



California Independent
System Operator Corporation

October 31, 2008

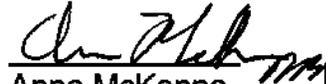
The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Amendments in Compliance with the Commission's September 21,
2006 Order in Docket No. ER06-615-____.**

Dear Secretary Bose:

Pursuant to the order issued by the Federal Energy Regulatory Commission ("FERC" or "Commission") on September 21, 2006,¹ and pursuant to Section 205 of the Federal Power Act ("FPA"), 16 U.S.C. § 824d, and Part 35 of the Commission's regulations, 18 C.F.R. § 35 *et seq.*, the California Independent System Operator Corporation ("CAISO") submits an original and five (5) copies of proposed tariff revisions.

Respectfully submitted,


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¹ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 (2006).

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Dear Secretary Bose:

Pursuant to the order issued by the Federal Energy Regulatory Commission ("FERC" or "Commission") on September 21, 2006,¹ and pursuant to Section 205 of the Federal Power Act ("FPA"), 16 U.S.C. § 824d, and Part 35 of the Commission's regulations, 18 C.F.R. § 35 *et seq.*, the California Independent System Operator Corporation ("CAISO") submits an original and five (5) copies of proposed revisions to the Market Redesign and Technology Upgrade ("MRTU") Tariff. The MRTU program is a comprehensive redesign of the California electricity markets and is aimed at enhancing reliability and increasing the efficient utilization of the CAISO Controlled Grid.

The purpose of this filing is to effectuate the allocation of Merchant Congestion Revenue Rights to FPL Energy, LLC ("FPL") for an existing transmission upgrade as the CAISO transitions from the existing CAISO market structure which utilizes Firm Transmission Rights ("FTRs") to the new MRTU program which is based on Congestion Revenue Rights ("CRRs")

I. INTRODUCTION

This filing addresses the transition into the MRTU market design of an existing merchant transmission upgrade project that was constructed by FPL. The upgrades affect the existing Blythe-Eagle Mountain transmission line ("Path 59 Upgrade"). Currently, FPL receives FTR auction revenues attributable to the Path 59 Upgrade. The instant filing incorporates into the CAISO Tariff an agreement among the affected parties --Southern California Edison Company ("SCE") and FPL, and the CAISO -- to allocate certain Merchant CRRs to FPL for the Path 59 Upgrade. Specifically, the filing

¹ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 (2006).

proposes a compensation mechanism under MRTU for FPL as the Project Sponsor (or the entity that funded transmission upgrades on the CAISO-Controlled Grid).

Under the currently-effective ISO Tariff, FPL is entitled to: (a) Congestion revenues; (b) Wheeling revenues; and (c) revenues from the auction of FTRs. Under MRTU, Project Sponsors of *new* merchant transmission projects (*i.e.* projects that do not have their costs recovered under the CAISO's transmission Access Charge) will be compensated for their investment through Merchant CRRs as described in Section 36.11 of the MRTU Tariff. However, Section 36.11 of the MRTU Tariff does not apply to existing projects such as the Path 59 Upgrade. Because FTRs will be discontinued upon implementation of MRTU, FPL must be provided with an alternative arrangement in order to ensure it is compensated for its investment. As proposed herein, the CAISO respectfully requests that FPL receive Merchant CRRs based on the continued application of the previously-agreed-to and approved allocation methodology for Merchant CRRs. This will also enable the *existing* Path 59 project to receive Merchant CRRs under MRTU in a manner that is consistent with the Commission's prior findings regarding the allocation of the increase in capacity rating on Path 59 (and resulting allocation of FTR auction revenues) attributable to FPL's upgrade.

