does not address TORs. In its original February 2006 MRTU Tariff Filing, the CAISO explained that it presently manages TORs through bilateral arrangements or operational agreements,<sup>153</sup> and that it does not intend to diminish these contracts under MRTU. Nevertheless, according to the CAISO, it included section 17 in the MRTU Tariff to address how TORs will be modeled by the Full Network Model, clarify that

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<sup>150</sup> We also note that in addressing issues raised on rehearing regarding post day-ahead ETC schedule changes, the balanced schedule requirement and the application of the perfect hedge mechanism, the Commission directed the CAISO to further reconcile certain provisions of the MRTU Tariff to ensure that the perfect hedge is still available with respect to any contract permitted ETC post day ahead schedule changes. *See* April 2007 Order 119 FERC ¶ 61,076 at 438-439.

<sup>151</sup> *See* September 2006 Order, 116 FERC ¶ 61,274 at P 914-974.

<sup>152</sup> According to the CAISO, these facilities include: the 230 kV Colorado River Aqueduct; the 500 kV Southwest Power Link; San Francisco's transmission facilities from Hetch Hetchy to Newark; Western's Pacific AC Intertie; the 230 kV Mohave-Eldorado Line; and the 230 kV Eldorado-Mead line.

<sup>153</sup> The CAISO states that these arrangements are either directly between the TOR holder and the CAISO or based on an agreement between the TOR holder and a PTO. *See* CAISO May 16, 2006 Reply Comments at 240-41 & n.543.

TOR holders will continue to be exempt from congestion charges, and to describe how TOR holders will remain capable of utilizing the full capacity of their system.<sup>154</sup> The CAISO further explained that MRTU Tariff section 17 will apply to all TORs, except to the extent that a provision in a Commission-approved existing settlement agreement or operations agreement expressly provides for different treatment of a TOR.<sup>155</sup> According to the CAISO, when such agreements expire, or if such agreements do not expressly provide for different treatment, section 17 will apply to TORs.<sup>156</sup>

264. In the September 2006 Order, the Commission concluded that, while the parameters established for handling TORs in MRTU Tariff section 17 are generally reasonable, section 17 is incomplete and fails to assure parties that the CAISO will honor their existing TOR contracts.<sup>157</sup> The Commission therefore directed the CAISO to further specify its “generic treatment”<sup>158</sup> of TORs under MRTU by: ( 1) clarifying whether the MRTU Tariff or the parties’ bilateral contracts prevail in the event of conflict between the agreement and section 17;<sup>159</sup> (2) clarifying whether the CAISO intends to use or sell unscheduled TOR capacity in the CAISO markets;<sup>160</sup> (3) clarifying whether Transmission Rights and Transmission Curtailment (TRTC) Instructions will be required with respect to TORs;<sup>161</sup> (4) explaining how TORs will be scheduled through the CAISO markets and what information is required for “balanced” and “valid” TOR self-schedules, which are necessary under sections 11.2.1.5 and 11.5.7 to reverse congestion charges;<sup>162</sup> (5) specifying that balanced TOR self-schedules will continue to be exempt from access, unaccounted for energy, minimum load compensation, and neutrality charges;<sup>163</sup> and

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<sup>154</sup> *Id.* at 241.

<sup>155</sup> *See* Kristov Testimony at 107.

<sup>156</sup> *Id.* at 107-108.

<sup>157</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 987.

<sup>158</sup> *Id.* at P 988.

<sup>159</sup> *Id.* at P 987.

<sup>160</sup> *Id.* at P 994.

<sup>161</sup> *Id.* at P 1000.

<sup>162</sup> *Id.* at P 990.

<sup>163</sup> *Id.* at P 988.

(6) assessing marginal losses to Scheduling Coordinators for those TORs that lack specified loss percentages in bilateral agreements that the CAISO must honor.<sup>164</sup>

265. In its compliance filing with the September 2006 Order, the CAISO greatly expanded MRTU Tariff section 17, increasing the original three paragraphs to twelve tariff sheets. Newly proposed section 17 now provides additional details concerning the treatment of TORs under MRTU in general, and includes default provisions (particularly with respect to charges) that will apply in the event these provisions do not conflict with any bilateral TOR agreement.<sup>165</sup> Specifically, section 17 now covers: (1) TOR holders and CAISO obligations with respect to TRTC Instructions (17.1); (2) general treatment of TORs (17.2); issues concerning validations of TOR self-schedules (17.3); TOR schedules and schedule changes (17.3-17.7); obligations under existing Contracts applicable to TORs (17.8); conversion of TORs (17.9); and TOR holders' operational obligations (17.10). The CAISO states that, in drafting expanded section 17, it relied heavily on the provisions of section 16 (Existing Contracts), given basic similarities between these contracts and TORs and the CAISO's need to accommodate both TOR and ETC rights in the application of the CAISO's systems and requirements.<sup>166</sup>

266. As explained below, we find that the additional detail provided by the CAISO under MRTU Tariff section 17 generally satisfies the September 2006 Order's directive to address "generic treatment" of TORs under MRTU. Thus, we conditionally approve, subject to further modifications as discussed below, those provisions governing the treatment of TORs under MRTU. Our discussion below specifically addresses the expansion of MRTU Tariff section 17 regarding: (1) applicability of existing agreements governing TORs; (2) the operational aspects of accommodating TORs under MRTU and preserving scheduling priorities of TORs; (3) proposed charges applicable to TORs under the MRTU Tariff; and (4) other issues raised regarding TOR settlements. As for all provisions of MRTU Tariff section 17 not specifically addressed below, we find these to be just and reasonable and, therefore, we accept them.

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<sup>164</sup> *Id.* at P 1003.

<sup>165</sup> We note that, while currently the relevant TOR agreements include both agreements between a PTO and a TOR holder, as well as agreements between the CAISO and the TOR holder, all pertinent TOR agreements entered into post-MRTU implementation will be agreements between the CAISO and the TOR holder.

<sup>166</sup> CAISO Answer at 49.

## 2. Applicability of Agreements Addressing TORs and the MRTU Tariff

267. As noted above, the CAISO indicated that certain issues associated with TORs would continue to be governed by existing bilateral contracts and that it was not the CAISO's intent to diminish rights under those agreements.<sup>167</sup> As a result, the CAISO proposes in its compliance filing to modify section 17 to include a provision at the beginning of the section stating: "In any case in which the CAISO has entered into a bilateral agreement with a Non-Participating TO regarding its TORs, which agreement has been accepted by FERC, the provisions of the agreement shall prevail over any conflicting provisions of this Section 17."<sup>168</sup> The provision further states that, "[w]here the provisions of this Section 17 do not conflict with the provisions of the FERC-accepted agreement, the provisions of this Section 17 apply."<sup>169</sup>

### Comments

268. San Francisco argues that section 17 fails to recognize that the CAISO's relationship to non-PTOs is entirely different from the CAISO's relationship to ETCs because, in San Francisco's view, the CAISO lacks authority to impose operational control, additional charges or scheduling and settlement rules on TOR holders that have joint ownership arrangements with non-PTOs. According to San Francisco, the relationship between non-PTOs and the CAISO must be one of reciprocal agreement, which should be accomplished through a bilateral agreement between the CAISO and non-PTO. Thus, San Francisco argues that the Commission should direct the CAISO to establish a separate Operating Agreement that sets forth the mutual rights and obligations of the CAISO and the TOR holder as part of the MRTU Tariff because the TOR holder has not turned over operational control of its facilities.

269. San Francisco also contends that section 17 of the MRTU tariff is incomplete, vague and ambiguous and arbitrarily imposes ETC provisions on TORs. San Francisco and Metropolitan urge the Commission to direct the CAISO to meet with non-PTOs before crafting appropriate revisions to the TOR proposal and allow another round of comment and review before adopting generic tariff treatment. San Francisco objects to the use of section 17 to define the respective roles, relationships and obligations between the CAISO and the non-PTO.

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<sup>167</sup> *Id.* at P 982.

<sup>168</sup> MRTU Tariff section 17.

<sup>169</sup> *Id.*

270. Bay Area claims that new section 17 appears to apply only to existing TORs, and does not appear to address new TOR facilities in the CAISO that may not have a relationship with the existing PTOs.

271. In response to Bay Area Municipals, the CAISO states that the provisions of section 17 clearly accommodate both existing and “new” TORs. The CAISO states that it has added language emphasizing that the provisions of section 17 serve only as a “default” in circumstances where the TOR holder has not entered into a new bilateral agreement with the CAISO for either new TOR capacity or to replace an expiring TOR bilateral agreement. Therefore, the CAISO states that all TOR holders have the opportunity to avoid the application of these “default” provisions of section 17 through negotiations with the CAISO.<sup>170</sup>

### **Commission Determination**

272. We find that the CAISO’s proposed modification to section 17 does not fully comply with our directive in the September 2006 Order. Although the proposed modification preserves TOR provisions for those bilateral contracts to which the CAISO is a party, it does not preserve those existing TOR provisions in bilateral agreements between a PTO and a TOR holder. Therefore, we direct the CAISO to further modify section 17 to add that, in the event of conflict between the MRTU Tariff and a bilateral agreement governing TORs between a PTO and TOR holder, the agreement prevails.

273. In response to Bay Area’s concerns, the CAISO states that section 17 accommodates both new and existing TORs, and it further emphasizes that certain section 17 provisions serve as a “default” in the event that the TOR has not entered into a bilateral agreement with the CAISO. We agree. Consistent with our September 2006 directives, modified section 17 addresses how the CAISO will treat TORs under MRTU, including scheduling, validation and settlement for TORs, which is very similar to the MRTU Tariff’s treatment of ETCs.<sup>171</sup> We also find that charges applicable to TOR holders are default provisions that apply to both existing (unless a provision conflicts with a bilateral agreement) and new TOR capacity and new bilateral agreements with the CAISO upon expiration or termination of existing TOR agreements, since the tariff does not expressly limit the applicability of its provisions to existing TORs and existing TOR agreements.

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<sup>170</sup> CAISO Answer at 49. The CAISO notes that several agreements have been negotiated and accepted by the Commission.

<sup>171</sup> TORs have higher scheduling priorities than ETCs in CAISO markets.

274. We reject San Francisco's request that the CAISO and non-PTOs develop a new and separate operating agreement to govern rights and obligations between the parties under MRTU. While we agree that the CAISO's relationship with non-PTOs and TORs is unique, we find that modified section 17 adequately clarifies the CAISO's treatment of TORs under MRTU and provides assurance to TOR holders that their bilateral contract provisions will govern if they conflict with section 17. Furthermore, as explained below in the discussion of MRTU Tariff section 17.2, the CAISO will ensure that TOR holders receive the same priorities to which they are entitled under their relevant TOR bilateral agreements. Therefore, we reject San Francisco's request to require negotiation of a separate agreement to accommodate existing TOR holders. Accordingly, we see no need to allow additional comment before ruling on the CAISO's proposed revised MRTU Tariff section 17 provisions.

### **3. Operational Aspects of Accommodating TORs under MRTU**

275. As further discussed below, we find that the additional section 17 provisions proposed by the CAISO to address how TORs will be scheduled through the CAISO markets and to specify the information necessary for "valid" TOR self-schedules comply with our directives in the September 2006 Order and therefore accept them. As noted below, the CAISO is directed to provide further clarification regarding its "balanced" schedule requirement, (and the ability of TORs to make schedule changes, and the perfect hedge settlement mechanism) consistent with our directive.<sup>172</sup>

#### **a. Treatment of TORs under MRTU**

276. In its compliance filing, the CAISO proposes to add section 17.2, which states that "[T]he CAISO will accommodate TORs, so that the holders of TORs will receive the same priorities (in scheduling, curtailment, assignment and other aspects of transmission system usage) to which they are entitled under any applicable Existing Contracts or other agreements pertaining to the operation of their TORs." Section 17.2 also states that the CAISO will honor scheduling deadlines<sup>173</sup> and operational procedures associated with TORs, so long as such information is explicitly included in the TRTC Instructions for each TOR.<sup>174</sup> In this regard, section 17.2(2) states that TOR schedules receive priority

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<sup>172</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 987-991.

<sup>173</sup> In accordance with MRTU Tariff section 17.2(3), the CAISO will redispatch non-TOR resources to accommodate valid TOR self-schedule changes in real-time.

<sup>174</sup> The CAISO states that this provision is modeled on comparable provisions of MRTU Tariff section 16.5 that provides a similar accommodation for ETC self-schedules.

over non-TOR day-ahead schedules in HASP and the CAISO will honor TOR priority in the event of a capacity reduction on the TOR path. In response to the Commission directive to clarify its intent with respect to unscheduled TOR capacity, the CAISO specifically states that it does not intend to use or sell this capacity.<sup>175</sup>

277. The CAISO also proposes a significant modification under section 17 to further accommodate TORs within the CAISO control area. Under section 17.2(1), the CAISO will reserve transmission capacity equal to the TOR transmission capacity and make an adjustment to the applicable available transmission capacity (ATC). The CAISO states that it will make this ATC adjustment to preserve TOR capacity for TORs within the CAISO control area, and over interties with external control areas as well.<sup>176</sup> This provision further states that the CAISO will not limit parallel flow from flowing on TOR transmission capacity, just as the CAISO does not limit TOR self-schedules from flowing on non-TOR transmission facilities, and no compensation is provided for parallel flow for either the CAISO or TOR holder.

278. In addition, the CAISO states that it has proposed section 17.2.1 to make clear that, when a system emergency is imminent or threatened, holders of TORs must follow CAISO operating orders even if those operating orders directly conflict with the terms of applicable existing contracts or any other contracts pertaining to the TORs. According to the CAISO, this provision will enable the CAISO to exercise its responsibilities as control area operator in accordance with Applicable Reliability Criteria.

### **Comments**

279. Imperial states that although the CAISO will redispatch non-TOR resources to accommodate valid TOR self-schedule changes in real-time,<sup>177</sup> it believes that there is a possibility that the CAISO will use excess TOR capacity to provide this redispatch service. Imperial states that the CAISO has not negotiated with TOR holders concerning compensation and further details for such use as directed in the September 2006 Order. Thus, Imperial requests that the CAISO clarify this provision and make any appropriate tariff modification.

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<sup>175</sup> CAISO Transmittal at 25.

<sup>176</sup> Under its prior proposal the CAISO would only reduce ATC by the amount of the TOR only at locations where the CAISO's grid connects to the transmission facilities outside its control area (referred to as a scheduling point). For TOR capacity located within the CAISO-controlled grid, the CAISO would not set aside ATC, but would provide the highest priority source to sink scheduling rights to the TOR. *See* September 2006 Order, 116 FERC ¶ 61,274 at P 975.

<sup>177</sup> *See* MRTU Tariff section 17.2(3).

280. Imperial also notes that proposed section 17.2(3) states that “the CAISO will allow the holder of a TOR to make changes to the scheduled amounts of supply after the submission of HASP TOR Self-Schedules...” However, Imperial states that the Tariff does not allow the TOR holder to make a corresponding change to the export side of the balanced source and sink pair. Imperial asserts that this provision may cause it to be unable to retain its perfect hedge.<sup>178</sup>

281. Imperial is concerned that the CAISO does not distinguish between firm market schedules and non-firm market schedules when the CAISO is issuing orders under system emergencies pursuant to 17.2.1. Imperial requests that the Commission require the CAISO to clarify how it plans to treat market schedules when issuing operating orders during system emergencies. If there is a distinction between market schedules that are firm versus non-firm, Imperial states that the CAISO must modify the priority ranking in section 34.10, to reflect a higher priority for firm exports than non-firm exports. Thus, Imperial requests that the CAISO be required to cut non-firm schedules before it cuts firm schedules in the event of system emergencies.

282. With regard to section 17.2(1), which addresses the CAISO’s reservation of capacity equal to the TOR and making a corresponding adjustment in its determination of ATC, Metropolitan questions the propriety of such unilateral determination on a transmission line that is not within the CAISO controlled-grid and over which it has no operational control. Metropolitan asserts that, unlike treatment of ETCs where service is provided on transmission lines within the CAISO controlled-grid, the CAISO has no duty to determine what residual capacity remains on a line subject to a TOR for market participant use.

