



California Independent
System Operator Corporation

October 29, 2007

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Answer Of The California Independent System Operator Corporation
To The Motion For Reconsideration Or Clarification Of The
Independent Energy Producers Association, Docket Nos. EL05-145,
EL06-615 and ER07-1257**

Dear Ms. Bose:

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213, the California Independent System Operator Corporation ("CAISO") respectfully submits this Answer to the "Motion for Reconsideration or Clarification" ("Motion") of the Independent Energy Producers Association ("IEP") in the captioned dockets.

If there are any questions concerning this filing, please contact the undersigned.

Respectfully Submitted,

/s/ Anthony J. Ivancovich

Anthony J. Ivancovich
Counsel for the California Independent
System Operator Corporation

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

California Independent System Operator Corporation)	Docket Nos. ER06-615-003
)	ER06-615-005
)	ER06-615-012
)	ER07-1257-000
California Independent System Operator Corporation)	ER02-1656-017
)	ER02-1656-018
)	
Independent Energy Producers Assn.)	
v.)	EL05-146-000
California Independent System Operator)	Not Consolidated

**ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO THE MOTION FOR RECONSIDERATION OR CLARIFICATION” OF THE
INDEPENDENT ENERGY PRODUCERS ASSOCIATION**

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213, the California Independent System Operator Corporation (“CAISO”) respectfully submits this Answer to the “Motion for Reconsideration or Clarification” (“Motion”) of the Independent Energy Producers Association (“IEP”).

I. INTRODUCTION AND SUMMARY OF ARGUMENT

In the Motion, IEP asks the Commission to reconsider its September 25, 2007 Notice of Extension of Time (“September 25 Notice”) in Docket No. ER06-615, the docket assigned to the CAISO’s Market Redesign and Technology Upgrade (“MRTU”). In the September 25 Notice, the Commission granted the CAISO an extension of time, until January 18, 2008, to comply with a requirement in the Commission’s June 25, 2007 MRTU Order that the CAISO work with stakeholders to explore potential opportunities for load serving entities (“LSEs”) to cure a collective shortfall in local capacity area

resource requirements under MRTU.¹ Instead, IEP requests that the Commission require the CAISO to file a new capacity backstop proposal -- specifically, the Interim Capacity Procurement Mechanism (“ICPM”) which the CAISO is currently developing and intends to implement coincident with MRTU implementation -- to be effective January 1, 2008, *i.e.*, prior to implementation of MRTU. To the extent the Commission does not reconsider its order granting the CAISO an extension, IEP asks the Commission to confirm that the CAISO’s Reliability Capacity Service Tariff (“RCST”) terminates on December 31, 2008, and that generators cannot be required to provide reliability backstop service pursuant to the CAISO’s Must-Offer obligation (“MOO”) “without just and reasonable and non-discriminatory compensation.”

IEP’s Motion is legally and factually flawed, *inter alia*, for the following reasons:

- The Commission has never directed the termination of the current Must-Offer obligation on the earlier of the full implementation of a resource adequacy program or January 1, 2008. The orders to which the IEP refers addressed proposals for a flexible Must-Offer obligation to be implemented *after* the implementation of MRTU.
- Nothing in the RCST Settlement or the Commission’s orders in the RCST docket terminate the existing Must-Offer obligation on December 31, 2007 or any other date. After the RCST Settlement terminates, the existing Must-Offer obligation and compensation provisions that were in existence prior to the RCST Settlement will remain and will constitute the controlling filed rate unless or until the Commission approves a new compensation scheme.
- In its September 25 Notice, the Commission did not grant the CAISO an extension of its obligation to file the ICPM; the CAISO has no such obligation. Rather the Commission granted the CAISO an extension of its compliance obligation to address opportunities for LSEs to cure collective resource adequacy shortfalls under MRTU. IEP’s Motion amounts to an impermissible effort to force the CAISO to exercise its rights under Section 205 of the Federal Power Act.