II. BACKGROUND

A. Docket No. ER03-407

On January 13, 2003, the CAISO filed tariff Amendment No. 48, which proposed to provide congestion revenues, wheeling revenues, and firm FTRs auction revenues to entities other than Participating Transmission Owners ("PTO") when such non-PTO entities funded transmission upgrades on the CAISO-Controlled Grid.² The CAISO explained that the immediate purpose of Amendment No. 48 was to provide a compensation mechanism for FPL as a result of FPL's upgrade to Path 59, a transmission line owned by SCE.³

More specifically, the then-effective tariff did not provide a mechanism for compensating an entity like FPL that upgrades a transmission line. While the ISO Tariff expressly provided that a PTO Project Sponsor would be entitled to the wheeling revenues attributable to the upgrade and a share of congestion revenues for the

² CAISO Amendment No. 48 to FERC Electric Tariff, Docket No. ER03-407-000 (Jan. 13, 2003) ("January Transmittal Letter").

³ FPL paid SCE to increase the transmission rating on SCE's Blythe-Eagle Mountain transmission line. This upgrade increased the rating on the 161/230 kV transformer at the Eagle Mountain substation. The upgrade for these facilities, which increased the amount of FTRs on this path in the import direction from 72 MW to 168 MW, was placed in service on December 14, 2002. January 2003 Transmittal Letter at 3-4.

capacity added to the system, the ISO Tariff did not provide a means of compensating non-PTO Project Sponsors that provided additional transmission capacity, but would not recover the costs of those facilities through the transmission Access Charge.

The CAISO Amendment No. 48 proposal contained the following elements:

- The CAISO would provide shares of wheeling, congestion and FTR auction revenues to non-PTO entities that fund upgrades of the CAISO Controlled Grid, provided that: (1) the CAISO had operational control of the upgraded facility; and (2) the cost of the upgrade had not and would not been recovered through the transmission Access Charge or reimbursed or paid for by the PTO.⁴
- The PTO whose facilities were upgraded and the non-PTO Project Sponsor would reach an agreement on the shares of wheeling, congestion revenues and FTR auction revenues to be provided to the non-PTO Project Sponsor rather than automatically providing shares equal to the amount of new capacity.⁵
- If the parties could not agree to the non-PTO Project Sponsor's shares within 90 days of the new capacity in-service date, then the parties would submit to the CAISO arbitration to determine that amount. The CAISO would escrow any wheeling revenue, congestion revenue, or FTR auction revenue amounts until the parties agree upon a share determination.⁶
- The CAISO would provide congestion and wheeling revenues for the share of the incremental capacity upon which the PTO and the non-PTO Project Sponsor agreed or were given through arbitration.⁷

On March 12, 2003, the Commission rejected the aspect of Amendment No. 48 that required the PTO and non-PTO Project Sponsor to negotiate the appropriate allocation of revenues associated with the upgraded facilities or submit the matter to arbitration.⁸ Rather, the Commission ordered the CAISO to amend the ISO Tariff to

⁴ January Transmittal Letter at 4. If sunk costs were going to be passed on through the transmission Access Charge, the CAISO expected that the owner would become a PTO and establish a FERC-approved transmission revenue requirement accordingly. *Id.*

⁵ January Transmittal Letter at 4. The CAISO explained this approach was designed to guard against a "free-rider" problem where the capacity associated with upgraded facilities may not be proportional to the investment both parties have put into the facilities. As an example, the CAISO explained that a PTO may invest tens of millions of dollars in constructing a new transmission line with a rating of 100 MW, while another party may spend far less upgrading the same facility to create an additional 50 MW of new capacity. *Id.*

⁶ January Transmittal Letter at 4.

⁷ January Transmittal Letter at 4-5.

⁸ *Cal. Indep. Sys. Operator Corp.*, 102 FERC ¶ 61,278 at PP 21-23 (2003).

require that the non-PTO Project Sponsor receive FTR auction revenues, wheeling revenues, and congestion revenues associated with the full amount of capacity added to the system, as determined by the CAISO's regional reliability council.⁹

On April 11, 2003,¹⁰ the CAISO submitted a compliance filing containing revised ISO Tariff language that proposed to allocate FTR auction, wheeling and congestion revenues based on the Commission's March 12, 2003 determination.¹¹ On July 25, 2003, the Commission found that the CAISO's April 2003 compliance filing was consistent with the intent of the March 12, 2003 order.¹² However, FERC directed the CAISO to amend the proposed language to specifically reference the Western Electric Coordinating Council ("WECC") or its successor in order to comply with the Commission's March 12, 2003 directive that the full amount of capacity added to the CAISO system would be determined through the regional reliability council process.¹³