283. Metropolitan states that TOR holders should enjoy the same rights the CAISO has agreed to accord ETC holders and permit TOR holders to import ancillary services. Metropolitan states that because the CAISO will reserve capacity at its interties for the exclusive use of TOR holders, it seeks clarification that TOR holders will likewise be able to import ancillary services.<sup>179</sup>

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<sup>178</sup> Imperial also states that MRTU Tariff section 17.2 is inconsistent with Business Practice Manual section 5.2.4, which allows self-schedule changes for TOR exports. Imperial argues that the CAISO must revise these tariff provisions to make them consistent with the explicit instructions in the Business Practice Manual, in order to allow TOR holders to maintain a perfect hedge.

<sup>179</sup> Metropolitan proposes specific modifications to proposed MRTU Tariff section 17.2 in Appendix A to its protest.

284. San Francisco also claims the CAISO must clarify under section 17.2.1 what the term, “Applicable Reliability Criteria” mean. San Francisco states that although this necessarily involves operational procedures to address emergency conditions, the term is not defined or incorporated into the tariff. The CAISO must clarify what the criteria are in order to define the scope of the CAISO’s actions and discretion during system emergencies.

285. In response to Imperial’s issue regarding use of excess TOR capacity, the CAISO argues that even if its efforts to accommodate real-time changes to TOR self-schedules were to actually make use of “excess” TOR capacity, it is hard to fathom how the TOR holder could claim that an extra payment is justified for the use of its own rights. In addition, the CAISO states that the treatment of unscheduled parallel path flows in real time is subject to standard procedures of the Western Electricity Coordinating Council, which do not provide for compensation. Furthermore, the CAISO also states that it would be a logistical nightmare for it and other transmission operators in the Western Interconnection to attempt to calculate unscheduled flows on each other’s systems in real-time and to calculate compensation.

### **Commission Determination**

286. We deny Imperial’s request for further clarification regarding the use of unscheduled TOR capacity. In its compliance filing, the CAISO addresses the use of unscheduled TOR capacity in three ways: (1) the CAISO states specifically that it does not intend to use or sell unscheduled TOR capacity; (2) the CAISO adds section 17.2, which states that the CAISO will accommodate TORs so that holders of TORs receive the same priorities they are entitled to under their separate bilateral contracts; and (3) the CAISO explains that it will reserve TOR capacity both within the CAISO control area and at scheduling points with adjacent control areas through an adjustment to ATC. Based on this information, we find that the tariff adequately preserves the reservation of TOR s for exclusive use of the TOR holder. We conclude that the CAISO complies with the September 2006 Order’s compliance directive.<sup>180</sup>

287. We share Imperial’s concern that, although section 17.2(3) permits the TOR holder to make changes to the scheduled amounts of supply after the submission of HASP TOR self schedules, those schedules may not receive the perfect hedge. In our April 2007 Rehearing Order, we addressed this same concern raised by Imperial with regard to ETCs, and directed the CAISO to submit a compliance filing, on or before August 3, 2007, to reconcile section 11.5.7 and section 16.9.1 (addressing ETC schedule changes) with section 33.3, so that it is clear that the perfect hedge is still available with respect to any contract-permitted schedule changes submitted by the close of the

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<sup>180</sup> September 2006 Order, 116 FERC ¶ 61, 274 at P 994.

HASP.<sup>181</sup> Although the Commission directed this compliance filing in the context of a discussion of ETCs, it also applies to TORs.<sup>182</sup> We conclude that the CAISO, for the reasons explained in the April 2007 Rehearing Order, must reconcile the sections noted above with section 17.2(3), so that it is clear that the perfect hedge is still available with respect to any TOR scheduling flexibilities submitted by the close of the HASP and through the CAISO's real-time process.<sup>183</sup>

288. With respect to Imperial's concern regarding the treatment of market schedules when issuing operating orders during system emergencies, we find that no further modifications are necessary for section 34.10 to reflect a higher priority for firm exports than non-firm exports. The MRTU Tariff clearly provides that firm schedules have priority over non-firm schedules. We further expect the CAISO to uphold any underlying arrangements between parties in exercising any load reductions to preserve reliability between control areas. Upon further review of section 17.2.1, we conclude that those modifications to section 16.5.1 required by the April 2007 Rehearing Order with respect to the treatment of ETCs during system emergencies<sup>184</sup> are likewise necessary for section 17.2.1 addressing TORs. We therefore direct the CAISO to modify section 17.2.1, consistent with our prior discussion, in conjunction with compliance filings it will make on or before August 3, 2007.

289. We disagree with Metropolitan's assertion that the CAISO unilaterally determines the amount of TOR residual capacity remaining for market participants' use. In addition to section 17.2, which preserves existing priorities for TOR holders, section 17.1.7 states that the CAISO will determine, based on the information provided by the non-PTO under

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<sup>181</sup> April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 439.

<sup>182</sup> Section 17.2(3) was not considered as part of our April 2007 Rehearing Order because it was proposed in this compliance proceeding.

<sup>183</sup> See MRTU Tariff sections 17.4.1 and 17.5.

<sup>184</sup> See April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 464, where the Commission directed the CAISO to clarify the MRTU Tariff by reuniting section 4.2.1, which governs market participants' obligation to comply with CAISO operating orders during a system emergency, with proposed MRTU Tariff section 16.5.1, with respect to treatment of ETCs. The CAISO was directed to clarify section 16.5.1 so that it is unambiguous that control area operators must comply with the CAISO's dispatch instructions and operating orders during system emergencies unless the CAISO's orders conflict with the expressed terms of their agreement with the CAISO or would impair public health or safety. Specifically, the CAISO needs to state in section 16.5.1 that, in the event of a conflict between the MRTU Tariff and a control area operating agreement, the agreement prevails.

the TRTC Instructions (which are discussed further below), the transmission capacity that must be reserved at scheduling points. Thus, the non-PTO provides the information that is the basis for the CAISO's ATC adjustment to preserve TOR capacity over its intertie with the CAISO.

290. Metropolitan seeks clarification that a TOR holder may import ancillary services at scheduling points with the CAISO. Although the CAISO did not respond directly to Metropolitan's concern in its answer to comments, it has previously clarified that TOR holders should be able to utilize their facilities for ancillary services, and agreed to modify section 17.2 to reflect this right.<sup>185</sup> We direct the CAISO to reflect this modification in conjunction with compliance filings the CAISO will make on or before August 3, 2007. We also note that the CAISO's set-aside of TOR capacity on the interties preserves this unscheduled capacity for the TOR holder's use.

291. San Francisco states that in order to define the scope of the CAISO's action and discretion during system emergencies, it must define the term "Applicable Reliability Criteria." We agree and direct the CAISO to submit a definition of the term in the MRTU Tariff in conjunction with compliance filings it will make on or before August 3, 2007.

**b. TRTC Instructions and Validation of TOR Self-Schedules  
in CAISO Markets**

292. As noted above, the Commission directed the CAISO to provide further details regarding how TORs would be scheduled and settled in the CAISO markets and whether the CAISO would require submission of TRTC Instructions. In its compliance filing, the CAISO proposes to add section 17.1, which clarifies that TRTC Instructions will be required for TORs so that the CAISO can ensure that the TOR is accommodated in a way that maintains the existing scheduling and curtailment priorities and allows the CAISO to ensure that submitted TOR self-schedules are valid.<sup>186</sup> Moreover, each non-PTO must work with the CAISO to develop the TRTC Instructions so that the TOR can be

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<sup>185</sup> See *Cal. Indep. Sys. Operator Corp.* 119 FERC ¶ 61,124, at P 63 (2007).

<sup>186</sup> A TOR self-schedule is valid when the CAISO determines that the TOR self-schedule is submitted pursuant to the requirements of MRTU Tariff section 30 and properly reflects TORs consistent with the TRTC Instructions, is labeled with a unique TOR identifier, and includes balanced sources and sinks within the TOR capacity limits. See MRTU Tariff section 17.3.1.

accommodated in the CAISO markets.<sup>187</sup> The CAISO also proposes section 17.1.4, which further specifies the contract information to be provided by the parties to the TOR in order for the CAISO to carry out its functions under the MRTU Tariff.<sup>188</sup> The CAISO also proposes section 17.3 to addresses TOR self-schedules and settlements and further clarifies in proposed section 17.3 that the CAISO will accept a valid TOR self-schedule from a Scheduling Coordinator, which must be submitted in accordance with the MRTU Tariff.<sup>189</sup> The CAISO also proposes to provide notification to Scheduling Coordinators indicating whether the schedule is valid or invalid.<sup>190</sup>

293. The CAISO states that its expanded version of section 17 recognizes similar treatment with respect to ETCs,<sup>191</sup> but also recognizes further accommodations for TORs in recognition of TORs' superior rights over ETCs.<sup>192</sup> The CAISO explains that its incorporation of similar requirements for the provision and implementation of TRTC Instructions and the validation of TOR self-schedules against these instructions is reasonable and appropriate, in recognition of their similarities.

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<sup>187</sup> Under MRTU Tariff section 17.1.6, if parties hold joint ownership interests and entitlements in a TOR, the parties must first attempt jointly to agree on any TRTC and if such parties cannot agree, they must use the dispute resolution procedures. Otherwise the CAISO will use a PTO's representation or the representation by the non-PTO with the greatest ownership interest in the TOR until the dispute is resolved.

<sup>188</sup> The CAISO will coordinate the scheduling of TORs with the scheduling of CAISO transmission service and will create an automated day-to-day verification process based on parameters provided by the non-PTO for the TOR to serve as the basis for TOR self-schedule validation. *See* MRTU Tariff section 17.1.7.

<sup>189</sup> A Scheduling Coordinator shall be either the holder of the TOR or its designee.

<sup>190</sup> *See* MRTU Tariff section 17.3.4.

<sup>191</sup> The CAISO notes that matters concerning TRTC Instructions under section 17.1, validation of TOR self-schedules under section 17.3, exceptions for System Emergencies under section 17.2.1, and dispute resolution under section 17.1.6 and 17.8.3, are similar.

<sup>192</sup> The CAISO points out that TORs receive a higher scheduling priority reflected in MRTU Tariff section 17.2 and are exempt from certain CAISO charges in section 17.3.3.

### Comments

294. Imperial contends that section 17.1.1 addressing the responsibility to create TRTC Instructions and related section 17.1.6 addressing the CAISO's role in accepting TRTC Instructions jeopardizes the rights of TOR holders who jointly own a line with either a PTO or a non-PTO owner. Imperial argues that under the CAISO's proposal, if there is a dispute regarding various TRTC Instructions between the joint owners, the CAISO will accept the TRTC Instructions of the joint owner that is a PTO or the majority owner until the dispute is resolved. Imperial objects to a CAISO imposed interim solution because it creates a second layer of operating instructions. Rather, Imperial states that the CAISO should operate the transmission lines as they have been historically operated.

295. Imperial also argues that under its proposal, the CAISO will eliminate the priority status for the balanced portion of a TOR self-schedule when a portion of the schedule is unbalanced. While Imperial agrees that eliminating priority status for the unbalanced portion of the TOR self-schedule is reasonable, it does not believe the CAISO should apply this procedure to the balanced portion of self-schedules. Thus, Imperial urges the rejection of this provision unless TOR holders are permitted to retain priority for the balanced portion of their self-schedule.

296. San Francisco argues that the CAISO contemplates use of its own ADR procedures, but does not present a solution for failures of this approach.<sup>193</sup> San Francisco asserts that the CAISO's ADR procedures do not apply to contracts dating back prior to the existence of the CAISO and therefore, ADR is not appropriate. San Francisco supports the negotiation of a bilateral agreement to resolve disputes arising between the CAISO and a non-PTO.

297. San Francisco also claims that section 17 fails to honor TORs by imposing unnecessary restrictions, via TRTC Instructions, on non-PTO scheduling rights on their own facilities. San Francisco seeks clarification that "sources and sinks" for TORs will be defined scheduling points that are interconnection points between the non-PTO facilities and the CAISO-controlled grid or adjacent control areas. San Francisco argues that the CAISO should remove the requirement to provide a unique contract reference number for each source and sink combination for its TOR.<sup>194</sup> In addition, San Francisco argues that the timing associated with the proposed TRTC submittal or change implementation is contradictory and ambiguous because section 17.1.3 provides that TORs must provide TRTC Instruction changes to the CAISO thirty-days prior to implementation, while section 17.1.5 requires submission of updates or changes no later

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<sup>193</sup> See MRTU Tariff section 17.1.6.

<sup>194</sup> See *id.* at section 17.1.4(1).

that seven-days prior an effective date. San Francisco seeks clarification regarding what advance submittal and implementation deadlines apply to changes in TRTC Instructions.

298. SoCal Edison objects to the CAISO's assertion that there may be "other necessary operating instructions" that must be provided to the CAISO in addition to TRTC Instructions. SoCal Edison states that the TRTC Instructions are defined to be all encompassing, *i.e.*, they provide all of the information necessary for the CAISO to perform its duties; therefore, SoCal Edison argues there should be no such "other information" to include in the TRTC Instructions. SoCal Edison also suggests that section 17.1.1 should cross-reference section 17.1.6, which recognizes disputes may occur and includes the CAISO process for acting on such disputes addressing TRTC Instructions.

299. SoCal Edison further states that section 17.1.4 contains a typographical error, which inadvertently requires the "PTO" to provide TRTC information to the CAISO, rather than the "non-PTO." SoCal Edison also contends that the CAISO should expand and modify the TRTC definition to include TORs because, as proposed, the definition of TRTC deals with Existing Contracts, not with TORs.

300. Metropolitan argues, among other things, that the tariff does not clearly describe how the CAISO intends to reserve TORs for the exclusive use of the TOR holder. For instance, Metropolitan states that MRTU Tariff section 17.1.7 provides that "the CAISO shall determine based on the information provided by the non-participating TORs under TRTC, the transmission capacities that must be reserved for TORs at scheduling points" (which are defined as interfaces between control areas) implies that the CAISO will only partially reserve capacity for exclusive use of TORs, and will unilaterally determine use of the remaining TOR capacity, notwithstanding TRTC Instructions.

301. In its answer, the CAISO acknowledges that SoCal Edison's comments are correct regarding the need to rectify typographical errors in section 17.1.4 and the need for an expanded definition of TRTC to apply expressly to TORs. The CAISO commits to make those minor clarifications to section 17.1.1 proposed in SoCal Edison's comments.

### **Commission Determination**

302. We conclude that the CAISO's proposed MRTU Tariff section 17.1 complies with the Commission's September 2006 Order directive to clarify whether TRTC Instructions are required with respect to TORs.<sup>195</sup> We also find that the information requested by the CAISO under section 17.1 is necessary and reasonable to establish the operating parameters by which the CAISO will accommodate the TORs under MRTU. Specific issues raised by intervenors are discussed below.

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<sup>195</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 990.

303. We disagree with Imperial's objections to the CAISO's interim solution for times when there is an unresolved dispute between joint owners. Because the CAISO must account for TOR capacity in CRR allocation and auction process and in the IFM, we find it necessary for the CAISO to impose an interim measure pending dispute resolution in order to preserve the TOR capacity. As a result, we believe that TOR holders must attempt in good faith to reach an agreement on the TRTC Instructions submitted to the CAISO. We also find sections 17.1.6 and 17.1.7 provide a reasonable and orderly process to address disputes among joint TOR holders, and non-jurisdictional TOR holders and hereby accept these provisions. Under section 17.1.6, parties holding joint ownership or entitlements must first attempt to agree on any TRTC Instruction and, if agreement cannot be reached, the dispute resolution provisions of the applicable contract will be used to resolve the dispute. Section 17.1.7 further states that in the event that all mechanisms prescribed do not result in resolution of a dispute, the CAISO's alternative dispute resolution procedures will be used. This tariff provision further notes that holders of TORs shall have standing to participate in the CAISO's alternative dispute resolution procedures. If all such mechanisms fail, we note that parties may file a FPA section 206 complaint as a customer under the MRTU Tariff.

304. San Francisco argues that section 17.1.6 contemplates use of the CAISO's own alternative dispute resolution procedures, but does not present a solution for failures of this approach. If all such mechanisms fail, we note that MRTU Tariff section 13.1.1 (General Applicability) provides any party the right to file a complaint with the Commission under section 206 of the FPA. As a result, we deny San Francisco's argument regarding this issue.