¹ See *California Independent System Operator Corporation*, 119 FERC ¶61,313 at P 380 (2007).

It is imperative that the CAISO have an effective backstop capacity mechanism in place when MRTU operations commence. As the CAISO has informed the Commission, it intends to file the ICPM proposal in mid-January so that it will become effective coincident with the implementation of MRTU on March 31, 2007. The CAISO has committed significant resources, and has been fully engaged with stakeholders, to develop a viable capacity backstop mechanism (*i.e.*, ICPM) that will be fully functional when MRTU becomes operational and for the next few years. The CAISO fully expects that MRTU will be implemented on March 31, 2008. Thus, it would be counterproductive, risky and inefficient to require the CAISO and stakeholders to divert their attention and resources away from ICPM and MRTU, and instead follow the path suggested by IEP, by attempting to undertake a separate stakeholder process and develop a separate product that will only be in effect for a few months prior to MRTU.² The CAISO and its stakeholders are working diligently to address and resolve a number of key issues related to the ICPM and need to stay focused on developing a viable ICPM mechanism to ensure that the CAISO has an effective capacity backstop mechanism under MRTU. Issues such as the appropriate price, designation procedures, and conditions under which a backstop procurement is appropriate are all examples of areas where continuation of the ongoing positive dialog may result in an effective conclusion.

During the next few months, CAISO management will be working to complete the MRTU implementation with stakeholders and assess the readiness for start-up of the

² ICPM is a backstop mechanism for MRTU; it is not designed to function in a pre-MRTU market paradigm. In particular, the ICPM design does not contemplate the existence of a FERC Must Offer Obligation. Therefore, any pre-MRTU implementation of ICPM would effectively require a new stakeholder process to determine the necessary modifications to the product to make it work under the pre-MRTU market structure. In other words, the CAISO would essentially be required to develop two ICPM products -- one for implementation under MRTU and another to be implemented for a few months prior to MRTU.

new market features. In the event the CAISO determines that MRTU will be delayed beyond March 31, 2008, the CAISO will notify the Commission of such decision by January 31, 2007, *i.e.*, following a CAISO Board meeting which is scheduled for the end of January. In the event it is necessary to delay MRTU implementation into late 2008, the CAISO believes that it would then be appropriate to commence a stakeholder process to consider development of a backstop capacity program/Must Offer pricing scheme to be effective before the high-demand summer season. The CAISO would work with stakeholders to develop and file a proposal under section 205 of the Federal Power Act in time to allow for such amendments to be effective by May 31, 2008. If the Commission believes that it is necessary to provide additional compensation to Must-Offer generators effective January 1, 2008, it should exercise its rights under Section 206 of the Federal Power Act and extend the daily Must Offer capacity payment that is currently in effect until the implementation of MRTU.

II. BACKGROUND

On June 19, 2001, in response to the California electricity crisis, the Commission adopted a series of mitigation measures, including the MOO.³ On August 26, 2005, IEP filed a complaint in the above-captioned docket to replace the existing MOO with a tariff-based procurement mechanism entitled the “Reliability Capacity Services Tariff” (“RCST”). Following extensive settlement discussions, On March 31, 2006, the Independent Energy Producers Association, the CAISO, the California Public Utilities Commission (“CPUC”), Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company submitted an Offer of Settlement and Explanatory Statement in Docket No. EL05-146-000 (“Settlement”) in order to

³ *San Diego Gas & Elec. v. Sellers*, 95 FERC ¶ 61,418 (2001).

resolve all issues in the proceeding. Of significance for the issues raised by the Motion, the Settlement included a new Reliability Capacity Services Tariff and an additional daily capacity payment for units that are not designated under the RCST Tariff but which are committed by the CAISO pursuant to the Must-Offer obligation. Under the Settlement, all provisions of the CAISO Tariff added by the Settlement were to terminate on December 31, 2007, and this termination language is reflected in the CAISO Tariff. After a paper hearing, the Commission approved the Settlement with minor modifications.⁴