On August 25, 2003, the CAISO submitted a compliance filing containing revised ISO Tariff language that reflected the Commission's July 25, 2003 order.¹⁴ In addition, the CAISO proposed to further amend the ISO Tariff to ensure that a non-PTO Project Sponsor would only be compensated for path rating increases that were directly attributable to the upgrade paid for by that Project Sponsor. The CAISO was specifically addressing the fact that the WECC changed the rating for Path 59 – the Path at issue in the FPL upgrade – from 72 MW to 218 MW due to two separate factors: (1) FPL's physical upgrade to the Blythe-Eagle Mountain transmission line; and (2) the redefinition of the location of Path 59. The CAISO proposed to amend the ISO Tariff to state that the determination of the full amount of capacity added to the system will be "based on the physical addition to the transfer capability" as determined by WECC, so

⁹ *Id.* at P 21. Subsequently, in response to an SCE motion for clarification, the Commission clarified that in the event that the Western Electric Coordinating Council ("WECC") – the CAISO's regional reliability council – declined to make such a determination, the CAISO must inform the Commission and seek further guidance from the Commission at such time. *Cal. Indep. Sys. Operator Corp.*, 110 FERC ¶ 61,271 at P 12 (2005).

¹⁰ As amended on April 16, 2003.

¹¹ CAISO Substitute First Revised Sheet 148, *et al.*, to FERC Electric Tariff, First Replacement Volume 1, Docket No. ER03-407-002 (April 11, 2003). In that same filing letter, the CAISO also explained that it proposed to allocate FTR auction, wheeling and congestion revenues rather than FTRs themselves. *Id.* The Commission later clarified that, contrary to the actual language of its March 12, 2003 order that referred to allocation of FTRs, FERC's intent was to refer to the allocation of FTR auction revenues, wheeling revenues and congestion revenues. *Cal. Indep. Sys. Operator Corp.*, 109 FERC ¶ 61,098 at P 5 (2004).

¹² *Cal. Indep. Sys. Operator Corp.*, 104 ¶ 61,128 at P 5 (2003).

¹³ *Id.* at P 6.

¹⁴ CAISO Compliance Filing, Docket No. ER03-407-004 (August 23, 2003) ("August 2003 Compliance Filing").

as to ensure that FPL would not be compensated for rating increases resulting from the path's location redefinition.¹⁵

On October 29, 2004, the Commission rejected this proposed addition, finding that the CAISO could not give itself discretion outside of the regional reliability council process.¹⁶ Further, the Commission found that if the CAISO had concerns with whether the path's location redefinition affected FPL's compensation, then the CAISO would need to pursue the matter with WECC.¹⁷

On November 24, 2004, the CAISO submitted a compliance filing deleting the proposed tariff language in accordance with the Commission's October 29, 2004 order. On March 8, 2005, the Commission accepted the CAISO's November 2004 compliance filing and responded to SCE's question regarding what should be done if the WECC does not rate a path.¹⁸ The Commission clarified that, if the CAISO "requests the WECC to determine the increase in capacity on Path 59 attributable to an upgrade made under section 3.2.7.3 of the tariff, and the WECC declines to make such a determination, then the ISO must so inform the Commission and seek further guidance from the Commission at that time."¹⁹

In accordance with Commission directives, the CAISO submitted a letter to the WECC, requesting that the WECC determine the amount of increased capacity associated with FPL's Path 59 upgrades. By letter dated August 26, 2005, the WECC responded that the WECC does not allocate path ratings among transmission path participants, and that the issue raised by the CAISO is a commercial one that the owners of the transmission path should address themselves.

On February 27, 2006, the CAISO informed the Commission of the WECC's rejection and requested further guidance regarding any necessary amendments to the CAISO Tariff to address that rejection.²⁰ In addition, the CAISO informed the Commission that the CAISO had worked with FPL and SCE to develop an agreement for allocating revenues associated with Path 59 upgrades. The CAISO urged the Commission to allow the three parties to implement their arrangement as a one-time solution. Specifically, the CAISO proposed the following resolution to the Commission:

¹⁵ *Id.*

¹⁶ *Cal. Indep. Sys. Operator Corp.*, 109 FERC 61,098 at PP 17-18 (2004).