305. Imperial argues that the balanced portion of an unbalanced TOR self-schedule should retain scheduling priority. We disagree. Under section 17.3.2.2 if the TOR self-schedule is not balanced, or under section 17.3.2.3, the TOR self-schedule exceeds the capacity limits of the TOR, as reflected in the TRTC Instructions, the CAISO will remove any scheduling priority for the entire self-schedule, but will reverse the congestion charges associated with the balanced portions during the settlement process. Under this proposal, although the TOR self-schedule loses its priority, it retains the financial protection for the balanced portion of the self-schedule. We find this treatment equitably balances the CAISO's automated process of validating TOR self-schedules using the TRTC Instructions with upholding the contractual rights of the TOR holder with respect to financial protection for congestion costs. This treatment is also consistent with the CAISO's proposed treatment of ETCs under section 16.<sup>196</sup> As a result, to the

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<sup>196</sup> In the September 2006 Order, the Commission conclude that the CAISO's proposal to provide financial protection only to the valid and balanced portion of the ETC self-schedule upholds the ETC rights holders' contractual entitlements. September 2006 Order, 116 FERC ¶ 61,274 at P 926.

extent that the CAISO determines that the TOR self-schedule is not balanced, we find it reasonable for the CAISO to remove the scheduling priority for the entire TOR self-schedule. We therefore accept the CAISO's proposed tariff language under section 17.3.2.2 and 17.3.2.3 with no further modifications.

306. Contrary to San Francisco assertions, we find the collection of data for the TRTC Instructions will not impose unnecessary restrictions on non-PTO rights over their facilities. We conclude that the information called for under section 17.1.3, addressing the submission of TRTC Instructions is necessary to allow the CAISO to incorporate the operational characteristics of the transmission arrangements into its market design. Use of the TRTC Instructions provides an automated system to validate submitted self-schedules, provides the appropriate scheduling priority and reverses congestion charges using the perfect hedge. Additionally, we find the CAISO's process for reflecting changes and updates to the submitted TRTC Instructions is reasonable. Under section 17.1.3 requires 30-day notification of a scheduling or curtailment change for the TOR and under section 17.1.5, the CAISO will update the information as soon as practicable, but no later than 7 days after receipt. We accept these provisions.

307. With respect to SoCal Edison's objection to the CAISO's inclusion of "other necessary operating instructions" under section 17.1.1, we believe that the CAISO should incorporate any and all "other necessary operating instructions" to ensure that the parameters established for each TOR accurately reflect underlying contract arrangements so that the CAISO can ensure that TOR holders receive the priorities to which they are entitled. Additionally, we also accept the CAISO's commitment to correct those typographical errors identified by SoCal Edison in sections 17.4.1 and 17.1.1 and direct that those changes be reflected in conjunction with compliance filings the CAISO will make on or before August 3, 2007.

308. Finally, we are not persuaded by Metropolitan's assertion that the tariff does not clearly describe how the CAISO will reserve TORs for the exclusive use of the TOR holder. As discussed above, section 17.2(1) preserves the TOR capacity through an adjustment to ATC both within the CAISO control area and over intertie with external control areas, and schedule adjustments may be submitted as reflected in the TRTC Instructions. Therefore we conclude that no further changes are necessary to ensure that these rights are preserved.

#### **4. Charges Applicable to TOR Schedules in CAISO Markets**

309. Sections 17.3.3(1) through 17.3.3(5) address the CAISO's settlement treatment for valid TOR self-schedules. Under these provisions, the CAISO proposes: to apply the perfect hedge to reverse congestion charges; to base the marginal cost of losses at the source(s) and sinks(s) identified in the TOR self-schedule; and to assess charges applicable to ancillary services, imbalance energy, transmission losses (*e.g.*, reflecting

marginal losses) and the grid management charge (GMC) for the use of a TOR. Under these provisions, the CAISO will not assess TOR holders charges for neutrality, UFE,<sup>197</sup> transmission access charges and minimum load costs; holders of TORs will not be entitled to an allocation of revenues from the CAISO, including access charge revenues. Additionally, parties with TORs will continue to pay and any affected PTO must continue to provide transmission losses or ancillary services requirements in accordance with their existing contracts applicable to those TORs.<sup>198</sup> Any shortfall or surplus among the CAISO charges must be settled bilaterally between the Scheduling Coordinator and the TOR holder or through the PTO (as the Scheduling Coordinator) tariff. Each PTO will be responsible for recovering any deficits or crediting any surpluses associated with differences in transmission losses and transmission losses requirements through its bilateral arrangements or its transmission owner tariff.

#### **a. Transmission Losses**

##### **Comments**

310. Metropolitan states that, although the September 2006 Order specifically directed the CAISO to modify its Tariff to reflect its representation that the CAISO will not subject TORs to marginal losses if the TOR holder can identify a specified transmission loss percentage in an agreement, the compliance filing provides no specific provision in response to this directive.

311. Metropolitan also states that section 17.3.4 appears to preclude those TOR holders paying marginal losses from participating in any distribution of over-collected marginal transmission losses. Metropolitan states that section 17.3.4 provides that “the holders of TORs will not be entitled to an allocation of revenues from the CAISO, including Access Charge revenues.” Metropolitan assumes that the CAISO did not intend to preclude TOR holders from receiving their pro rata share of over- collected marginal losses.

312. San Francisco states that it is not appropriate to charge marginal losses to non-PTOs for use of their own facilities that are not part of the CAISO-controlled grid, absent

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<sup>197</sup> UFE is the difference between the net energy delivered into a utility service area and the total metered demand within the utility after being adjusted for losses. The difference is in part attributable to meter measurement and power flow modeling errors.

<sup>198</sup> Since MRTU Tariff section 17 serves as a default provision when there is no bilateral agreement between the TOR holder and the CAISO (or the TOR holder and PTO), the CAISO will charge the Scheduling Coordinator who is responsible for the TOR holder applicable transmission losses, ancillary services, imbalance energy and the GMCs in accordance with the MRTU Tariff.

the non-PTO's agreement. San Francisco believes that it is appropriate to model transmission losses on the systems of non-PTOs based on actual losses, unless the non-PTO explicitly agrees to the use of marginal losses. San Francisco also states that the Commission should order the CAISO to clarify that transmission losses can only be imposed to the extent they are not self-provided by the TOR Scheduling Coordinator.

313. In its answer, the CAISO clarifies an omission from section 17, which fails to expressly state that a TOR holder assessed marginal losses will share in the distribution of any over-collection of the marginal cost of losses. The CAISO states that it will remedy this omission by revising section 17.3.3(4) to include, "the Scheduling Coordinator for the TOR holder shall be allocated the applicable amount of IFM Marginal Losses Surplus Credit in accordance with the provisions of Section 11.2.1.6." The CAISO states that no other changes to section 17.3.3 are necessary.

### **Commission Determination**

314. With respect to those issues raised concerning the assessment of marginal losses, we reject as beyond the scope of the compliance filing San Francisco's request to model transmission losses on the systems of non-PTOs based on actual losses. The Commission has accepted the CAISO's proposal to treat losses on a consistent basis and assign marginal losses to Scheduling Coordinators for TOR schedules and provide the direct credit-back of the net revenues collected from marginal losses to the TOR Scheduling Coordinator unless there is a specified loss percentage in a bilateral agreement.<sup>199</sup> Although section 17.3.3(2) reflects the CAISO's proposal to assign marginal losses to TORs, section 17.3.3 does not specifically reflect the fact that marginal losses will be assessed in the absence of a specified loss percentage in a bilateral agreement. We therefore agree with Metropolitan that section 17.3.3 does not specifically reflect the CAISO's representations and therefore does not comply with our September 2006 directive.<sup>200</sup> Consequently, we direct the CAISO to further modify section 17.3.3 to reflect its commitment to honor loss provisions in bilateral agreements concerning TORs. The CAISO is directed to reflect this change in its August 3, 2007 compliance filing.

315. We accept the CAISO's proposal to revise section 17.3.3(4) to reflect allocation of the marginal loss surplus credit to the Scheduling Coordinator for the TOR holder and

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<sup>199</sup> We concluded that the assignment of marginal losses to TORs "is reasonable accommodation between honoring TORs holders' rights over non-CAISO-controlled facilities and sending accurate price signals." *See* April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 458.

<sup>200</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 1003.

direct the CAISO to submit this change in conjunction with the compliance filing it will make on or before August 3, 2007.

**b. Ancillary Services, Imbalance Energy and Grid Management Charges**

316. Modesto states that the CAISO's proposed section 17.3.3 exceeds what was called for by the Commission to clarify treatment of TORs. While the proposed section appears to provide the specifications called for by the Commission, it inappropriately seeks rate authorization contrary to Commission precedent and not appropriate for a compliance filing. Modesto argues that the Commission has previously denied the CAISO's assessment of ancillary services charges to TOR transactions over the California-Oregon Transmission Project (COTP) on the basis that the "ISO Tariff limits the ISO's authority to procure ancillary services to ISO-controlled grid transactions" and not the TORs at issue in that case because "they are not included within the ISO-Controlled Grid."<sup>201</sup>

317. Modesto argues that assessing ancillary services, imbalance energy, transmission losses and GMC to TORs is inconsistent with cost causation principles, and could lead to double-charging for the same functions. Modesto asserts that the CAISO provides no quantification that would show that the functions it performs for TORs generates costs equivalent to those it performs for transmission facilities under its operational control and does not account for the functions performed by the owner of such facilities to ensure the reliability of their own transmission.

318. Modesto also argues that even though the CAISO was permitted to assess the GMC to non-CAISO controlled grid facilities, *i.e.*, under the Southwest Powerlink, there are factual differences among TORs in California, which the CAISO fails to recognize. Modesto states that these factual differences should not be generically addressed in a compliance filing because to do so would result in disparate and unfair impacts to differently situated facilities. Modesto states that parties should be able to demonstrate on a case-by-case basis that the assessment of GMC to their facilities is unwarranted.

319. San Francisco requests that the Commission direct the CAISO to clarify that ancillary services and imbalance energy can only be imposed to the extent they are not self-provided by the TOR Scheduling Coordinator. San Francisco also argues that the assessment of the GMC is unjust and unreasonable because non-PTOs use facilities that are not part of the CAISO -controlled grid. Thus, there is no rational basis for requiring

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<sup>201</sup> *Cal. Indep. Sys. Operator Corp.*, 107 FERC ¶ 61,152 (2004). Modesto states that this decision is consistent with the Commission's decision rejecting CAISO's proposed Amendment No. 2 to its Tariff, where the CAISO sought to expand its authority to procure ancillary services for non-CAISO-controlled grid transactions.

non-PTOs to pay the GMC for use of their own facilities absent a specific showing of cost causation. Additionally, San Francisco argues that even if it could be found reasonable to impose the grid management charge on some portion of TOR-related activity, the CAISO has provided no billing settlement detail regarding cost justification, how such charges will be assessed, for what types of transactions, and at what rate.

320. The CAISO states that no changes to section 17.3.3 regarding applicable charges are necessary or appropriate. The CAISO states that the incorporation of a “default” requirement that a TOR holder be assessed charges applicable to ancillary services, imbalance energy, transmission losses and GMCs is both appropriate for a “default” provision of this sort and consistent with provisions of other agreements the CAISO has filed with the Commission and the Commission has accepted. The CAISO further notes that, while some of the accepted agreements incorporate alternative means by which the TOR holder is able to meet its obligations regarding these charges, the terms of section 17.3.3 (with the provision noted above regarding the allocation of marginal loss credit) comply with the September 2006 Order and are a reasonable basis for initiation of discussions between the CAISO and TOR holders regarding the ultimate responsibility for these costs of operating the CAISO control area.<sup>202</sup>

### **Commission Determination**

321. We conditionally accept section 17.3.3, subject to the modification required below. At the outset, we disagree with Modesto’s claim that section 17.3.3 exceeds the compliance directives in our September 2006 Order because we concluded in that order that further details, including tariff modifications, were necessary to explain and authorize the CAISO’s treatment of TORs under MRTU.<sup>203</sup> Therefore, we consider all section 17 revisions submitted by the CAISO in response to our September 2006 Order as necessary to address TORs under the MRTU Tariff.

322. Under section 17.3.3(3), the CAISO will not assess charges for neutrality, UFE, transmission access charges, and minimum load costs, or other charges that might otherwise be applicable to the demand or exports served solely over the TOR facilities. This clarification is consistent with our directive in the September 2006 Order<sup>204</sup> and is accepted.

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<sup>202</sup> See CAISO Answer at 51-52.

<sup>203</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 987.

<sup>204</sup> *Id.* at P 988.

323. Under section 17.3.3(3), the CAISO also proposes a default mechanism to assess charges applicable to ancillary services and imbalance energy to valid TOR self-schedules.<sup>205</sup> These charges will only be assessed if such assessment does not conflict with any applicable TOR agreements and the TOR holder fails to self-provide ancillary services. We also note that under section 8.1 of the MRTU Tariff, Scheduling Coordinators may self-provide ancillary services requirements. We find that, to the extent that TOR holders do not self-provide ancillary services for their TOR transactions, and the CAISO must procure these services as a backstop measure on behalf of the TOR holder, permitting the CAISO to recover the cost of providing these services is consistent with cost causation principles.<sup>206</sup> Charging the TOR holder for ancillary services in this situation is consistent with cost causation principles because it is reasonable to assign costs to the TOR holders for whom these services are provided, rather than socializing these costs to all CAISO market participants. We clarify that the CAISO may procure ancillary service only in the event that the TOR holder does not self-provide ancillary services and the CAISO must procure these services on behalf of the TOR holder. Likewise, the CAISO may only assess imbalance energy charges to the extent that the CAISO must provide energy imbalance for the TOR holder. Accordingly, we conditionally accept section 17.3.3(3), and direct the CAISO to modify section 17.3.3(3) to reflect our determination that the CAISO may only assess charges applicable to ancillary services and imbalance energy if such services are not self-provided by the TOR holder.

324. Further, we do not view our precedent as prohibiting the CAISO from assessing TOR holders charges for ancillary services or imbalance energy that TOR holders incur under the limited circumstances here, where the CAISO is only providing ancillary services or imbalance energy as a backstop when the TOR holder fails to cover its own ancillary services/imbalance energy needs. In a prior order, the Commission addressed the CAISO's proposal, in the nascent stages of the CAISO, to broadly extend its tariff provisions to numerous entities within the CAISO control area that had not yet decided to join the CAISO.<sup>207</sup> The tariff amendment the CAISO proposed in that proceeding (Amendment No. 2) would have revised a number of CAISO Tariff sections, protocols

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<sup>205</sup> This default provision would apply on a prospective basis to those new TOR holders who do not negotiate a separate bilateral agreement or superseding TOR agreement with the CAISO.

<sup>206</sup> Based on our determination, we note that implementation of MRTU Tariff section 17.3.3(3) may require further modification of tariff provision(s) to authorize the CAISO to procure ancillary services on behalf of non-grid facilities under the limited circumstances discussed above.

<sup>207</sup> *Cal. Indep. Sys. Operator. Corp.*, 82 FERC ¶ 62,238 (1998).

and related agreements. The Commission rejected the tariff amendment the CAISO had proposed to achieve this aim because, among other reasons, we found that it would have unreasonably expanded CAISO control over non-jurisdictional facilities that had not been transferred to the CAISO's control, and the CAISO had not demonstrated that this approach was necessary for its operations.<sup>208</sup> In this proceeding, we are faced with a much narrower tariff modification, which would only permit assessment of limited charges under limited circumstances, consistent with cost causation principles. In addition, at this time there is a heightened concern for reliability, and ancillary services are necessary to promote reliability. Accordingly, we find it equitable to assign costs of ancillary services to those for whom such services are provided. In addition, in response to Modesto's argument that the Commission should follow its own precedent rejecting the CAISO's proposal to expand its authority to procure ancillary services for non-CAISO-controlled grid transactions precedent,<sup>209</sup> we find that it is also distinguishable from the present case. In that proceeding the Commission dealt with whether the CAISO could unilaterally procure ancillary services on behalf of TOR holders when the tariff did not permit such procurement. In that proceeding, the Commission agreed with the arbitrator's analysis that the CAISO Tariff limited the CAISO's authority to procure ancillary services to CAISO-controlled grid transactions. Here, we assess the just and reasonableness of including a provision in the MRTU Tariff to allow the CAISO to recover ancillary services costs on a prospective basis from TOR holders only when the TOR holder fails to self-supply its own ancillary services. This is a distinctly different issue.