Simultaneously, the CAISO has been finalizing the MRTU tariff provisions. On August 3, 2007, the CAISO requested an extension of time in Docket No. ER06-615, until no later than October 31, 2007, to comply with various elements of the Commission's June 25, 2007 Order.⁵ One request involved paragraph 380 of the June 25 Order which required the CAISO to work with stakeholders to submit MRTU Tariff language providing LSEs with an opportunity to cure a collective shortfall in local capacity area resource requirements. The CAISO noted that the Commission previously had recognized that resolution of this issue required the involvement of the CAISO, LSEs, and the California Public Utilities Commission ("CPUC") and other Local Regulatory Authorities in order to address complex questions concerning the allocation of procurement and cost responsibilities. The CAISO subsequently concluded that it was appropriate to address these issues in the context of the CAISO's development of the ICPM. On August 8, 2007, the Commission issued a notice granting that extension of time.

⁴ *Independent Energy Producers Association v. California Independent System Operator Corp.*, 118 FERC ¶ 61,096 (2007).

⁵ 119 FERC ¶ 61,313 (2007).

As a result of a modification to the MRTU implementation date, on September 19, 2007, the CAISO filed a motion in Docket No. ER06-615 requesting an additional extension of time, until January 18, 2008, to file any tariff language complying with Paragraph No. 380 of the June 25 Order. The CAISO stated that the modified MRTU implementation date would allow the CAISO to conduct a more extensive and robust stakeholder process on the proposal. This request for an extension was granted by the Commission on September 25, 2007.

On October 12, 2007, IEP filed a motion for reconsideration of the Commission's September 25, 2007 Notice of Extension of Time granting the CAISO an extension of time to comply with Paragraph 380 of the June 25 Order. IEP argues that granting the CAISO's requested extension creates a period of time after RCST terminates during which the CAISO will be without a Commission-approved reliability backstop procurement methodology.⁶ IEP also claims that Commission orders provide that the Must Offer Obligation terminates as of January 1, 2008. Therefore, IEP urges the Commission to require the CAISO to file the ICPM Tariff provisions to become effective on January 1, 2008, subject to refund, in order to ensure that the CAISO has tariff provisions providing both a must-offer obligation and just and reasonable compensation for the services provided pursuant to the obligation.⁷ In the alternative, IEP respectfully seeks to have the Commission clarify and reiterate that: (1) the RCST terminates by its terms on December 31, 2007; (2) the RCST Tariff provisions will no longer be effective, and on file with the Commission, as of December 31, 2007; and (3) generators cannot be

⁶ Motion at 4.

⁷ *Id.* at 7.

required to provide reliability backstop service pursuant to a MOO without just and reasonable and non-discriminatory compensation.⁸

III. ARGUMENT

A. The Must-Offer Obligation Does Not Terminate January 1, 2008.

1. The Commission Has Never Directed the Termination of the Current Must Offer Obligation Effective January 1, 2008

Relying on a June 2004 Order in Docket No. ER02-1656,⁹ (“MD02 Order”), IEP contends that the Commission has found that the Must-Offer obligation terminates on the earlier of the implementation of a Resource Adequacy Program or January 1, 2008. IEP is legally and factually wrong.

The MD02 Order concerned the CAISO’s market redesign program, then called Market Design 02 (and now part of the Market Redesign and Technology Update). The CAISO had originally proposed, *as part of MD02*, both a day-ahead and real-time Must-Offer obligation to mitigate against physical withholding. MD02 Order at 11. The Commission rejected the CAISO’s proposal in October 2003. As an alternative, the Commission offered the CAISO the option of implementing a flexible offer obligation under which suppliers subject to the Must-Offer obligation would have the flexibility to choose to offer capacity in either the day-ahead or the real-time market.¹⁰ Subsequently, the CAISO proposed a revised Day-Ahead Must-Offer obligation.¹¹ At the time of the proposal, the relevant phase of MD02 was scheduled for implementation on July 1,

⁸ *Id.*

⁹ *California Independent System Operator Corp.*, 107 FERC ¶ 61,274 (2004), 108 FERC ¶ 61,254 (2004). IEP incorrectly cites the rehearing order as 109 FERC ¶ 61,254.