¹⁷ *Id.* at P 18 (2004).

¹⁸ *Cal. Indep. Sys. Operator Corp.*, 110 FERC ¶ 61,271 (2005).

¹⁹ *Id.* at P 12 (2005).

²⁰ CAISO Informational Filing, Docket No. ER03-407-007 (Feb. 27, 2006).

- A. Until the CAISO begins to fund the CRR balancing account with day-ahead congestion revenue, after the CAISO's MRTU is implemented:
 - 1. For the purpose of allocating historic, as well as future, congestion, wheeling and auction revenues or costs, between FPL Energy or its affiliates and SoCal Edison over Path 59:
 - i. The allocation in the import (east to west) direction of such revenues or costs will be as follows:
 - ii. The SoCal Edison share shall be 42.9 percent (72/168)
 - iii. The FPL Energy share shall be 57.1 percent (96/168)
 - iv. The allocation in the export direction (west to east) will be identical to the allocation in the import direction.
- B. After the CAISO begins to fund the MRTU CRR balancing account with day-ahead congestion revenue, the allocation of congestion revenues and CRR rights will be determined by the Commission-approved mechanisms embedded in the CAISO Tariff.

On June 15, 2006, the Commission issued a letter order approving the CAISO's proposed solution contained in its February 2006 letter.²¹ Since that order, the CAISO has implemented the agreed-upon allocation of the revenues.

B. Merchant Transmission Under MRTU

In the CAISO's MRTU Tariff filed with the Commission on February 9, 2006, the CAISO proposed to replace its path-specific FTRs with CRRs, which are more appropriate for a locational marginal price ("LMP") based congestion management design.²² In general terms, the CAISO proposed to conduct an annual process to release seasonal CRRs, as well as a separate monthly process to release monthly CRRs. In each process, the CAISO will release CRRs applicable to peak and off-peak periods. For the most part, the CRRs will be obligations rather than options.²³ In addition, in its February 9 filing, the CAISO proposed that merchant transmission Project Sponsors would be allocated options CRRs if the costs of their project were not recovered through access charges or other regulatory cost recovery mechanisms.

In his Prepared Direct Testimony supporting the CAISO's MRTU filing, Lorenzo Kristov explained that the MRTU Tariff would require a merchant transmission Project Sponsor to decide between regulated investment recovery through CAISO access

²¹ *Cal. Indep. Sys. Operator Corp.*, Letter Order, 115 FERC ¶ 61,329 (2006).

²² CAISO MRTU Transmittal Letter, Docket No. ER06-615-000 (February 9, 2006) ("CAISO MRTU Transmittal Letter").

²³ The CAISO explained that if congestion costs were negative, then the CRR holder would have to make a payment. On the other hand, option CRRs give the holder the right to collect positive congestion revenues, but they would not impose an obligation to pay negative congestion revenue.

charges and an allocation of CRRs.²⁴ If the merchant transmission project chose CRRs, then the CAISO would offer the Project Sponsor the choice of CRR options or CRR obligations in a quantity and geographic source and sink pattern that is consistent with and proportionate to the transfer capacity that the Project Sponsor's transmission project adds to the CAISO Controlled Grid, as determined by engineering studies.²⁵

In addition, Dr. Kristov explained that, while the CAISO intended to continue working with stakeholders on this issue to develop the policy further, certain basic principles had been discussed during the policy development process. First, the CRRs allocated to the merchant transmission Project Sponsor would be good for the life of the transmission facility or thirty years, whichever is less. Second, the Project Sponsor's entitlement to CRR options would begin when its transmission project has been energized and operational control has been turned over to the CAISO.²⁶