325. We agree with Modesto that there are factual differences among TORs in California which may impact the application of the GMC charges proposed under section 17.3.3(3). Furthermore, the GMC, which expires on January 1, 2008, is currently under stakeholder negotiations to consider its application upon implementation of MRTU. In light of this consideration, we conclude that the proposed default provision under section 17.3.3(3) addressing GMC is overly broad and may not follow cost causation principles. In addition we find it is premature for the Commission to address the CAISO's GMC charge as it applies to TORs given that the current GMC will be revised effective January 1, 2008, prior to MRTU implementation. Therefore, we reject the CAISO's proposal to include GMC under section 17.3.3(3) without prejudice and direct the CAISO to remove the GMC from section 17.3.3(3) in conjunction with compliance filings the CAISO will make on or before August 3, 2007.<sup>210</sup>

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<sup>208</sup> *Id.* at 62,241.

<sup>209</sup> *Cal. Indep. Sys. Operator Corp.*, 107 FERC ¶ 61,152 (2005).

<sup>210</sup> The CAISO should address its proposal for application of GMC to TORs in its section 205 filing addressing the GMC to become effective in January 2008.

## 5. Other Issues Raised Concerning TOR Settlements

326. Metropolitan states that TOR settlement provisions are inconsistent with prior CAISO representations. Metropolitan states that section 17.3.3 of the compliance filing provides that the CAISO “will apply the TOR Settlement treatment in Sections 11.2.1.5 and 11.5.7.1” to valid TOR Self-Schedules. Therefore, since neither sections 11.2.1.5 nor 11.5.7.1 provide for a custom LAP settlement, section 17 should be modified, accordingly, to honor the CAISO’s prior representation that TORs will be settled at “custom LAP prices analogous to those for MSS.”

### Commission Determination

327. Section 30.5.3.2(a) states that ETC or TOR self-schedules may not be submitted or settled at the LAP unless the TRTC Instructions so provide. Therefore, if the contract governing the TOR so provides, then the TOR will be settled at a custom LAP price which is consistent with the CAISO’s prior representation. In addition, we further note that since the submission of its compliance filing, the CAISO, in a separate proceeding, submitted further revisions to section 17.1.4 regarding the informational requirements for TRTC Instructions. Under revised section 17.1.4 (which was accepted, subject to the outcome of this proceeding), the TRTC Instructions must include “... for each Point of Delivery .... the eligible sinks ... [which] include Load PNodes, Custom Load Aggregation Points and System Resources.” Sections 11.5.7.1 and 11.2.1.5 address the reversal of congestion costs for all source and sink pairs associated with valid and balanced source and sink TOR self-schedules. Because the CAISO has further defined a sink to account for custom load aggregation points, we conclude that no further modification is necessary to section 17.

## V. Market Power Mitigation and Resource Adequacy

### A. Market Power Mitigation

#### 1. Bid Caps

328. In Paragraph 1021 of the September 2006 Order, the Commission directed the CAISO to modify section 39.6.1.4 of the MRTU Tariff to clarify that bids below negative \$30/MWh are subject to cost verification. In compliance with this directive, the CAISO has modified the procedure to make clear that if the CAISO dispatches a resource with an energy bid of less than negative \$30/MWh, the CAISO will settle with the Scheduling Coordinator at the bid price upon the submission of cost justification to the CAISO and the Commission within seven days after the end of the month in which the bid was submitted. The tariff provision also indicates that the CAISO will pay Scheduling Coordinators for amounts in excess of the negative \$30/MWh minimum bid price upon Commission acceptance.

### **Comments**

329. Powerex claims that the proposed changes are overly broad and unduly burdensome for generators. First, Powerex contends that the CAISO should not require cost verification for all bids below negative \$30/MWh because there may be circumstances where cost justification is not necessary.<sup>211</sup> Powerex argues that cost verification may be appropriate regarding payments to generators that decrease their output, but not with bids serving other purposes.

330. Second, Powerex contends the September 2006 Order does not require Scheduling Coordinators to submit cost verification information to the Commission.<sup>212</sup> Without evidence of any improper conduct, Powerex claims the procedure imposes unnecessary burdens on Scheduling Coordinators to justify its bid with the CAISO and the Commission. Thus, Powerex urges the Commission to direct the CAISO to modify MRTU Tariff section 39.6.4.1 to require Scheduling Coordinators to submit cost verifications to only the CAISO Market Monitor.

331. In its answer, the CAISO asserts that Powerex's request to exempt cost verification for certain bids below negative \$30/MWh is beyond the scope of the compliance filing. The CAISO explains that the September 2006 Order did not provide the CAISO with any discretion to exempt bids from cost justification. The CAISO asserts that Powerex should have raised this argument on rehearing rather than the compliance filing.

332. With regard to Powerex's contention that Scheduling Coordinators should not have to justify their bid to the Commission, the CAISO disagrees. In its answer, the CAISO contends that Scheduling Coordinators should justify its bids to ensure adequate review by the CAISO and the Commission. The CAISO further argues that Powerex does not explain why the cost verification requirement should be considered unjust and unreasonable.

### **Commission Determination**

333. We agree with the CAISO that Powerex's request to exempt cost verification for certain bids is beyond the scope of the compliance filing, which merely requires the CAISO to clarify that bids below negative \$30/MWh are subject to cost verification. We

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<sup>211</sup> For example, Powerex argues that a Scheduling Coordinator might submit a negative bid of \$35/MWh in the IFM to try to ensure that it is a price taker (*i.e.*, to ensure that its resource is selected early in the bid stack and dispatched).

<sup>212</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 1021.

note that the Commission established market-monitoring requirements for the CAISO and market participants to keep track of developments in California.<sup>213</sup> We continue to believe that these requirements are essential for the Commission to evaluate market performance and make informed assessments of various market design elements. In addition, it is the Commission's responsibility to determine whether rates are just and reasonable and it can only carry out this responsibility if the cost information is filed with the Commission.<sup>214</sup> Notwithstanding, we note that Powerex had an opportunity to address the treatment of below negative bids in the CAISO's initial MRTU filing and again on rehearing, however, it failed to do so. Thus, we deny Powerex's request to exempt certain bids from cost verification.

334. With respect to Powerex's contention that the cost verification procedure may impose unnecessary burdens on Scheduling Coordinators, we disagree. Powerex does not provide any evidence to support its contention that the cost verification requirement will create an administrative burden. The CAISO established the negative \$30/MWh decremental energy bid to reflect costs that a supplier incurs to decrease generation on the system in order to avoid the exercise of market power.<sup>215</sup> As discussed above, the Commission requires this information to assure that rates remain just and reasonable. We also note that Scheduling Coordinators will be required to submit the same data to both the CAISO and the Commission, not two different sets of data.

335. For the reasons stated above and consistent with our findings in the September 2006 Order, we accept the CAISO's proposed tariff revisions requiring cost verification for bids below negative \$30 MWh, as proposed with no further modifications.

## 2. Negotiated Rate Option

336. In the September 2006 Order, the Commission directed the CAISO to clarify the procedures a market participant must follow to exercise the negotiated option and the

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<sup>213</sup> See *Cal. Indep. Sys. Operator Corp.*, 95 FERC ¶ 61,115 (2001).

<sup>214</sup> To the extent that certain entities (e.g., hydro-units during spill conditions) have costs that exceed the negative \$30/MWh floor, we expect the suppliers to submit cost verification data to the CAISO and Commission. See September 2006 Order, 116 FERC ¶ 61,274 at P 1015-1021.

<sup>215</sup> These costs include, among other things, gas imbalance charges a supplier may face if they do not consume gas that has been scheduled for delivery, wear and tear costs of ramping units up and down, shut down costs, and start-up costs to bring a unit back on-line when it is needed. See *Cal. Indep. Sys. Operator Corp.*, 100 FERC ¶ 61,060 (2002).

type of information a market participant must provide under this process. The Commission also directed the CAISO to modify the MRTU Tariff to indicate that at the time the CAISO and market participants negotiate a bid price, the CAISO must file the negotiated default energy bid with the Commission. In the event the CAISO and market participants cannot agree on a negotiated price, the Commission directed the CAISO to include in its compliance filing tariff language allowing parties to bring the dispute to the Commission.<sup>216</sup>

337. In its compliance filing, the CAISO indicates that it commenced a stakeholder process and circulated a white paper from the CAISO's DMM regarding the development of procedures for exercising the negotiated rate option for default energy bids. Based on comments received from stakeholders during this process, the CAISO made several modifications to MRTU Tariff section 39.7.1.3 (Negotiated Option) to establish a default energy bid under the negotiated rate option. For example, the CAISO has modified the negotiated rate option to provide market participants with guidance on: (1) the type of information and documentation to support its negotiated price; (2) the CAISO's timeline for responding to market participant requests; (3) the time period in which an accepted default energy bid becomes effective; and (4) the dispute resolution procedures. The CAISO explains that if parties fail to agree on the default energy bid for use under the negotiated rate option, the Scheduling Coordinator has the right to file its default energy bid for approval with the Commission. Subsequently, the Scheduling Coordinator has the option of electing to use any of the other default energy bid options pending the approval of its submission. If the Scheduling Coordinator does not elect to use any of the other options,<sup>217</sup> or if sufficient data do not exist to calculate a default energy bid for any of the available options, the CAISO proposes to establish a temporary default energy bid under MRTU Tariff section 39.7.1.5.<sup>218</sup>

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<sup>216</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 1057-1059.

<sup>217</sup> The CAISO explains that a Scheduling Coordinator may opt not to use any of the other bid options because system or market conditions may result in unreasonably low prices.

<sup>218</sup> Section 39.7.1.5 specifies that any temporary default energy bids established by the CAISO will be based on one or more of the following: (1) operating cost data, opportunity costs and other appropriate inputs from the Scheduling Coordinator; (2) the CAISO's estimated costs of the applicable electric facility; and (3) an appropriate average of competitive bids of one or more similar electric facilities. The CAISO also indicates that additional information may be necessary to further assist the CAISO in evaluating the proposed bid.

338. According to the CAISO, the intent of the proposed section is to ensure that the CAISO or an alternative Independent Entity selected by the CAISO can expeditiously establish an appropriate default energy bid pending any agreement or determination by the Commission. The CAISO also notes that because this provision only applies in cases where a Scheduling Coordinator opts not to use a default energy bid, the CAISO would invoke this provision only in cases where a Scheduling Coordinator feels that any of the other options would result in an unreasonably low default energy bid. The CAISO asserts that this provision is necessary because it provides the CAISO with flexibility to implement a temporary default energy bid that reflects such conditions, even though a valid default energy bid may exist under any of the other options.

### **Comments**

339. Williams argues that section 39.7.1.3.1 (Submission Process) improperly prescribes the supporting information and documentation for exercising the negotiated rate option for default energy bids in the Business Practice Manual. Williams believes the CAISO should describe the criteria in the MRTU Tariff because the information and supporting documentation affects jurisdictional rates, terms and conditions regarding the negotiated rate option.

340. Williams also contends that the CAISO's assertion that insufficient data justifies the use of a temporary default energy bid is unsupported. Williams argues that MRTU Tariff section 4.6.4 removes the rare situation of insufficient data because generators are required to provide the CAISO with various operating characteristics.<sup>219</sup> If a participating generator fails to comply with this requirement, Williams contends the proper remedy is for the CAISO to obtain this data from the participating generator, not for the CAISO to unilaterally calculate and impose a temporary default energy bid. Williams believes that if a participating generator fails to agree upon a negotiated default energy bid, the CAISO should be required to use the variable cost option as the temporary default energy bid.<sup>220</sup>

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<sup>219</sup> MRTU Tariff section 4.6.4 states that: "Each Participating Generator shall provide data identifying each of its Generating Units and such information regarding the capacity and the operating characteristics of the Generating Unit as may be reasonably requested from time to time by the CAISO. All information provided to the CAISO regarding the operational and technical constraints in the Master File shall be accurate and actually based on physical characteristics of the resources except for the Pump Ramping Conversion Factor, which is configurable."

<sup>220</sup> Williams suggests the CAISO revise the last sentence of MRTU Tariff section 39.7.1.3.1 to read as follows: "If the Scheduling Coordinator does not elect to use any of the other options available pursuant to Section 39.7, the CAISO shall apply the variable cost option under Section 39.7.1.1." Williams also seeks a similar change to MRTU Tariff section 39.7.1.3.2.

341. Williams also declares that proposed section 39.7.1.5 (Temporary Default Energy Bid) provides the CAISO with too much discretion to calculate and impose a temporary default energy bid. Williams contends that the proposed section is not sufficiently defined and any action administered under this provision will lead to disputes because the CAISO has to choose from one or more options to calculate the temporary default energy bid. In the event that the Commission approves MRTU Tariff section 39.7.1.5, Williams requests the Commission to direct the CAISO to rank-order the criteria for calculating the default energy bid and more precisely define that criteria.

342. Further, it contends that proposed section 39.7.1.5 is outside the scope of the compliance filing. Williams states that the September 2006 Order directed the CAISO to clarify the procedures a market participant must follow to take advantage of the negotiated rate option for default energy bids and the type of information a market participant must provide under this process. Williams claims that the Commission did not direct the CAISO to develop a unilateral process to calculate and impose a temporary default energy bid.

### **Commission Determination**

343. Williams argues that the CAISO should include requirements for the supporting information and documentation for exercising the negotiated rate option for default energy bids in the MRTU Tariff rather than the Business Practice Manuals. In the September 2006 Order, the Commission found our “rule of reason” test requires a case by case analysis, comparing what is in the Tariff versus the Business Practice Manuals.<sup>221</sup> The Business Practice Manuals serve as guides for internal operating procedures and to inform market participants of the CAISO’s practices. We also understand that the information contained in the Business Practice Manuals is meant to provide further explanation of the CAISO’s practices but not significantly affect any rates, terms or conditions.

344. We reject Williams’ claim that the CAISO should be required to describe the supporting information for exercising the negotiated rate option in the MRTU Tariff. While the CAISO plans to follow a standard procedure for assessing the reasonableness of a proposed bid, we find that the criteria for this rate may require frequent updates in order to capture the potential change in costs or market conditions, and therefore, is best suited for inclusion in the Business Practice Manual. The Commission has stated in previous orders, that a tariff need only include terms that affect rates and services

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<sup>221</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 1370.

“significantly.”<sup>222</sup> We note, however, that the supporting documentation prescribed in the Business Practice Manual should include but not be limited to a seller’s operating cost (*e.g.*, fuel costs, operation and maintenance costs), opportunity costs or any other inputs calculated in the default energy bid under the negotiated option. For these reasons, we find the CAISO’s proposal to describe the supporting documentation in the Business Practice Manual is reasonable.

345. Williams further contends that the CAISO should be required to use the variable cost option as the temporary default energy bid. We disagree with Williams’ assertion. Section 39.7.1 of the MRTU Tariff provides that Scheduling Coordinators for each generating unit must rank in order the options for calculating the default energy bid starting with the their preferred method. The Scheduling Coordinator must provide the data necessary for determining the variable costs unless the *negotiated option* precedes the variable cost option in the rank order. Under these circumstances, we recognized that the CAISO may encounter situations where a generator provides inadequate information or does not elect to use any other option beyond the negotiated rate, as bids are unreasonably low. Because no other basis for establishing a price exists, we find the CAISO must have the flexibility to establish a bid on an expedited basis in order to avoid any disruption of critical supply to market. In addition, we believe this flexibility allows the CAISO to preserve competition during periods of mitigation and maintain system and local reliability on the CAISO-controlled grid. Notwithstanding, we find that the CAISO must ensure, prior to calculating any temporary default energy bid, that all resources have been exhausted under MRTU Tariff section 39.7.1.

346. We are also not persuaded by Williams’ argument that MRTU Tariff section 4.6.4 prevents the rare situation when the CAISO must impose a temporary default energy bid due to insufficient data. While MRTU Tariff section 4.6.4 was established to ensure that the CAISO has access to each generator’s operating characteristics, we note that Williams does not rebut the fact that the CAISO may encounter situations where there is insufficient data to calculate default energy bids under one of the other options (*e.g.*, the variable cost option). As stated above in section 39.7.1 of the MRTU Tariff, a Scheduling Coordinator must provide the data necessary for determining the variable costs unless the *negotiated option* precedes the variable cost option in the rank order. Again, we find that the CAISO may encounter insufficient information due to a Scheduling Coordinator electing not to use the variable cost option or LMP option. We reiterate that because no other basis for establishing a price exists, we find it reasonable for the CAISO to impose a temporary default energy bid. However, we note that if a

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<sup>222</sup> *City of Cleveland v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985) (finding that utilities must file “only those practices that affect rates and service *significantly*, that are reasonably *susceptible* of specification, and that are not so generally understood in any contractual arrangement as to render recitation superfluous”) (*emphasis in original*).