¹⁰ *Id.* at P 12.

¹¹ *Id.* at P 13.

2006.¹² The CAISO proposed to terminate the MD02 Must-Offer obligation on the earlier of January 1, 2008, or the full implementation of the CPUC Resource Adequacy Program.¹³ The Commission again rejected the CAISO's proposal in favor of a flexible Must-Offer obligation stating:

The CPUC's latest scoping ruling ordered LSEs to submit plans to phase in resource adequacy requirements beginning in 2005 and required planning for full implementation of the resource adequacy requirement beginning on June 1, 2006 or January 1, 2008. Thus it is unclear whether the resource adequacy requirements that exist at the time the CAISO implements its market redesign will be sufficient to meet the CAISO's operational needs. In light of this and the above discussion, if the CAISO determines that the resource adequacy requirements placed upon LSEs at the time its proposal goes into effect are insufficient to meet its operational needs, the CAISO should revise its proposal to incorporate the flexible offer obligation on an interim basis. This flexible offer obligation will replace the existing Commission Must-Offer obligation. If, on the other hand, *the CAISO determines* that the resource adequacy requirements that exist at the time its proposal goes into effect are sufficient to meet its operational needs, *the CAISO may choose* not to implement the flexible offer obligation and the resource adequacy requirements and obligations will serve to replace the existing Commission Must-Offer obligation.¹⁴

Two aspects of the Commission's ruling negate IEP's argument that the Must-Offer obligation must terminate on January 1, 2008.

First, the order applied *only* the implementation of some form of Must-Offer obligation as part of MD02. It did not address the pre-MD02 (or pre-MRTU) FERC Must-Offer obligation. Indeed, it cannot even be said that the same considerations apply to the pre-MRTU Must-Offer obligation.

Second, the order did not rule that the Must-Offer obligation is no longer necessary after implementation of the CPUC Resource Adequacy program. The Commission's analysis of Resource Adequacy was in the context of an implemented

¹² *Id.* at P 27.

¹³ *Id.* at P 13.

¹⁴ *Id.* at 27 (emphasis added).

market redesign. As the Commission noted in the October 2003 order, the effectiveness of the Resource Adequacy program is intimately tied to the remainder of market redesign:

We believe that issues such as resource adequacy and mitigation should not be dealt with in isolation. Without the benefit of a complete market redesign proposal, the Commission cannot make informed decisions on all aspects of this proposal -- decisions that impact the ability and incentive to forward contract, the reliable operation of the grid, and the ability to attract and retain investment. In considering the proposal, we need to ensure that the CAISO has the appropriate tools at its disposal to address resource adequacy and protect against the exercise of market power.¹⁵

The Commission further stated:

[T]he various elements of a regional market should work well together to produce an efficient, well-functioning wholesale market for the benefit of customers over the long term. There are important inter-relationships among such wholesale market elements as the energy market design, the system for congestion management, resource adequacy provisions, and means for mitigating market power. Achieving an appropriate balance among these factors is critical to a well-functioning wholesale market. . . . [T]he “resource adequacy measures adopted by the region must work together with the region’s market power mitigation measures to ensure that there are appropriate incentives to invest in sufficient infrastructure to maintain reliable and reasonably priced service to customers in the region.”¹⁶

The Commission thus realized that Resource Adequacy is not, by itself, sufficient to ensure adequate capacity available for ensuring reliability. Only if the CAISO determined the Resource Adequacy requirements were sufficient at the time [MRTU] goes into effect could it terminate the flexible Must-Offer obligation.