On September 21, 2006, the Commission issued an order conditionally accepting the CAISO's MRTU Tariff.²⁷ However, FERC found that the CAISO's proposal to allocate CRRs to merchant transmission Project Sponsors was deficient and ordered the CAISO to submit a compliance filing in that regard.²⁸ The Commission specifically directed the CAISO to clarify the term "fixed CRRs" on compliance, as well as add detail to the MRTU Tariff on how the CAISO would allocate CRRs to merchant transmission.²⁹

On April 20, 2007, the Commission issued an order granting in part and denying in part requests for clarification and rehearing of its September 2006 MRTU Order.³⁰ In that MRTU Rehearing Order, the Commission granted the CAISO's request that it be allowed to file additional details concerning the allocation of CRRs to merchant transmission Project Sponsors on a schedule consistent with the timing requirements set forth in the Commission's Long-Term Firm Transmission Rights ("LTTR") Final Rule.³¹

²⁴ See CAISO MRTU Transmittal Letter, Attachment F: Prepared Direct Testimony of Lorenzo Kristov at 94-95. See also CAISO Reply Comments, Docket No. ER06-615-000 (May 17, 2006).

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 (2006) ("MRTU Order").

²⁸ *Id.* at PP 844, 873. The Commission also noted that additional detail was needed in the MRTU Tariff in order to permit the posting of an agreed-to compensation package for CRR options under MRTU Tariff Section 24.7.3. *Id.* at P 1357.

²⁹ *Id.*

³⁰ *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,076 (2007) ("MRTU Rehearing Order").

³¹ MRTU Rehearing Order at P 421 ("While the September 2006 Order had required the CAISO to submit these details in the MRTU proceeding, 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, we grant the CAISO's requested

C. CAISO CRR Compliance Filing

On January 29, 2007, as amended on February 2, 2007, the CAISO submitted its proposal to implement long-term CRRs under the MRTU Tariff.³² On May 7, 2007, after completing its stakeholder process to develop the CRRs for merchant transmission projects (“Merchant CRR”), the CAISO filed, among other things, its proposal describing the process for allocating Merchant CRRs to Project Sponsors that would replace the previous allocation provisions filed under Amendment 48.³³ The allocation design, contained in proposed MRTU Tariff sections 36.11-36.11.3.2.3, had the following components:

- Merchant transmission Project Sponsors that transfer operational control of their transmission projects to the CAISO would be eligible to receive an allocation of Merchant CRRs if the Project Sponsor has not elected to recover the costs of its investment through the CAISO’s transmission Access Charge, wheeling access charge, or other regulatory cost-recovery mechanisms.³⁴
- The methodology assumes that: (1) the project is well-defined in terms of physical facilities being upgraded; (2) any required mitigations for adverse impacts of the project have been identified and incorporated into the project; (3) the upgrade is close to the point of being energized; (4) the merchant status and entitlement of the Project Sponsor to be allocated CRRs have been established; (5) any operating parameters associated with the project have been determined; and (6) the CAISO’s planning department has developed the appropriate full network model incorporating the project for use in the CAISO markets.³⁵

clarification.”). See also *Long-Term Firm Transmission Rights in Organized Electricity Markets*, Order No. 681, 71 Fed. Reg. 43,564 (Aug. 1, 2006), FERC Stats. & Regs. ¶ 31,226, *order on reh’g*, Order No. 681-A, 117 FERC ¶ 61,201 (2006) (requiring independent transmission organizations that oversee organized electricity markets to make LTTRs available that satisfy seven guidelines).

³² Docket Nos. ER07-475-000 and ER07-475-001. In its filing to establish Long Term CRRs on January 29, 2007, the CAISO noted that it would comply with the Commission’s directive to develop the proposal to allocate CRRs to merchant transmission Project Sponsors further and file new tariff language by the spring of 2007. On February 21, 2007 the CAISO posted a Whitepaper on CRRs for merchant transmission projects, which was then discussed at a February 27, 2007 stakeholder meeting. On March 23, 2007, the CAISO issued a revised paper on the Methodology for Determining CRRs for Merchant Transmission Upgrades that was discussed on a March 29, 2007 stakeholder call. A further revised Methodology for Determining CRRs for Merchant Transmission Upgrades was issued by the CAISO on April 6, 2007 and was discussed on an April 12, 2007 stakeholder call.