Scheduling Coordinator establishes a default energy bid rank order, the CAISO must attempt in good faith to obtain the necessary data from the generator prior to calculating a temporary default energy bid. Thus, we accept the CAISO's procedures for exercising the negotiated option and the conditions for imposing a temporary default energy bid, as proposed.

### 3. Frequently Mitigated Units

347. In the September 2006 Order, the Commission acknowledged that non-RMR units are unlikely to be frequently mitigated for local market power. Conversely, we noted that many of the resources currently under RMR contracts with the CAISO represent those units which will likely be frequently mitigated, and to the extent that the use of RMR units is phased out in the future, the frequently mitigated unit (FMU) option will become a market mechanism by which these units will receive a contribution to their fixed forward costs. The September 2006 Order also raised a concern that a single mitigation threshold of 80 percent may create perverse incentives for units mitigated slightly less than the threshold to bid in a manner that increases their mitigation just above the threshold. One method that can avoid this problem is to consider a sliding scale for units that are mitigated less frequently and establish corresponding graduated bid adders for each level of mitigation. Thus, the Commission directed the CAISO to consider whether the 80 percent mitigation frequency appropriately captures FMUs and whether units that are mitigated less than 80 percent of the time should receive a bid adder.<sup>223</sup>

348. In its compliance filing, the CAISO states that it circulated to market participants a white paper prepared by the DMM regarding the FMU Bid Adder.<sup>224</sup> DMM expressed, among other things that Bid Adders do not represent the most efficient manner in which to address revenue adequacy problems, and that as Local Capacity Area Resource Adequacy requirements are phased in, sufficient resources should be available under Resource Adequacy contracts to meet the bulk of local reliability needs, without significant reliance on FMUs.<sup>225</sup> Moreover, the CAISO notes that DMM supported the application of a Bid Adder for FMUs without capacity contracts under the expectation that the application and market impacts of such Bid Adders would be relatively limited.

349. The CAISO notes that several stakeholders submitted comments on DMM's white paper. In light of the diversity of comments and further discussion with stakeholders, the

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<sup>223</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 1063.

<sup>224</sup> The CAISO circulated the white paper on November 20, 2006.

<sup>225</sup> It should also be noted that the CAISO raises the same concern in its December 20, 2006 Compliance Filing, at 10.

CAISO determined that no changes to the FMU Bid Adder were necessary at this time because the analysis would require a series of assumptions about market conditions and behaviors under MRTU. For example, the CAISO explains that its analysis would reflect assumptions about specific units that will not be under RMR or RA contracts (which are ineligible for the FMU Bid Adder) upon MRTU implementation. In addition, the CAISO states that the frequency in which the CAISO mitigates a unit will depend on the actual bids submitted relative to all other resource bids in the CAISO system. Since neither market bids nor default energy bids are based on a unit's actual marginal costs, the CAISO contends that any results would be highly sensitive to an unlimited set of assumptions regarding various resources' bids and default energy bids.

350. In response to the Commission's concern that a single threshold may create perverse incentives, the CAISO believes a sliding scale may be equally or more likely to create the same bidding strategy for a FMU Bid Adder. For example, the CAISO states that if units mitigated in only 60 percent of run hours become eligible for a FMU Bid Adder, the number of units that seek to become eligible for such an adder may increase as a result.

### **Comments**

351. Williams contends the CAISO did not give meaningful consideration to whether the "80 percent mitigation frequency appropriately captures FMUs and whether units that are mitigated less than 80 percent of the time should also receive a bid adder."<sup>226</sup> Williams states that the CAISO acknowledges that it did not perform any quantitative analysis to identify units that might be eligible for the FMU Bid Adder and the frequency with which the CAISO will mitigate those units. Accordingly, Williams requests that the Commission direct the CAISO to give the sliding scale and corresponding graduated Bid Adders meaningful consideration and report such findings to the Commission, along with any proposed tariff language.

### **Commission Determination**

352. We find the CAISO's decision not to modify the FMU adder at this time has merit. We note that the Commission has previously recognized that, the 80 percent test is a useful administrative benchmark for determining what unit should be eligible for higher bid caps.<sup>227</sup> In addition, the Commission established as reasonable the CAISO's proposed \$24/MWh bid adder for FMUs. Thus, the Commission finds that no further

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<sup>226</sup> Williams states that the CAISO simply claims that no changes to the FMU tariff language are necessary at this time based on the "diversity" of comments.

<sup>227</sup> See *PJM Interconnection, L.L.C.*, 110 FERC ¶ 61,053, at P 106 (2005).

modifications to the FMU option are necessary at this time. We, however, encourage the CAISO to monitor, among other things, the mitigation frequency of non-RMR and non-RA resources, the number of units that exceed the 80 percent threshold, whether units have an incentive to change their bidding strategy to become eligible for the Bid Adder, and cost recovery opportunities for units mitigated less frequently. We believe that the collection of this information will prove beneficial to the CAISO if the single bid adder does not perform as expected. We also note that the CAISO should monitor the effects of local capacity area RA resource requirements once phased into MRTU to assess whether units needed for local reliability are receiving adequate compensation from RA requirements. We therefore direct the CAISO to report its findings to the Commission in its quarterly reports. The DMM should monitor the mitigation frequency and the RA capacity markets to determine if these markets are sufficiently granular to provide adequate compensation for local reliability units in order to phase out the FMU option. If not, the Commission will revisit this issue and evaluate whether the FMU option should be modified to reflect broader compensation levels for units mitigated less than 80 of its run hours.

## **B. Resource Adequacy**

### **1. Reserve Margin Default**

353. The September 2006 Order directed the CAISO to modify its resource adequacy (RA) proposal to create a 15 percent default reserves margin rather than a 15 percent reserve requirement.<sup>228</sup>

354. In its compliance filing, the CAISO asserts that, while the September 2006 Order default planning reserve margin directive refers to non-CPUC jurisdictional LSEs, the CAISO has interpreted the default reserve margin to apply to all LSEs, regardless of jurisdiction. The CAISO states that it thus modified section 40.2 to defer to reserve margin requirements adopted by state, Local Regulatory Authorities and federal agencies, and include default requirements for all LSEs, including CPUC jurisdictional LSEs. The CAISO adds that because it did not comprehensively include in the MRTU Tariff default provisions for CPUC-jurisdictional LSEs should the CPUC fail to act, it has also modified the informational requirements in section 40.2 to include default provisions covering CPUC-jurisdictional LSEs for both reserve sharing and modified reserve sharing LSEs.

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<sup>228</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 1155.

### Comments

355. The CPUC and PG&E argue that, while the CAISO indicates in its transmittal letter that it complied with the Commission's directive, the compliance filing tariff section 40.2.2.1 applies a 15 percent reserve margin *requirement* on CPUC-jurisdictional LSEs.<sup>229</sup> They assert that the CAISO should explain the relevant tariff language or eliminate the minimum reserve margin requirement.

356. Golden State Water Company (GSW) argues that the CAISO has made two sets of tariff revisions with respect to the default reserve margin that are outside the scope of the required compliance filing. First, GSW maintains that the CAISO incorrectly applied the 15 percent reserve margin requirement to CPUC-jurisdictional LSEs. GSW submits that, if the CAISO was not clear as to whether the Commission intended that the default reserve margin apply to both jurisdictional and non-jurisdictional LSEs, the CAISO should have requested rehearing. It contends that imposing default RA requirements on CPUC-jurisdictional LSEs raises multiple, complex legal and factual issues, including whether the Commission has the statutory authority to impose default RA requirements on a CPUC-jurisdictional LSEs via a transmission tariff. GSW concludes that the fact that the CPUC did not issue all of its RA requirements at once, for all LSEs under its jurisdiction, does not authorize the Commission to step in and issue its own default requirements because it is impatient with the pace of the state proceeding. GSW contends that the Commission cannot rely on any "regulatory gap" as a basis for its action.<sup>230</sup>

357. Second, GSW contends that the CAISO makes unauthorized tariff revisions to: (1) require the use of default criteria for counting qualifying capacity; (2) submit monthly and annual demand forecasts complying with the CAISO's default rules; and (3) submit monthly and annual RA plans complying with the CAISO's default rules. GSW again argues that the CAISO should have made this argument on rehearing of the September 2006 Order, but that it cannot now revise the tariff to reflect what it believes the Commission should have done. It adds that the CAISO has not presented any record evidence that the proposed default requirements are needed to ensure resource adequacy.

358. In response, the CAISO notes that the CPUC has established a procedural schedule that calls for determining the RA program for small LSEs like GSW by January 17, 2008. The CAISO concludes that, if the CPUC maintains this deadline,

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<sup>229</sup> *Citing* section 40.2.2.1.

<sup>230</sup> GSW Dec. 22, 2006 Protest, Docket No. ER06-615-003, at 19-20 (*citing Altamont Gas Transmission Co. v. FERC*, 92 F.3d 1239, 1247-48 (D.C. Cir. 1996)).

GSW will have an RA program in place before MRTU implementation, which will obviate the need for default provisions to apply to GSW.<sup>231</sup>

### **Commission Determination**

359. The Commission finds that the CPUC and PG&E's concerns regarding the default reserve margin are unfounded. Section 40.2.2.1(b) requires the Scheduling Coordinator for a CPUC-jurisdictional LSE to maintain a 15 percent reserve margin if the Scheduling Coordinator does not provide the CAISO with a reserve margin as part of a data submission required in section 40.2.1.1. This data submission includes all information "required by the CPUC and pursuant to the schedule adopted by the CPUC including, but not limited to, annual and monthly Resource Adequacy Plans."<sup>232</sup> We also find that the proposed tariff language is consistent with the direction in the September 2006 Order that a 15 percent default reserve margin apply when the CPUC or other Local Regulatory Authority fails to implement one. Accordingly, we reject the CPUC and PG&E protests.

360. GSW has not justified why it should not be subject to the default reserve margin, criteria for counting qualifying capacity and informational requirements, and makes only vague references to concerns over complex legal and factual issues. For the reasons below, we reject GSW's protest. In the September 2006 Order, the Commission directed the CAISO to modify the MRTU Tariff to set a 15 percent default planning reserve margin, rather than a 15 percent reserve requirement, for those LSEs whose Local Regulatory Authority had not implemented a planning reserve margin.<sup>233</sup> As the Commission found in the April 2007 Rehearing Order:

We will defer to state and local entities' decisions when possible on resource adequacy matters, but in doing so we will not shirk our congressionally-mandated responsibilities. We find that the adequacy of resources can have a significant effect on wholesale rates and services and therefore is subject to Commission jurisdiction.<sup>[234]</sup>

361. We disagree with GSW's assertion that the Commission relied on a "regulatory gap" in directing the CAISO to apply a 15 percent default planning reserve margin to LSEs whose Local Regulatory Authorities fail to set planning reserve margins. Rather,

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<sup>231</sup> CAISO Answer at 57-58.

<sup>232</sup> MRTU Tariff section 40.2.1.1(a).

<sup>233</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 1154-55.

<sup>234</sup> April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 540.

the Commission has found that the MRTU RA requirements significantly affect wholesale rates and therefore are subject to Commission jurisdiction.<sup>235</sup> GSW should not mistake the Commission's willingness to defer to state and Local Regulatory Authorities in setting planning reserve margins in the first instance as altering the Commission's jurisdiction over RA.

362. With regard to default criteria for counting of qualifying capacity, we note that section 40.8, as approved in the September 2006 Order, provides that the default criteria shall apply "where the CPUC or other Local Regulatory Authority has not established and provided to the CAISO criteria to determine the types of resources that may be eligible to provide Qualifying Capacity." As we discussed above, the Commission has jurisdiction to review such criteria given their impact on rates, and continues to find the default criteria to be just and reasonable. In addition, GSW did not comment on or protest the CAISO's MRTU filing,<sup>236</sup> which included proposed section 40.8, and may not do so here.

363. Finally, we reiterate that a viable RA program should incorporate minimum information requirements, including the submission of demand forecasts and annual/monthly RA plans for all LSEs.<sup>237</sup> Without these requirements, the CAISO will not be able to accurately assess whether the resources identified under an LSE's RA program are sufficient to maintain grid reliability. We therefore find appropriate the CAISO's proposed information requirements in section 40.2 where the CPUC or other Local Regulatory Authority has not acted.

## **2. Technical Study on Local Capacity Area Resource Requirements**

364. The September 2006 Order directed the CAISO to make a compliance filing clarifying that it will provide the detailed criteria and results from the technical study on local capacity area resources to market participants.<sup>238</sup> In its compliance filing, the CAISO modified section 40.3.1 (CAISO Technical Study) to provide that the CAISO will perform and publish on its website a technical study that determines the amount of local capacity area resources required. Section 40.3.1 also provides that the technical study

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<sup>235</sup> See *id.* P 540-60; see also September 2006 Order, 116 FERC ¶ 61,274 at 1112-20.

<sup>236</sup> CAISO Feb. 9, 2006 Electric Tariff Filing to Reflect Market Redesign and Technology Upgrade, Docket No. ER06-615-000.

<sup>237</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 1093.

<sup>238</sup> *Id.* at P 1166.

will describe the parameters, assumptions and other criteria that the CAISO will use to comply with applicable reliability criteria.

### **Comments**

365. SoCal Edison argues that the CAISO failed to comply with the Commission's directive that the CAISO should clarify that it will provide the detailed criteria and results from the technical study on local capacity area resources to market participants.

### **Commission Determination**

366. The Commission directed the CAISO to modify the MRTU Tariff to confirm that it will present the detailed criteria and the results from the technical study to market participants to allow for substantive stakeholder input. The proposed tariff language in section 40.3.1 provides that

[t]he CAISO will, on an annual basis, perform and publish on the CAISO website a technical study that determines the minimum amount of Local Capacity Area Resources...and collaborate with the CPUC, Local Regulatory Authorities within the CAISO Control Area, and other market participants to establish the parameters, assumptions, and other criteria to be used and described in the technical study.

367. We find that the CAISO's tariff modifications in section 40.3.1 are consistent with the direction in the September 2006 Order and, therefore, we reject SoCal Edison's protest.

### **3. Reliability Criteria to Determine Local Capacity Area Requirements**

368. In the September 2006 Order, the Commission directed the CAISO to incorporate into the MRTU Tariff which set of reliability criteria it will use in developing the local capacity area requirements. The Commission further required the CAISO to distinguish, in the MRTU Tariff, between the reliability needs addressed by the RMR technical study process and the local capacity study process so that it is clear which criteria are being addressed in each process.<sup>239</sup>

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<sup>239</sup> *Id.* at P 1167.

### **Comments**

369. SoCal Edison, Bay Area and NCPA submit that the CAISO failed to comply with the Commission's directive. NCPA argues that compliance with the Commission's directive would help clarify the confusion over which standards the CAISO has been applying in various contexts. SoCal Edison adds that compliance is particularly important given that the CAISO intends to begin its local capacity area resource study for year 2008 in January 2007 based on criteria that its stakeholder-working group finalizes in December 2006.<sup>240</sup>

### **Commission Determination**

370. As noted in the April 2007 Rehearing Order, the Commission granted a request from the CAISO to submit a compliance filing by August 3, 2007. The CAISO proposes to incorporate in this compliance filing a revised proposal on local reliability and backstop procurement that is based on additional stakeholder discussion.<sup>241</sup> We therefore defer action on this issue.

#### **4. Safeguards for Backstop Procurement of Local Capacity Area Resources**

371. The Commission, in the September 2006 Order, required the CAISO to include proposed safeguards in the MRTU Tariff in order to mitigate concerns regarding unnecessary backstop procurement of local capacity area resources.<sup>242</sup> In its compliance filing, the CAISO states that it has included these safeguards in section 40.3.4 as well as new sections 40.3.4.1 and 40.3.4.2. The CAISO highlights two points with respect to the safeguards that it has included.