Indeed, the Commission did not even direct termination of the Must Offer Obligation. Rather, it left the determination of the Resource Adequacy requirement in

¹⁵ *Cal. Indep. Sys. Operator Corp.*, 105 FERC ¶ 61,140 at P 215 (2003).

¹⁶ *Id.* at P 274.

the CAISO's discretion, and stated that the CAISO "could choose to" terminate the flexible Must-Offer obligation if it found them sufficient.¹⁷

In its February 9, 2006 MRTU tariff filing, the CAISO proposed to eliminate the existing FERC MOO upon implementation of MRTU. The Commission recognized this fact in its September 21, 2006 order on the CAISO's MRTU Tariff filing, noting "[t]he CAISO proposes to end the current Commission-imposed must-offer obligation on generation." *California Independent System Operator Corporation*, 116 FERC ¶61,274 at P 31. The Commission approved the CAISO's proposal. Thus, based on the Commission's decisions in the MRTU docket, the current FERC Must-Offer obligation will expire upon implementation of MRTU.

2. Nothing in the Orders in Docket No. EL05-146 Terminates the Must Offer Obligation.

IEP correctly states that, on August 26, 2005, it filed a complaint under Section 206 of the Federal Power Act asserting that the Must-Offer obligation was no longer just and reasonable and that the Commission found that "under the current market design, the Must-Offer obligation does not adequately compensate generators for the reliability services they provide."¹⁸ It concluded that compensation under the MOO was not just and reasonable.¹⁹ Subsequently, the Commission approved a Settlement that included the RCST and a daily Must-Offer capacity payment. By its terms, the Settlement expires on January 1, 2008.²⁰

¹⁷ MD02 Order at P 27.

¹⁸ *Indep. Energy Producers Assoc. v. Cal. Indep. System Oper. Corp.*, 116 FERC ¶ 61,069 at P 35 (2006).

¹⁹ *Id.* at P 38.

²⁰ *Indep. Energy Producers Assoc. v. Cal. Indep. System Oper. Corp.*, 118 FERC ¶ 61,096 (2007) ("RCST Order").

Nonetheless, the Must-Offer obligation will remain effective after January 1, 2008. The Commission's actions under Section 206 of the Federal Power Act are a two-step process. First, the Commission may conclude that a rate is unjust and unreasonable 16 U.S.C. § 824e. Thereafter the Commission may prescribe a just and reasonable rate. There is no requirement that the Commission act contemporaneously, or even immediately, to prescribe a new rate. *Sebring Util. Comm. v. FERC*, 591 F.2d 1003, 1013 n. 40 (5th Cir. 1979). Thus, the "unjust and unreasonable" rate remains in effect except as modified by the Commission.

In this case, the Commission approved a Settlement that did not eliminate the Must-Offer obligation or the Must-Offer compensation tariff provisions that were in place prior to the effective date of the RCST Settlement. Rather, the Settlement merely added an additional program to the CAISO Tariff and additional compensation for Must-Offer Generators, both with a sunset date. Neither the Settlement, nor the tariff language that the Commission approved implementing the Settlement, provided that the pre-existing Must-Offer obligation and Must-Offer compensation provisions would be terminated effective January 1, 2008. Thus, when the additional provisions imposed by the Settlement lapse -- as is automatically provided for in the CAISO's Commission-approved Tariff -- the pre-Settlement Must-Offer provisions will still remain in effect. Those provisions remain the filed rate until the Commission revises them. *See Montana-Dakota Utilities Co. v. Northwestern Public Service Co.*, 341 U.S. 246 at 251-52 (1951); *Arkansas Louisiana Gas Co. v. Hall*, 453 U.S. 571, 577-78 (1981).²¹

²¹ IEP's motion contains the gratuitous allegation that the CAISO has administered the RCST program discriminatory manner because the CAISO has designated only one generating unit as an RCST unit (pending the outcome of a Commission order on rehearing and clarification), but called on eleven non-Resource Adequacy units a total of 172 times in the day-ahead time frame to provide reliability service. A

D. IEP Cannot Require the CAISO to File an Amendment to the CAISO Tariff, but if Necessary the Commission Can Address Must Offer Compensation Under Section 206.