³³ Docket No. ER07-869-000 (May 7, 2007) (“CAISO Merchant CRR Compliance Filing”).

³⁴ CAISO Merchant CRR Compliance Filing at 13.

³⁵ *Id.* at 12.

- The Merchant CRRs would be point-to-point and defined by a source location, sink location, MW quantity and time-of-use period.³⁶
- At the election of the Project Sponsor, Merchant CRRs could be options or obligations.³⁷
- The term of Merchant CRRs would begin when the project has been energized and operational control has been transferred to the CAISO, and it will continue for 30 years or the pre-specified life of the project, whichever is shorter.³⁸
- The quantity of CRRs released to a Project Sponsor will be commensurate with the transfer capacity that the project adds to the CAISO-controlled grid.³⁹
- The CAISO would allow the Project Sponsor to nominate up to five CRR source and sink pairs prior to the commencement of the allocation process.⁴⁰
- The Merchant CRRs would be allocated in three steps: (1) the CAISO determines how many of the Project Sponsor's nominated CRRs would be feasible on the network model before the transmission upgrade and reserves this capacity to prevent the Project Sponsor from utilizing it; (2) the CAISO verifies that adding the upgrade into the network model does not adversely affect any of the previously-released CRRs or other existing encumbrances on the transmission system and addresses any impacts that may be identified; and (3) the CAISO applies the Project Sponsor's nominations on the network model that includes the transmission upgrade and determines how many of the nominated MWs are feasible.⁴¹

The Commission accepted the CAISO's Merchant CRR Compliance Filing, finding that the CAISO's proposal to allocate option CRRs to merchant transmission Project Sponsors, commensurate with the incremental transmission capacity provided by a merchant transmission upgrade, was just and reasonable.⁴²

³⁶ *Id.* at 13.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* at 13-14.

⁴² *Cal. Indep. Sys. Operator Corp.*, 120 FERC ¶ 61,023 at P 74 (2007).

III. The Instant Proposal

A. Need for the Proposal

This amendment is necessary because, as required by Section 36.11 of the MRTU Tariff, Project Sponsors of Merchant Transmission Facilities who turn such facilities over to CAISO Operational Control and do not recover the cost of the transmission investment through the CAISO's access charges or other regulatory cost recovery mechanism may be allocated, at the Project Sponsor's election, either CRR Options or CRR Obligations that reflect the contribution of the facility to grid transfer capacity as determined by the additional subsections of Section 36.11. As an existing Project Sponsor that has turned over operational control of the Path 59 Upgrade to the CAISO but does not recover its cost of transmission investment through the access charges, FPL is therefore entitled to obtain Merchant CRRs under MRTU. However, the provisions in Section 36.11 of the MRTU tariff for determining the contribution of the facility to the grid transfer capacity are intended for new facilities on the system.⁴³ The CAISO specified that it intended to treat existing projects like FPL's Path 59 Upgrade under other to-be-determined procedures in its May 7, 2007 Merchant CRR Compliance Filing and supporting testimony by Dr. Lorenzo Kristov, filed on the same date.⁴⁴ The CAISO specified then that for existing merchant transmission facilities already in service, the CAISO would file appropriate provisions for the transition to MRTU that build upon the arrangements established at the time such transmission was put in place.⁴⁵

Subsequently, through a series of meetings and discussion between the CAISO, FPL and SCE, the parties agreed that it is appropriate to continue to apply the pre-MRTU revenue allocation to the Path 59 Upgrade. FPL, SCE, and the CAISO all believe that this approach is appropriate because it allows the parties to continue to employ the resolution previously agreed-to by FPL and SCE in Docket No. ER03-407-007 on February 27, 2006 and approved by the Commission on June 15, 2006.⁴⁶

More specifically, the currently-effective allocation methodology that the Parties agreed to requires that, for the purpose of allocating historic, as well as future, congestion, wheeling and auction revenues or costs, between FPL and SCE over Path 59, the allocation in the import (east to west) direction and the export direction (west to

⁴³ For example, Section 36.11. 2 of the MRTU Tariff requires that the Project Sponsor submit their request for the Merchant CRRs "[n]o less than forty-five (45) days prior to the in-service date of a Merchant Transmission Facility."