372. First, the CAISO indicates that it has explicitly committed to refrain from engaging in backstop procurement, notwithstanding any LSE's failure to satisfy its local capacity area resource obligation, unless the CAISO is unable to comply with applicable reliability criteria. The CAISO, however, argues that it would be imprudent to require an additional opportunity for LSEs to procure resources to resolve a shortfall prior to the CAISO engaging in backstop procurement. According to the CAISO, this logic applies

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<sup>240</sup> *Citing* a presentation from the CAISO 2008 Local Capacity Requirements Advisory Group Stakeholder Meeting (Dec. 6, 2006).

<sup>241</sup> April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 590; Notice of Extension of Time, Docket No. ER06-615-000 (Jan. 19, 2007).

<sup>242</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 1192.

to both of the following situations: (1) when an LSE fails to meet its obligation; and (2) when applicable reliability criteria cannot be met despite the fact that each LSE has sufficiently procured to meet its local capacity area requirement (i.e., a collective shortfall).<sup>243</sup> The CAISO submits that requiring a second procurement opportunity where an LSE fails to meet its obligation creates an improper incentive by allowing the LSE to wait to procure in the hopes of “piggybacking” on the procurement of other LSEs. It further argues that procurement of a collective shortfall by one LSE is impractical and contrary to cost-causation principles; the CAISO believes that when all LSEs have met their initial burden but additional local capacity area resources are needed, the needed capacity and resulting reliability benefits accrue to the entire market, and its costs should be allocated accordingly. The CAISO suggests that a collective shortfall scenario is likely to be rare.<sup>244</sup>

373. Second, the CAISO indicates that it has included language in section 40.3.4.1 that permits the CAISO to procure a resource even when only a portion of the resource is needed to meet local capacity area needs. The CAISO submits that this provision accommodates “the lumpiness” of resource procurement and the need for resources to recover costs associated with the entire facility.

### **Comments**

374. Six Cities argue that, contrary to Commission direction to include the safeguards that the CAISO had initially proposed, the new safeguards in the compliance filing do not include an opportunity for LSEs deemed deficient in local capacity area resources to procure additional resources before the CAISO’s backstop procurement. Six Cities assert that the Commission should not assume that LSEs will intentionally fail to procure appropriate resources based on an expectation of over procurement by others, especially when most LSEs are subject to RA requirements under the supervision of Local Regulatory Authorities. They also submit that providing LSEs deemed deficient in local capacity resources with a second opportunity to procure resources will allow such procurement to be better targeted to meet the CAISO’s needs. According to Six Cities, this is particularly appropriate given that the process for determining local capacity requirements remains in a state of flux, resulting in on-going uncertainty with respect to procurement objectives for LSEs.

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<sup>243</sup> The CAISO suggests that a collective shortfall could occur because the individual local capacity area resources procured by LSEs may total the necessary megawatts, but fail to address all reliability requirements due to relative effectiveness factors or the omission of particular required resources for specific constrained locations.

<sup>244</sup> November 20 Compliance Filing at 29.

375. The CPUC argues that the CAISO must defer to the CPUC's RA program, which permits LSEs to "cure" local capacity area resource deficiencies through a free-market environment, so that backstop procurement by the CAISO only occurs when the market fails to supply needed capacity. It notes that LSEs' initial filings showing their local area capacity requirement are submitted at the same time as the LSEs' year-ahead showing that they have contracted for 90 percent of their reserve margin requirement. The CPUC submits that LSEs should be able to use this opportunity to procure local resources that would meet both their local area capacity needs and help satisfy the remaining 10 percent of reserve margin requirement that the LSEs must demonstrate in their month-ahead RA filings. The CPUC also notes that, in its experience administering the RA program, an LSE's filing may occasionally present inadvertent errors that create the appearance of a deficiency, but are eventually resolved to the effect of finding compliance with its RA requirements without additional LSE procurement. According to the CPUC, the opportunity to cure creates a buffer period in which the CAISO is prevented from over-procuring through backstop mechanisms based on its belief that there is a non-existent deficiency. Finally, it notes that the CAISO does not provide as justification any operational issue or reliability need. PG&E agrees that the MRTU Tariff must support the CPUC-required opportunity to cure a RA deficiency.

376. The CPUC and PG&E contend that the guidelines for the CAISO's backstop procurement under section 40.3.4.1 fail to engage in any least-cost/best-fit analysis in order to prevent excessive and expensive procurement. The CPUC contends that the absence of cost-consciousness in the CAISO's procurement activities may incent generators with market power to refrain from engaging in RA contracts with LSEs in the hope of obtaining a more richly rewarding contract for backstop services with the CAISO. The CPUC adds that the CAISO's analysis must be revealed so that the Commission and parties may consider whether it contributes to a just and reasonable, non-discriminatory rate structure. PG&E submits that the MRTU Tariff should explicitly require that the CAISO procure those resources that, taking effectiveness factors and the minimum operating cost information available to the CAISO into account, will resolve its concerns regarding applicable reliability criteria, and that the decision be subject to review by the relevant Local Regulatory Authorities.

377. The CPUC, PG&E and Alliance for Retail Energy Markets (AReM) are also concerned with the CAISO's approach to procuring more capacity than is actually needed. CPUC argues that the purchase of only part of a generator's available capacity may more economically satisfy the grid's reliability and RA requirements than the proposed tariff's requirement that the CAISO procure the entirety of a unit's capacity to fulfill a deficiency this is potentially much smaller. CPUC submits that such perverse incentives would undermine both the reliability and cost-management goals of the CPUC's RA program. According to PG&E, the CAISO's approach does not consider other options, such as reviewing remaining capacity available from resources that have already been partially procured, or an agreement by a resource to sell sufficient capacity

to cover minimum overhead and reasonable profit without a full buy-out, which would enable the resource to sell remaining capacity at competitive prices within or without the CAISO Control Area. AReM recommends that the Commission direct the CAISO to procure only what is necessary unless it can demonstrate to the Commission that it had no recourse but to purchase the entire resource.

378. In its response, the CAISO states that, in order to facilitate stakeholder discussion, it has proposed modifications in sections 40.3.4(ii) and 40.3.4.2(a) to provide for an opportunity to cure a collective shortfall. The CAISO argues that, given the extension of time that the CAISO has to revise its local reliability criteria, the Commission should defer any final determination on this issue until a further CAISO compliance filing.<sup>245</sup>

### **Commission Determination**

379. We find that the CAISO has not adequately justified why it has omitted the opportunity for an LSE to cure its RA deficiency before engaging in backstop procurement. We believe the CAISO's concern that LSEs will wait to procure capacity in order to piggyback on the procurement of other LSEs is overstated. We agree with the CPUC that reporting errors may show apparent deficiencies that could be more efficiently resolved through a buffer period in which the LSE has the opportunity to clarify its RA showing. We also agree with Six Cities that any RA deficiency by a LSE is subject to the supervision of the Local Regulatory Authority, who is best-positioned to determine how to address non-compliance with local capacity requirements. Furthermore, we find that LSEs that do not meet their RA requirements risk paying the costs for the CAISO's backstop procurement and that the LSE has the best incentive to minimize these costs by procuring directly. We also note that the CAISO has proposed certain modifications to the tariff sections at issue and plans to seek market participants' comments on the proposed revisions. The CAISO also states that it will include the revised tariff language in a compliance filing it will make on or before August 3, 2007. We accept the CAISO's proposal to revise sections 40.3.4(ii) and 40.3.4.2(a) and direct the CAISO to file, in conjunction with compliance filings the CAISO will make on or before August 3, 2007, modifications to the MRTU Tariff that give LSEs an opportunity to cure a deficiency in their local capacity area resource requirements. In rejecting the CAISO's proposal not to allow LSEs to cure their RA deficiencies, we do so without prejudice to the CAISO filing this proposal in the future once it has gained experience with MRTU and local capacity area resources.

380. With respect to a collective shortfall scenario, however, it is not clear from intervenors' comments which entity besides the CAISO would assume responsibility for procuring needed capacity. We find inappropriate the CPUC and PG&E's apparent

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<sup>245</sup> CAISO Answer at 66-70.

request that the CAISO work with the CPUC to address any collective shortfalls, as this proposal ignores other Local Regulatory Authorities and their LSEs who would also be responsible for the costs of backstop procurement. We accept the CAISO's commitment to work with stakeholders to explore potential opportunities to cure a collective shortfall and to file any proposed modifications to the MRTU Tariff in conjunction with compliance filings the CAISO will make on or before August 3, 2007.

381. The CPUC and PG&E express concerns about excessive backstop procurement of local capacity and argue that the authority granted in section 40.3.4.1 should be carefully limited and required to approximate least cost procurement. Section 40.3.4.1 already requires the CAISO to consider "the effectiveness of the capacity at meeting Applicable Reliability Criteria...and the costs associated with the capacity." Section 40.3.4.2 provides that the CAISO will publish a report on its website showing information on each transaction and reasons for procurement. Local Regulatory Authorities and market participants may then evaluate the CAISO's backstop procurement activities and provide feedback on potentially more efficient procurement going forward. We believe that these provisions, together with the modifications we are requiring above, should minimize potential costs and provide sufficient oversight. Accordingly, we reject intervenor arguments on this issue.

382. With regard to procuring more capacity than is needed to meet applicable reliability criteria, we find that section 40.3.4.1 permits the CAISO to procure additional capacity only to the extent it is unable to secure the exact amount needed. As discussed above, we believe that section 40.3.4.1 already requires the CAISO to consider the costs associated with such capacity and therefore consider alternatives, while section 40.3.4.2 provides that the CAISO must explain the reasons for over-procurement. We therefore reject arguments on this issue.

## **5. Allocation of Backstop Procurement**

383. In the September 2006 Order, the Commission directed the CAISO to clarify: (1) why sections 40.3.4 and 42.1.8 both address allocation of local capacity area resource procurement; and (2) why section 40.3.4(ii) permits allocation of local capacity area resource procurement in accordance with section 41 on procurement of RMR, despite the CAISO's statement to the contrary.<sup>246</sup>

384. On compliance, the CAISO explains that with respect to the first question, section 40.3.4 addresses when the CAISO can engage in procurement of local capacity area resources and section 42.1.8 addresses how the CAISO will allocate procurement

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<sup>246</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 1194.

costs.<sup>247</sup> The CAISO continues that these sections address backstop procurement and cost allocation where one or more LSE fails to procure sufficient local capacity resources and a deficiency exists. The CAISO explains that the cost of the backstop procurement is allocated to Scheduling Coordinators representing the deficient LSEs.<sup>248</sup> In contrast, the CAISO indicates that section 40.3.4(ii) addresses a collective shortfall situation, in which the CAISO proposes to utilize its procurement authority under both section 41, related to RMR contracts, and section 42.1. The CAISO adds that it will utilize section 41 to enter into RMR contracts to resolve reliability needs currently studied under the Local Area Reliability process and it will utilize section 42.1.8 to resolve reliability needs exclusively identified in the local capacity area study under section 40.3.1.<sup>249</sup>

### **Comments**

385. Six Cities anticipates that the CAISO will provide additional, substantive changes to the tariff sections addressing local capacity requirements as a result of the CAISO's ongoing stakeholder efforts related to the local capacity area technical study process. Six Cities therefore urges the Commission to withhold acceptance of changes to section 42.1.8 pending the submission of further and/or compliance filings by the CAISO.

386. PG&E argues that, consistent with cost causation principles, LSEs which have fully met their local capacity area requirements should not be allocated any costs for backstop procurement of capacity incurred because of another LSE's deficiency.

387. AReM argues that that the cost allocation in section 42.1.8 is confusing and proposes different methods of cost allocation for different types of backstop procurement. AReM supports charging LSEs deficient in meeting their RA requirements for the costs of any backstop procurement required to meet reliability needs up to the amount of the deficiency. However, AReM submits that the CAISO provides no explanation for the different cost allocation methodologies for local capacity requirements. AReM maintains that for local capacity procurement in excess of that needed to meet the collective local RA deficiencies, costs are allocated *pro-rata* to LSEs with load in the TAC area based on the previous year's demand. On the other hand, AReM contends that costs are allocated based on the LSE's proportional share of metered demand when local capacity is procured in excess of the total deficiency for RA capacity.

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<sup>247</sup> November 20 Compliance Filing at 30-31.

<sup>248</sup> See MRTU Tariff section 42.1.8(a).

<sup>249</sup> As noted above, the CAISO has requested extension of time to comply with the September 2006 Order and distinguish between the needs by addressed by the RMR technical process and the local capacity study process.

### **Commission Determination**

388. We agree with Six Cities that any discussion on the allocation of backstop procurement costs is premature until the CAISO submits its compliance filing on August 3, 2007, addressing local reliability and backstop procurement. We therefore reject protests regarding this issue without prejudice to parties raising them at a later time.

#### **6. Crediting of RA Requirements for Backstop Procurement**

389. The Commission, in the September 2006 Order, directed the CAISO to clarify that sections 40.3.4, 42.1.8 and 42.1.9 credit both local and system RA requirements for entities that pay for backstop procurement of local capacity resources.<sup>250</sup>

390. On compliance, the CAISO states that it has clarified in section 40.3.4 that LSEs will receive a credit toward their local capacity area resource responsibility to the extent the LSE was allocated the cost of procurement. The CAISO adds, however, that it does not believe that it has the authority to determine what resources should count toward compliance with the reserve margin unless that reserve margin is applied to the LSE through the default mechanism. The CAISO indicates that section 42.1.8 also reflects this concept with respect to procurement of capacity to satisfy system RA requirements.

### **Comments**

391. The CPUC, PG&E and AReM agree with the CAISO's assertion that the CAISO does not have the authority to determine what resources should count toward compliance with the reserve margin, but argue that it will be difficult without coordination with the CAISO for a Local Regulatory Authority to credit LSEs for any CAISO's backstop procurement and measure the LSE's responsibility for a RA deficiency. They therefore urge the Commission to direct the CAISO to coordinate with the CPUC and other Local Regulatory Authorities to provide notice and information regarding the scope of backstop procurement attributable to a LSE's failure to procure RA capacity.

392. The CPUC also argues that sections 40.3.4 and 42.1.8, which call for an LSE to receive a credit toward its local capacity requirements if the LSE was allocated the cost of the backstop procurement, potentially direct counting of credit toward local capacity requirements within the CPUC's RA program in a manner inconsistent with the CPUC's RA program guidelines. The CPUC provides as an example the situation when an LSE procures local or system capacity for a relevant regulatory period, or is allocated costs for such procurement by the CAISO, and that transaction would otherwise constitute CPUC RA qualifying capacity, but that capacity is acquired after the CPUC deadline for

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<sup>250</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 1196.

procuring RA capacity. While the provisions of the tariff direct that the LSEs will receive a credit toward their local capacity area requirements, the CPUC argues that such direction exceeds the CAISO's authority and should be stricken.

393. AReM submits that section 40.3.4 mentions a "credit" for local capacity to be determined based on the LSE's *pro rata* share of the local capacity procurement. AReM contends that, in section 42.1.8, however, some of the CAISO's backstop procurement costs are not allocated on a *pro-rata* basis. It requests that the CAISO confirm that the RA credit provided to the LSE in section 42.1.8 should be commensurate with the backstop procurement costs that are allocated to that LSE.

394. AReM is also concerned with the last paragraph of section 42.1.8, which discusses when backstop capacity should "count" and states that each Local Regulatory Authority will determine whether the "share" of the RA capacity procured by the CAISO will "count." According to AReM, however, there is no provision that the LSE *will* receive a RA credit when paying for backstop procurement for system RA capacity by the CAISO, which is in direct conflict with the September 2006 Order and the CAISO's stated commitment in its filing.

395. Finally, AReM contends that the September 2006 Order clearly required the CAISO to provide a commensurate credit to LSEs paying for backstop procurement, but that the CAISO did not modify section 42.1.9 and thus did not comply with the Commission's directive.