IEP urges the Commission to reconsider its September 25 Notice which granted the CAISO an extension of time to comply with Paragraph 380 of the June 25, 2007 MRTU Order to work with stakeholders to submit MRTU Tariff language providing LSEs with an opportunity to cure a collective shortfall in local capacity area resource requirements. However, IEP goes beyond the scope of MRTU compliance, and beyond the scope of compliance with the June 25 Order, and requests that the Commission require the CAISO to file its MRTU capacity backstop mechanism tariff provisions -- the ICPM Tariff provisions -- to be effective January 1, 2008, *i.e.*, several months in advance of MRTU implementation. It must be noted that the Commission's September 25 Notice did not grant the CAISO an extension of time to file the ICPM, and the CAISO is not under any current obligation to file the ICPM. Rather, the only obligation the CAISO has -- which is the obligation for which the CAISO sought an extension -- is for the CAISO to work with stakeholders to develop a mechanism to address collective shortfalls in Local Resource Adequacy procurement under MRTU and to file any tariff provisions by January 18, 2008.²² IEP forgets that the right to file tariff amendments pursuant to Section 205 of the Federal Power Act lies solely with the CAISO. *Atlantic City*

review of the document referred to by IEP demonstrates no undue discrimination, just the fact that no designations were appropriate under the terms of the settlement to which IEP agreed. *See* CAISO Retroactive RCST Significant Events Summary, available at <http://www.aiso.com/1c20/1c20e8373c330.pdf>. The RCST Tariff does not require the CAISO to designate units as RCST, and IEP does not offer one iota of evidence suggesting that the CAISO has acted in a discriminatory manner in not designating units as RCST units. It is worth noting that every non-Resource Adequacy unit upon which the CAISO committed under the FERC Must Offer Obligation has received the additional daily capacity payment under the terms of the RCST Settlement.

²² Compliance Order at P 380.

Electric Co. v. FERC, 295 F.3d 1 (D.C. Cir. 2002). IEP's motion is essentially an impermissible effort to force the CAISO to exercise its rights under Section 205. Furthermore, given the controversy that surrounded the RCST Settlement and which is surrounding the development of the ICPM, it is overly simplistic for IEP to think that the CAISO can develop any type of pre-MRTU ICPM mechanism that involves something other than extending the existing daily MOO capacity payment.

As the CAISO described in its motion for an extension, the development of mechanisms to address shortfalls is intertwined with the ICPM, and that is why the CAISO indicated that it might be appropriate to address that compliance obligation when the CAISO makes its Section 205 filing to implement the ICPM proposal. Importantly, the ICPM is being designed to work under MRTU and is not compatible with the current CAISO tariff. For example, under MRTU there is no Must-Offer obligation, and prices are based on LMPs not MCPs (which affects how the peak energy rent is calculated). ICPM does not contemplate a daily capacity payment because there is no Must Offer obligation under MRTU. Indeed, ICPM is being designed for a market structure where there is no FERC MOO. As such, ICPM is not intended to apply, and cannot readily be applied, pre-MRTU.

For the CAISO to implement a replacement Must Offer compensation scheme to be effective January 1, 2008, the CAISO would have to conduct a new stakeholder process and develop a new and different mechanism (other than ICPM) that would apply to the pre-MRTU market structure and in the pre-MRTU timeframe. Engaging in such a process would undermine the CAISO's ICPM efforts and increase the risk that the CAISO would not be able to develop an effective backstop in time for MRTU