⁴⁴ See May 7, 2007, Transmittal Letter, p. 16.

⁴⁵ See Prepared Direct Testimony of Dr. Lorenzo Kristov, submitted on behalf of The California Independent System Operator, page 36, Docket No. ER07-869, Exhibit No. ISO-1, May 7, 2007.

⁴⁶ *Cal. Indep. Sys. Operator Corp.*, Letter Order, 115 FERC ¶ 61,329 (2006).

east) of such revenues or costs will be a 42.9 percent (72/168) share for SCE and a 57.1 percent (96/168) share for FPL. To that end, this allocation will result in 96 MWs of Merchant CRRs, which are CRR options, in each direction between the Blythe Scheduling Point (in WAPA Lower Colorado) and the 230 kV side of the 161 to 230 kV transformer at Eagle Mountain substation. These Merchant CRRs shall be in effect for thirty years from the date the facility was energized, or the pre-specified life of the facility, which ever is shorter.

Furthermore, the proposed allocation of Merchant CRRs to FPL is just and reasonable. The CAISO's estimated that, had the CAISO been required to treat the existing facility as a new facility through the process established in Section 36.11, FPL would have been allocated the same amount of Merchant CRRs. In other words, the process in Section 36.11, would yield the same result, *i.e.*, that FPL's share of the Path 59 Upgrade's contribution to the grid transfer capacity is 57.1 percent of the total capacity and that FPL would, therefore, be entitled to the 96 MWs of Merchant CRRs options.

Accordingly, the CAISO requests that the Commission approve the proposed tariff amendment which adds a new Section 24.10.3.2 providing an exception to the general Merchant CRR allocation under Section 36.11. This exception would apply only to the Path 59 Upgrade for purposes of providing FPL with the Merchant CRRs. Once the CRRs are allocated, FPL as holder of the Merchant CRRs is subject to the same obligations and is entitled to the same rights afforded all holders of Merchant CRRs under the CAISO Tariff.

B. Stakeholder Process

Prior to presenting this proposal to stakeholders, FPL, SCE, and CAISO discussed the proposed allocation and agreed that the allocation proposed in Section 24.10.3.2 provides the appropriate treatment of the Path 59 Upgrade under MRTU. Following these discussions, on September 24, 2008, the CAISO posted to its website a discussion paper and tariff language regarding its proposed treatment of FPL's Path 59 Upgrade under the MRTU market design. In addition to summarizing the procedural history and the details of the proposed compensation mechanism, the CAISO notified Market Participants that comments on the discussion paper and proposed tariff language were due on October 17, 2008.

On October 9, 2008, the CAISO held a conference call to discuss the proposal and associated tariff language. On October 17, 2008, the CAISO received comments from the Metropolitan Water District of Southern California ("Metropolitan") and the California Department of Water Resources ("DWR").

Metropolitan expressed a concern about the effect of the CAISO's proposal upon existing agreements. Metropolitan explained that it is party to an interconnection agreement with SCE for SCE's Eagle Mountain substation. That agreement permits

either party to terminate the arrangement upon one year advance notice. Metropolitan further stated that the interconnection agreement is also subject to a comprehensive bundled agreement, the Service and Interchange Agreement, between Metropolitan and SCE, which expires in 2017 unless earlier terminated by either party upon five years' advance notice.

In light of the termination provisions of these agreements, Metropolitan maintained that the "intended life" of any Merchant CRR allocated to FPL cannot exceed one year, subject to annual one-year renewals, if no advance notice of termination has been provided for SCE's Eagle Mountain interconnection agreement or the Service and Interchange Agreement. Alternatively, Metropolitan argued that the maximum intended life of FPL's transmission facility could not exceed 2017, the year the Service and Interchange Agreement terminates pursuant its own terms. Upon such termination, Metropolitan submitted that SCE must remove its equipment from Metropolitan's property if: (1) Metropolitan has not offered SCE compensation for such equipment; or (2) a new arrangement has not been reached.