396. In response, on the issue of crediting LSEs' reserve margins, the CAISO proposes to modify sections 40.3.4 and 42.1.8 to provide the CPUC and Local Regulatory Authorities with information: (1) regarding the scope of backstop procurement attributable to an LSE's failure to procure RA capacity; and (2) sufficient to allow those authorities to issue any appropriate credit. The CAISO states that it anticipates including an amendment addressing this issue in its forthcoming local reliability compliance filing and requests that the Commission defer any final determination on this issue until that time.<sup>251</sup>

397. With respect to crediting LSEs' local capacity requirements, the CAISO argues that the Commission, in the September 2006 Order, approved provisions in the MRTU Tariff relating to local reliability. As part of these provisions, the CAISO is responsible for allocating local capacity area resource obligations to each LSE for purposes of assigning costs associated with the CAISO's backstop procurement. The CAISO submits that its crediting solely pertains to its function of properly accounting for backstop costs

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<sup>251</sup> CAISO Answer at 70-72.

and that no change to the provision on crediting of local capacity requirements is warranted.<sup>252</sup>

398. The CAISO also notes that there is an inadvertent reference to local capacity area resources in section 42.1.8(d). The CAISO proposes to modify this section such that it only applies to capacity procured to resolve system deficiencies, not local capacity deficiencies.<sup>253</sup>

### **Commission Determination**

399. We find reasonable intervenors' request that the CAISO coordinate with Local Regulatory Authorities and provide notice and information regarding the scope of backstop procurement attributable to a LSE's failure to procure RA capacity. This will provide Local Regulatory Authorities with enhanced oversight over their LSEs to assess whether LSEs are complying with their RA requirements. We direct the CAISO to file modifications to the tariff, in conjunction with compliance filings the CAISO will make on or before August 3, 2007, to reflect this change.

400. We will not require the CAISO to strike provisions in sections 40.3.4 and 42.1.8 on the crediting of local capacity requirements, as requested by the CPUC. We find that the CPUC is free to assess penalties and/or require LSEs to procure additional local capacity to the extent that an LSE subject to its jurisdiction is found deficient. Our finding above directing the CAISO to coordinate with Local Regulatory Authorities regarding an LSE's failure to procure RA capacity should assist in the CPUC's efforts. However, we find that the CAISO is the appropriate authority to credit a deficient LSE for backstop procurement of local capacity, consistent with the CAISO's role in assessing local capacity area requirements.

401. We find that AReM's concerns regarding section 42.1.8 are misplaced. Given the CAISO's clarification in its answer that the "last paragraph" of section 42.1.8 – i.e., 42.1.8(d) – only deals with backstop procurement to address reserve margin deficiencies, this section appropriately defers to the Local Regulatory Authority for crediting. We therefore direct the CAISO to modify section 42.1.8(d) as it proposes, in conjunction with compliance filings the CAISO will make on or before August 3, 2007.

402. Finally, we clarify that the September 2006 Order incorrectly directed the CAISO to clarify that section 42.1.9 provides a credit to LSEs' RA requirements for entities that pay for backstop procurement. We note that section 42.1.9 deals with procurement for

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<sup>252</sup> *Id.* 72-74.

<sup>253</sup> *Id.* 75-76.

anticipated differences between forward schedules and real-time deviations. Crediting of RA requirements is inapplicable in this situation.

## **7. Tariff References in Section 40.5**

403. In the September 2006 Order, the Commission required the CAISO to modify section 40.5.5 regarding incorrect references to section 40.5.3 on demand forecast accuracy.<sup>254</sup> The Commission also required the CAISO to modify section 40.5.5 to address the situation where a modified reserve sharing LSE replaces a RA resource bid in the day-ahead market that suffers a forced outage up to the next HASP bidding opportunity, plus one hour.<sup>255</sup> In its compliance filing, the CAISO changed the references from 40.5.3 to 40.5.1(3) in the first instance and to 40.5.2(1) in the second instance.

### **Comments**

404. Six Cities contend that, although the CAISO has incorporated the correct reference required by the Commission, it appears not to reflect the CAISO's renumbering of section 40.5. Six Cities explains that the reference to section 40.5.2(1) in the last line of section 40.5.4(2) should instead be 40.5.1(1), noting that the MRTU Tariff does not contain a section 40.5.2(1).

405. Bay Area asserts that the CAISO failed to modify section 40.5.5 to address a modified reserve sharing LSE's bid replacement when suffering a forced outage. In its response, the CAISO argues that it complied with the Commission's directive by changing the cross-reference to section 40.5.1(3).<sup>256</sup>

### **Commission Determination**

406. Six Cities is correct in noting that there is no section 40.5.2(1). We direct the CAISO to modify section 40.5.4(2) to correctly reference 40.5.1(1) and to file this modification in conjunction with compliance filings the CAISO will make on or before August 3, 2007.

407. With regard to Bay Area's concern, we find that the CAISO has complied with the September 2006 Order by cross-referencing section 40.5.1(3), which provides that a

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<sup>254</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 1255.

<sup>255</sup> *Id.* at P 1251, 1255

<sup>256</sup> CAISO Answer at 61-62.

modified reserve sharing LSE may replace a RA resource up to the next HASP bidding opportunity, plus one hour.

## **8. Revised Energy Bids in the HASP for RA System Resources**

408. In the September 2006 Order, the Commission directed the CAISO to modify the MRTU Tariff to allow Scheduling Coordinators for RA system resource units to be able to submit revised energy bids in the HASP if their bids are not selected in the day-ahead market.<sup>257</sup> On compliance, the CAISO asserts that the MRTU Tariff already reflects this right in section 30.5.1 (General Bidding Rules), and thus further modification to the MRTU Tariff is unnecessary.

### **Comments**

409. Powerex argues that the difference between internal and external RA Resources should be made explicit in the MRTU Tariff. Powerex submits that while section 30.5.1 refers to general bidding rules, there are crucial distinctions between internal suppliers and system resources, including the distinction that system resources are settled in the HASP, as specified in section 33 of the MRTU Tariff. Powerex concludes that it should thus be specified that RA system resources that are committed in the RUC can submit revised energy bids in the HASP, which are then settled in the HASP. Powerex believes that the general bidding rules in section 30.5.1 do not explicitly state that RA system resources are allowed to make such revisions. It suggests adding the following edit to section 40.6.5: “If selected in the RUC, the System Resource may revise its Bid in the HASP, according to the General Bidding Rules in section 30.5.1(b) and receive those settlement prices.”

410. In response, the CAISO reiterates that its proposed modification to section 30.5.1(b) resolves Powerex’s concern and that, based on its experience in administering the pre-MRTU Tariff, the CAISO seeks to avoid redundant provisions. The CAISO argues that redundancies over time generally lead to greater confusion and ambiguity as future modifications are adopted and the possibility of inconsistencies increase.

### **Commission Determination**

411. We find that Powerex has not justified why the general provisions of section 30.5.1(b) do not extend to system resources. Given the CAISO’s valid concern regarding redundant tariff provisions, we reject Powerex’s proposed tariff language.

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<sup>257</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 1286.

## **VI. Other Tariff Issues**

### **A. General and Miscellaneous MRTU Tariff Issues**

412. In the September 2006 Order, the Commission found acceptable the CAISO's commitment to incorporate in further filings its proposed revisions to certain MRTU Tariff sections.<sup>258</sup> The CAISO had proposed that such revisions would be included in a further compliance filing or in a separate FPA section 205 filing before the Commission as part of its deferred maintenance project.<sup>259</sup>

413. In its compliance filing,<sup>260</sup> the CAISO incorporated the tariff language revisions as proposed in its reply comments to parties' comments to the initial MRTU Tariff filing. Several commenters to the compliance filing either object to a particular aspect of these tariff revisions or claim that certain of the Appendix A proposed revisions were not included in the compliance filing. Below is a brief discussion of these comments.

#### **1. MRTU Tariff Section 39.3 - Categories of Conduct that May Warrant Mitigation**

414. Currently, section 39.3.1 provides for the CAISO to monitor the CAISO markets and impose mitigation measures for market behavior that include: (1) physical withholding; (2) economic withholding; (3) uneconomic production; and (4) bidding practices that are contrary to the principle of price convergence between the day-ahead and real-time market. In response to a request by SoCal Edison,<sup>261</sup> the CAISO agreed that MRTU Tariff section 39.3.1(4) should be clarified to more clearly define the conduct that may warrant mitigation. The CAISO therefore agreed to replace the text of this provision with the following language: "Bidding practices that distort prices or uplift charges away from those expected in a competitive market."

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<sup>258</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 1331.

<sup>259</sup> The CAISO explains that in the effort to simplify and reorganize the pre-MRTU tariff, the CAISO identified several areas that need updating and used the term "deferred maintenance" to refer to this work. CAISO also stated that it is planning to address deferred maintenance issues prior to the effective date of the MRTU Tariff in a section 205 filing of its currently effective tariff. See CAISO's May 15, 2006 Reply Comments, Appendix A, at 1.

<sup>260</sup> November 20 Compliance Filing.

<sup>261</sup> SoCal Edison's Protest, Docket No. ER06-615-000, at 83-84 (April 10, 2006).

415. Williams requests that the Commission reject the CAISO's proposed modification because it does not replace the purpose of the original language. Williams argues that section 39.3.1(4) as originally proposed focused on monitoring for bidding practices that are contrary to the principle of price convergence between the day-ahead and real-time markets. However, Williams contends that the revised language has nothing to do with price convergence and is contrary to the Commission's findings that price convergence is critical to a well-functioning market. Williams also contends that the modification to section 39.3.1(4) is too vague and ambiguous because the CAISO does not define "distorted prices" or "expected" "uplift charges." Williams also requests that, because CAISO did not delete or revise the other three categories of market behavior that it monitors, the Commission should direct CAISO to provide a full explanation that reconciles this seemingly inconsistent outcome.

## **2. MRTU Tariff Section 6.5.5.2 - Public Market Information**

416. In MRTU Tariff section 6.5.5.2.4 the CAISO originally proposed to post, every 5 minutes, *via* the OASIS, information regarding the status of the real-time market. SoCal Edison objected to the CAISO posting this information every 5 minutes because the data may signal to market participants market conditions in which the exercise of market power would prove favorable.<sup>262</sup> The CAISO agreed with SoCal Edison's concern and proposed to modify this section to provide that the CAISO would release market information on a 24-hour delay. In its compliance filing, the CAISO modified section 6.5.5.2.4 accordingly.

417. Williams argues that SoCal Edison's allegation that a shorter timeframe may lead to market power abuse is unsupported. Williams notes that the CAISO currently publishes total Real-Time Dispatched Energy and Demand in real-time on the front page of its website, along with the "Conserve-O-Meter" which is based on this information. Williams also notes that the CAISO has for years published data, and it is unaware of any assertion by the CAISO of market power abuse because of the publication of these data. As a result, Williams requests that the Commission reject the proposed revision because the CAISO does not explain how market participants can use these data to exercise market power.

### **Commission Determination**

418. On rehearing of the September 2006 Order, the CAISO requested that the Commission clarify whether proposed revisions to MRTU Tariff sections 39.3 and 6.5.5.2 regarding market behavior and real-time information should be included in its

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<sup>262</sup> *Id.* at 59.

60-day compliance filing.<sup>263</sup> The Commission granted the CAISO's requested clarification, finding that these proposed revisions are just and reasonable.<sup>264</sup> Upon further consideration, we agree with Williams that section 39.3.1(4) is too vague and ambiguous. While we find it reasonable for the CAISO to impose certain measures of conduct that may warrant mitigation, we believe the CAISO must modify MRTU Tariff section 39.3.1(4), to provide further detail regarding the types of bidding practices that may distort prices or uplift charges away from those expected in a competitive market. Thus, we direct the CAISO to modify this section in conjunction with compliance filings the CAISO will make on or before August 3, 2007.

419. With regard to public market information, MRTU Tariff section 6.5.5.2, we note that Williams had an opportunity to raise its concerns in the CAISO's initial MRTU filing and again on rehearing, but failed to do so. Therefore, we deny Williams' requests for further revisions to section 6.5.5.2, regarding market behavior and real-time information.

### **3. MRTU Tariff Sections 8.3.1 and 8.3.5 - Procurement of Ancillary Services**

420. Section 8.3.1 provides that in the day-ahead market, the CAISO procure one-hundred percent of its ancillary services requirements based on the day-ahead demand forecast, net of self-provided ancillary services. Section 8.3.5 states that the CAISO shall procure Regulation Up, Regulation Down, Spinning, and Non-Spinning Reserves on a daily, hourly and real-time basis in the IFM, HASP and real-time market, respectively.

421. SoCal Edison claims that the CAISO failed to address the Commission directive in the September 2006 Order<sup>265</sup> to revise section 8.3.1 to change the word "shall" to "may." In response, the CAISO contends that it fully complied with the Commission's directive and therefore no further changes are necessary.

#### **Commission Determination**

422. We disagree with SoCal Edison's assertion that the CAISO failed to comply with the Commission's directive to revise section 8.3.1 of the MRTU Tariff. In the September 2006 Order, the Commission required the CAISO only to remove the last sentence of the second paragraph of section 8.3.1 because the language was misleading. We note that SoCal Edison recommended that the word "shall" be changed to "may" in *section 8.3.5*

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<sup>263</sup> April 2007 Rehearing Order, 119 FERC ¶ 61,076 at P 649.

<sup>264</sup> *Id.* at P 651.

<sup>265</sup> *See* September 2006 Order, 116 FERC ¶ 61,274 at P 406-407.

rather than 8.3.1 as suggested by SoCal Edison in this proceeding.<sup>266</sup> The Commission rejected SoCal Edison's request to make this change because the CAISO's clarification adequately addressed SoCal Edison's concern. For these reasons, we find it unnecessary for the CAISO to further modify section 8.3.1 and, therefore, reject SoCal Edison's request.

#### 4. MRTU Tariff Section 33.3 - Treatment of Self-Schedules in HASP

423. In the September 2006 Order, the Commission required that the CAISO modify the definition of "supply" to allow participating load to self-schedule in the HASP.<sup>267</sup> SoCal Edison claims that the CAISO failed to address this issue.

##### Commission Determination

424. We disagree with SoCal Edison. We find that the CAISO has adequately modified the definition of "Supply" in Appendix A to the MRTU Tariff to read as follows: "The Energy delivered from a Generating Unit, System Unit, Physical Scheduling Plant, System Resource or the Curtailable Demand provided by a Participating Load."<sup>268</sup> We believe that the CAISO's modification removes the barrier for participating load to partake in the CAISO markets. Thus, we find the CAISO has satisfied the Commission's directive and no further modifications are required.

#### 5. MRTU Tariff Section 11.5 - Real-Time Market Settlements

425. SoCal Edison points out that section 11.5.4.2 contains a typographical error. Specifically, SoCal Edison suggests that the CAISO should change the reference to "IEE" to instead "IIE".

426. Williams argues that the CAISO proposes to change "Intervention" to "Interruption" in the title of section 11.5.6.1, without also making similar revisions to the term as it appears in the same provision or elsewhere in the tariff.<sup>269</sup> Williams states that

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<sup>266</sup> *Id.* at P 403.

<sup>267</sup> *Id.* at P 697.

<sup>268</sup> *See* the CAISO's November 20 Compliance Filing, Attachment A, at 5.

<sup>269</sup> MRTU Tariff section 11.5.6.1 states as follows: "Settlement for IIE from Exceptional Dispatches used for System Emergency Conditions, to Avoid Market Interruption ~~Intervention~~, Overgeneration Conditions or to prevent or Relieve Imminent System Emergencies."

the CAISO has not defined “Market Intervention” and “Market Interruption” in the MRTU Tariff. Williams requests that the Commission require the CAISO to explain the purpose for the change and define the terms to ensure they are applied consistently throughout the Tariff.

### **Commission Determination**

427. We agree with SoCal Edison’s assertion that the acronym “*IEE*” should be “*IIE*” and direct the CAISO to correct the typographical error accordingly. We also acknowledge Williams’ concern regarding the word change from “Intervention” to “Interruption” in the title of section 11.5.6.1 and agree that the CAISO did not explain or justify the change in its compliance filing. Therefore, we direct the CAISO to provide the definitions for Market Intervention and Market Interruption, and explain the purpose of the change in conjunction with compliance filings the CAISO will make on or before August 3, 2007.

#### **6. MRTU Tariff Section 11.5.6.2.5.1, Allocation of Exceptional Dispatch Excess Cost Payments to PTOs**

428. In the 2006 September Order, the Commission directed the CAISO to clarify in the MRTU Tariff that transmission modeling limitation-related Exceptional Dispatch costs, which are allocated to Participating TOs, constitute Reliability Service Costs.<sup>270</sup> The CAISO, in its compliance filing proposed to ensure that Participating TOs would have the ability to recover such costs through their Reliability Service Costs rates by adding a sentence to section 11.5.6.2.5.1 to state that these allocations to Revenue Requirement constitute Reliability Services Costs.