implementation.²³ It is important that the CAISO's and stakeholders' efforts and attention stay focused on the ICPM initiative to ensure that the CAISO has a viable capacity backstop mechanism in place when MRTU is implemented. This is particularly true given the numerous, complex and controversial issues facing stakeholders with regard to the design of an appropriate ICPM mechanism. The CAISO has made significant modifications and added several new elements to its original ICPM proposal to address stakeholder concerns, but many issues remain to be resolved with stakeholders. Given the importance of reliability and the need for a backstop mechanism that will work effectively under MRTU, the CAISO continues to believe that the most productive and prudent approach calls for resources and efforts be dedicated to ensure the development of a well-thought-out and well-supported ICPM proposal that can be implemented coincident with MRTU. It would be counterproductive to direct attention away from ICPM and MRTU toward the development of a distinct new product or pricing scheme that in all likelihood will only be in effect for a few months prior to MRTU implementation. For this reason, CAISO management has encouraged stakeholders to work productively on the ICPM product which is a known longer-term need and focus on the development of a few-month capacity procurement mechanism to be in effect under the current market design only after it becomes clear that MRTU implementation will be delayed until after the Summer of 2008.

In summary, MRTU is currently scheduled for implementation on March 31, 2008, and the CAISO will request that the ICPM become effective on that date. Thus, the pre-existing FERC Must-Offer obligation provisions would only be in effect for three

²³ In addition to ICPM, the CAISO notes that significant resources and efforts are also focused on implementing MRTU by March 31, 2008.

months. The CAISO will inform the Commission by January 31, 2008, if there is to be any additional delay for MRTU. In the unlikely event that there is further delay, the CAISO commits itself to consider the development of a pre-MRTU interim capacity program or Must-Offer compensation scheme to be effective before the high-demand summer months. The CAISO would be better positioned at that time, knowing there will be a multi-month delay in MRTU, to begin undertaking such an effort because resources that have been dedicated to developing the ICPM initiative and working on other MRTU-related initiatives should become available.

To the extent the Commission believes that it is necessary to address the appropriate level of Must-Offer compensation effective January 1, 2008, it has the authority to do so under Section 206 of the Federal Power Act. Docket No. EL05-146 remains active, and the Commission has already found the pre-existing Must-Offer compensation to be inadequate. The Commission could simply extend the Settlement's additional compensation for Must-Offer Generators, *i.e.*, the daily capacity payment under Section 40.14 of the CAISO Tariff, until the implementation of MRTU. In its February 13, 2007 RCST Order, the Commission found, after a paper hearing, that the proposed level of the target capacity price and the Must Offer daily capacity payment was just and reasonable. In particular, the Commission found the target capacity price, upon which the daily Must Offer capacity payment is based, to be within the range of reasonable prices.²⁴ That fact has not changed. Under these circumstances, it would be just and reasonable, and more efficient, for the Commission simply to extend the existing Must Offer daily capacity payment for several months.

²⁴ RCST Order at P 70.

The CAISO does not believe it would be practical or appropriate to extend the remainder of the RCST Settlement. There are a number of the RCST tariff provisions that are time specific, associated with the specific year of 2007, and are not directly transferable to the operational year of 2008..²⁵ Further, if the CAISO were to make 2008 RCST designations, those designations may extend into the period when MRTU is in effect, thereby raising serious questions whether provisions for committing, dispatching and paying RCST units are compatible with operation of the MRTU markets. The CAISO therefore urges the Commission not to extend any existing tariff provisions that resulted from the RCST Settlement other than the daily capacity payment for Must-Offer Generators.

IV. CONCLUSION

For the reasons discussed above, the CAISO requests that the Motion for Reconsideration of Clarification be denied.

²⁵ Current, tariff provisions and definitions do not contemplate requirements beyond those established for 2006 and 2007. For example; RCST local designations rely upon the Local Resource Adequacy Requirement established by the CPUC and LRAs for 2007, yet these requirements are not equivalent to the higher needs determined by the CAISO studies conducted for 2008.

Respectfully submitted,

/s/Anthony Ivancovich

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Dated: October 29, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 29th day of October, 2007.

/s/ *Melissa Hicks*
Melissa Hicks