429. SoCal Edison contends that the sentence should be modified because the costs are not actually allocated to a Participating TO’s Transmission Revenue Requirement. Instead, SoCal Edison states, they are billed by the CAISO to a Participating TO, and the Participating TO must then include the costs in its Reliability Services Balancing Account and recover the costs through its RS rates. SoCal Edison also notes that the costs are not a part of a Participating TO’s Transmission Revenue Requirement. Accordingly, SoCal Edison requests that this sentence be modified as follows:

“If the modeling limitation. . . ~~These allocations~~ Costs allocated to Participating TO’s under this section ~~Transmission Revenue Requirement~~ shall constitute Reliability Services Costs.”

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<sup>270</sup> See September 2006 Order, 116 FERC ¶ 61,274 at P 268.

430. The CAISO, in its answer, agrees with the proposed modification and commits to make this change in any required compliance filing.

### **Commission Determination**

431. We direct the CAISO to file the proposed modification in conjunction with compliance filings it will make on or before August 3, 2007.

### **7. MRTU Tariff Section 34.9.3, Transmission-Related Modeling Limitations**

432. The Commission required that the CAISO define “transmission-related modeling limitations as discussed in MRTU Tariff section 11.5.”<sup>271</sup> Pursuant to this directive, the CAISO proposes to add section 34.9.3 to the MRTU Tariff, to clarify that the CAISO has the authority to manually dispatch resources in order to address transmission-related modeling limitations in the Full Network Model. Proposed section 34.9.3 states:

34.9.3 Transmission-Related Modeling Limitations “The CAISO may also manually Dispatch resources in addition to or instead of resources dispatched by the RTM optimization software to address transmission-related modeling limitations in the Full Network Model. Transmission-Related Modeling Limitations for the purposes of Exceptional Dispatch, including for settlement of such Exceptional Dispatch as described in Section 11.5.6, shall consist of any Full Network Model modeling limitations that arise from transmission maintenance, lack of voltage support at proper levels as well as incomplete or incorrect information about the transmission network, for which the PTOs have primary responsibility.”

433. Williams argues that the CAISO has responsibility to coordinate transmission outages affecting the CAISO-controlled grid instead of defaulting to Exceptional Dispatch and circumventing market mechanisms. In addition, according to Williams, transmission owners have an immediate obligation to report transmission outages to the CAISO.<sup>272</sup> Therefore, Williams concludes, the CAISO should immediately update the Full Network Model to take into account any new configuration, including those arising from transmission maintenance. Williams further notes that the primary and fundamental purpose of the Full Network Model and MRTU is for the CAISO to ensure that the Full

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<sup>271</sup> See *id.* at P 245-269.

<sup>272</sup> Williams cites to MRTU Tariff section 9.3.10.1A.

Network Model is current and that it will be able to *accurately* reflect all constraints across all market time frames. Accordingly, Williams requests that the Commission direct the CAISO to revise its proposal to ensure that the CAISO immediately reflects transmission maintenance in the Full Network Model. Williams further requests that the CAISO be directed to modify MRTU Tariff section 9.3.10.1A to ensure the Full Network Model is updated to include transmission outages known by or reported to the CAISO, as follows:

9.3.10.1A “Each PTO shall report any change or potential change in equipment status of the PTO’s transmission assets turned over to the control of the CAISO or in equipment that affects transmission assets turned over to the control of the CAISO immediately to the CAISO (this will include line and station equipment, line protection, Remedial Action Schemes and communication problems, etc). . . “To the extent possible, the CAISO shall reflect all transmission outages in its Integrated Forward market, Hour-Ahead Scheduling Process and Real-Time Market.””

434. SoCal Edison objects to the CAISO’s definition of transmission-related modeling limitation for several reasons. SoCal Edison argues that CAISO has failed to define or provide any specification of a modeling limitation. SoCal Edison states, however, that the Commission, in providing guidance on what circumstances could lead to an Exceptional Dispatch, said that Exceptional Dispatch should be reserved for genuine emergencies where the CAISO needs to take actions outside the market software to maintain system reliability.<sup>273</sup> Thus, SoCal Edison argues that the definition of modeling limitation should be limited to situations where the reliance on the real-time market would not be sufficient to maintain reliable grid operations.

435. SoCal Edison also contends that the proposed definition of transmission-related modeling limitation is too broad because it includes voltage support as a possible reason why the CAISO might classify an Exceptional Dispatch as transmission-related. SoCal Edison argues that the intent of the definition should be to limit transmission-related causes of Exceptional Dispatches to causes for which a PTO has responsibility, such as transmission maintenance.<sup>274</sup> SoCal Edison further notes that “incomplete or incorrect

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<sup>273</sup> SoCal Edison refers to September 2006 Order, 116 FERC ¶ 61,274 at P 267.

<sup>274</sup> SoCal Edison cites to the CAISO’s current tariff sections 31.2, 34.7 and 34.16.3.4. According to SoCal Edison, under the MRTU Tariff, the CAISO will ensure adequate voltage support by running its “Reliability Requirements Determination” module of its IFM, and by dispatching resources in real-time to address real-time voltage support issues that may arise in real time. SoCal Edison argues, accordingly, that voltage support should be eliminated from the definition.

information about the transmission network” should only be a basis for classification as “transmission-related” if the PTOs provide incomplete or incorrect information. Thus, SoCal Edison requests that the Commission should require the CAISO to revise the definition as follows:

34.9.3 Transmission-Related Modeling Limitations The CAISO may also manually Dispatch resources in addition to or instead of resources dispatched by the RTM optimization software to address transmission-related modeling limitations in the Full Network Model. A modeling limitation in the Full Network Model results when the real-time network constraints and limitations significantly differ from those that were assumed in the IFM, such that CAISO reliance on its Real-Time Market would not be sufficient to maintain reliable grid operations. A tTransmission-Related Modeling Limitations for the purposes of Exceptional Dispatch, including for settlement of such Exceptional Dispatch as described in Section 11.5.6, shall consist of any Full Network Model modeling limitations that arise from factors that PTOs have primary responsibility for, including: 1) transmission maintenance, lack of voltage support at proper levels; and 2) as well as incomplete or incorrect information provided by the PTO about the transmission network utilized by the CAISO in the IFM, for which the PTOs have primary responsibility.

436. SoCal Edison contends that in conjunction with the above changes the Commission must require the CAISO to revise the title of section 11.5.6.2 to reflect “Transmission-Related” Modeling Limitations.

437. In its answer, CAISO commits to updating the Full Network Model as quickly as possible to reflect transmission maintenance if it has the necessary information available and the CAISO can implement a configuration change by changing an existing switch position. The CAISO states, however, that it still needs Exceptional Dispatch authority to remedy situations caused by transmission maintenance in those cases where the CAISO lacks the necessary information to make changes to the Full Network Model, or where a configuration change cannot be implemented by changing an existing switch position.

438. With respect to SoCal Edison’s characterization of the definition of transmission-related modeling limitation as overly broad due to the inclusion of voltage support, the CAISO recognizes that it is required to determine the hourly quantity and location of voltage support required to maintain voltage levels and will issue voltage support

schedules pursuant to such determinations.<sup>275</sup> The CAISO further explains that if it requires additional voltage support, it shall procure more through its RMR Contracts if no other economic resources are available. However, the CAISO contends that this section does not cover all possible sources for the need to obtain additional voltage support because some are under the control of Participating TOs.<sup>276</sup> CAISO contends that there are situations in which it will not fully cover all voltage support requirements, as specified in section 8.2.3.3. Under these circumstances, the CAISO believes the Participating TO should be held responsible for such shortcomings that may require the CAISO to dispatch generation out-of-sequence, as in Exceptional Dispatch, in order to ensure there is adequate voltage support. The CAISO also indicates that software limitations prevent the CAISO from enforcing reactive power constraints, including voltage constraints.

439. For these reasons, the CAISO believes that the reference to voltage support should not be removed from the description of what constitutes transmission related modeling limitations. Accordingly, the CAISO requests that the Commission allow it to continue to have the ability to issue exceptional dispatches to ensure the maintenance of adequate voltage support. The CAISO proposes to specify in section 34.9.3 that the lack of voltage support only applies to those circumstances not covered specifically by section 8.2.3.3 and not settled pursuant to section 11.10.7, and offers the following revisions to section 34.9.3:

34.9.3 Transmission-Related Modeling Limitations The CAISO may also manually Dispatch resources in addition to or instead of resources dispatched by the RTM optimization software to address transmission-related modeling limitations in the Full Network Model. Transmission-Related Modeling Limitations for the purposes of Exceptional Dispatch, including for settlement of such Exceptional Dispatch as described in Section 11.5.6, shall consist of any Full Network Model modeling limitations that arise from factors for which the PTOs have primary responsibility, including: 1) transmission maintenance, 2) lack of voltage support at proper levels due to circumstances not covered in Section 8.2.3.3 and not settled pursuant to Section 11.10.7; and 3) as well as incomplete or incorrect information about the transmission network, for which the PTOs have primary responsibility.

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<sup>275</sup> The CAISO refers to section 8.2.3.3 of the MRTU Tariff.

<sup>276</sup> The CAISO refers to various types of devices to produce or absorb reactive power, including synchronous condensers, shunt capacitors, and reactors.

440. The CAISO further submits that the Commission should not require the CAISO to provide the definition proposed by SoCal Edison because SoCal Edison's proposal confuses the intended meaning of what the CAISO will consider a transmission related modeling limitation. The CAISO also believes that the Commission should not require it to clarify the nature of incomplete or incorrect information about the transmission network because there is already a qualifier in the sentence that specifies the information is limited to that "for which the PTOs have primary responsibility."

### **Commission Determination**

441. We find to be reasonable Williams' proposal to revise section 9.3.10.1A to include the following language "To the extent possible, the CAISO shall reflect all transmission outages in its integrated forward market, HASP and real-time market." We consider this revision necessary because: (1) the CAISO, as the system operator, has the responsibility to ensure that market participants receive accurate and timely information regarding the transmission system; and (2) the transmission outage information will allow market participants to make informed decisions regarding the next day's operation. We also note that the CAISO generally supports Williams' proposal and commits to update the Full Network Model as quickly as possible to reflect transmission maintenance. In addition, we find that on-going exchange of data among the CAISO and market participants improves the reliability of the transmission system. Thus, we direct the CAISO to modify section 9.3.10.1A to reflect the new tariff language in conjunction with compliance filings it will make on or before the CAISO's August 3, 2007.

442. We agree with SoCal Edison's contention that the definition of a transmission-related modeling limitation is too broad. Notwithstanding, we believe the CAISO must have a reasonable amount of flexibility to manually dispatch resources in order to maintain a reliable grid in real time. We note that SoCal Edison proposed certain language to narrow the definition of transmission-related modeling limitations. We find that SoCal Edison's proposal is too restrictive because the definition would only be applicable to real-time occurrences where the CAISO has made use of all resources to maintain reliability. The Commission does not want to confine the CAISO to real-time solutions or comparing real-time conditions with planned conditions, especially if the CAISO is capable of resolving any reliability concerns before they reach the emergency stage.

443. To be consistent with sections 34.9.1 (System Reliability Exceptional Dispatches) and 34.9.2 (Other Exceptional Dispatch), we will direct the CAISO to modify section 39.4.3 to acknowledge that Exceptional Dispatches will only be used in response to threatening/imminent reliability conditions for which the real-time market optimization and system modeling are either too slow or incapable of bringing the grid back to reliable

operation in an appropriate time frame (*i.e.*, less than 30 minutes).<sup>277</sup>

444. In addition, we find that the CAISO uses market dispatch software that relies on a DC model of the grid, which does not include reactive power constraints. As a result, the CAISO may need to rely on Exceptional Dispatches to adjust the amount of voltage support on the grid in real time. Therefore, we find that in circumstances not covered specifically in MRTU Tariff sections 8.2.3.3, and 11.10.7, regarding voltage support, the CAISO should have the ability to issue Exceptional Dispatches to ensure that it has adequate voltage support to maintain grid reliability. Accordingly, we accept the CAISO's proposed revisions to 34.9.3, which further clarify the circumstances under which the CAISO will issue exceptional dispatches to ensure the maintenance of adequate voltage support.

445. We disagree with SoCal Edison's assertion that the CAISO must revise the title of section 11.5.6.2 to reflect "Transmission-Related" Modeling Limitations. We find the title description acceptable because the use of "Modeling Limitation" appears to capture generally the various subsections relating to Exceptional Dispatch settlement prices for *transmission* and *non-transmission* related modeling limitations. For this reason, we deny SoCal Edison's request.

## **VII. MRTU Implementation Schedule, Readiness and Post-Implementation Review**

### **A. Disbursement of Technical Information and Development of Market Participant**

446. In the September 2006 Order, the Commission agreed that it is important for market participants to have timely access to technical information and data needed to develop market participants' internal systems.<sup>278</sup> While the Commission believed that the CAISO had provided market participants with sufficient technical information to develop their systems, the Commission directed the CAISO to develop processes for responding quickly and efficiently to market participants' questions about critical MRTU information, and directed the CAISO to file a report with the Commission detailing how it is making this information available.<sup>279</sup>

447. In its November 20, 2006 compliance filing, the CAISO explains that it has

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<sup>277</sup> We note that the CAISO must publish all instances of Exceptional Dispatch on its OASIS website beginning on the effective date of MRTU Release 1. *See* September 2006 Order, 116 FERC ¶ 61,274 at P 267.

<sup>278</sup> September 2006 Order, 116 FERC ¶ 61,274 at P 1390.

<sup>279</sup> *Id.*

implemented six primary communication channels focused entirely on MRTU implementation-related questions: (1) the MRTU Implementation Mailbox, where stakeholders can submit questions that are posted by the CAISO with answers, when available; (2) the MRTU Implementation Bulletin Board, where stakeholders can submit questions accessible by other stakeholders and build discussions and the CAISO can post answers, when available; (3) an MRTU Tariff mailbox for submitting questions on the February 2006 MRTU Tariff filing; (4) the CAISO has gathered hundreds of questions following the stakeholder review of the 12 Business Practice Manuals in May and August 2006 and is currently responding to those questions; (5) the CAISO has posted on its website questions raised during training sessions and answers; and (6) a dedicated mailbox for receiving and addressing stakeholders' questions regarding MRTU Market Simulation.

448. The CAISO also states that it has created several on-line information stores where stakeholders can access questions and answers on MRTU implementation, technical interface documentations, Business Practice Manuals, tariff language, market simulation activities and MRTU level 200 courses. The CAISO also notes that it engaged stakeholders in face-to-face meetings, conference calls and web conferences to receive and address stakeholders' questions.

449. The CAISO adds that it has begun improving its processes for making critical information available in a timely manner to market participants preparing for the MRTU start-up. The CAISO states that, by the end of the first quarter of 2007, it will: (1) identify and communicate to stakeholders a single interface for receiving market participants' information requests (rather than the multiple mailboxes and websites currently available) and distribute requests internally to ensure that the appropriate persons can respond; (2) respond to questions in a more timely manner and will provide periodic updates to questions when complete answers are not readily available; (3) use an automated tool to manage market participants' requests for MRTU-related information and identify more quickly any delays in providing information; (4) implement a search tool that will simplify the process for accessing information and addressing new questions raised by stakeholders; (5) reinstate a settlements-oriented user group to facilitate discussion and understanding of questions on market settlements and market clearing; (6) post summaries of discussions of the "Systems Interface User Group," a bi-weekly web conference on technical interface implementation issues; and (7) create a broader base of persons well-versed in the details of the MRTU market design to effectively support stakeholders and the CAISO's needs in the foreseeable future.

### **Commission Determination**

450. The CAISO has set forth the primary communication channels it has implemented with market participants on MRTU implementation-related questions and improvements it will make to these processes in the future. No comments or protests were filed in this

regard. We find that the CAISO has developed effective processes for responding quickly and efficiently to market participants' questions about critical MRTU information and accept them.

The Commission orders:

(A) The CAISO's November 20, 2006 and December 20, 2006 compliance filings are hereby conditionally accepted for filing, subject to further modifications, as discussed in the body of this order.

(B) The CAISO is hereby directed to submit further revisions to the MRTU Tariff, as discussed in this order, in conjunction with compliance filings it will make on or before August 3, 2007.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.