CAISO has asked the parties to consider the appropriateness of limiting the term of the Merchant CRRs as requested by Metropolitan and, to address Metropolitan's concerns, has specifically provided in the proposed Section 24.10.3.2 that the term of the Merchant CRR may be limited by the pre-specified life of the facility. Because the CAISO is not party to the lease arrangements, it is not appropriate for the CAISO to determine whether in fact the lease arrangements toll the life of the Merchant CRRs. However, given Metropolitan's concern, the CAISO has indicated that the tariff amendment as proposed would allow for the imposition of a shorter term as agreed to by the parties.

In its comments, DWR expressed that the treatment of FPL's transition from FTRs to CRRs will be precedent-setting for future qualified Project Sponsors requesting Merchant CRRs. The CAISO notes that, as fully discussed above, this filing is for the purpose of transitioning FPL's rights as an existing Project Sponsor to MRTU. Any future qualified Project Sponsors after MRTU go live will be subject to the provisions under Section 36.11 of the MRTU tariff as already approved by the Commission. In addition, DWR requested that the CAISO address certain technical issues regarding the proposed allocation of Merchant CRRs to FPL. The CAISO has contacted DWR to address these concerns and provide further clarification.

C. Specifics of the Proposal

The CAISO proposes a new MRTU Tariff Section 24.10.3.2 that provides an exception to the general allocation provisions for Path 59 as follows:

Pursuant to its Project Sponsor status, consistent with FERC's findings in Docket No. ER03-407, issued on June 15, 2006 (115 FERC ¶ 61, 329), FPL Energy, LLC shall receive Merchant CRRs associated with

transmission usage rights modeled for the Blythe Path 59 upgrade, such Merchant CRRs to be in effect for a period of thirty years, or the pre-specified intended life of the Merchant Transmission Facility, whichever is less, from the date of Blythe Path 59 was energized. For the purpose of allocating Merchant CRRs to FPL Energy, LLC over the Path 59 upgrade the allocation of Option CRRs in the import (east to west, from the Blythe Scheduling Point to the 230 kV side of the 161 kV to 230 kV transformer at the Eagle Mountain substation) as well as of Option CRRs in the export (west to east) direction will be based on 57.1 percent of the total upgrade (96 MWs out of the 168 MWs), which is FPL Energy, LLC's share of the total upgrade as approved by FERC in the Letter Order issued by FERC on June 15, 2006 in Docket No. ER03-407 (115 FERC ¶ 61,329).

IV. EFFECTIVE DATE AND REQUEST FOR WAIVER

The CAISO requests an effective date of December 31, 2008 for the amendment of the current ISO Tariff so that FPL may receive its Merchant CRRs in a timely manner, prior to the commencement of MRTU. The CAISO notes that while the allocation would take place prior to MRTU *go live*, there would be no settlement implication of such allocation until after MRTU *go live*. The tariff sheets implementing the early release of these Merchant CRRs are contained in Attachment A.

Because the proposed allocation methodology for FPL's Path 59 upgrade would continue after the effective date of the MRTU tariff, the CAISO must amend that tariff as well. These sheets are contained in Attachment C to this filing. Consistent with a decision rendered by the CAISO Governing Board on October 29, 2008, the CAISO also requests that the Commission approve the proposed changes in this amendment to the MRTU Tariff effective as of January 31, 2009, *i.e.*, one day prior to the anticipated implementation date of MRTU, February 1, 2009. However, in the unanticipated event that MRTU is implemented more than 120 days after the submittal of this Amendment, the CAISO requests waiver, pursuant to Sections 35.3 and 35.11 of the Commission's regulations,⁴⁷ in order to permit the changes to the MRTU Tariff proposed herein to become effective as of that implementation date. Granting a waiver in this instance would be consistent with the similar waivers of Section 35.3 that the Commission has granted for other MRTU-related filings.

V. EXPENSES

No expense or cost associated with this filing has been alleged or judged in any judicial proceeding to be illegal, duplicative, unnecessary, or demonstratively the product of discriminatory employment practices.

⁴⁷ 18 C.F.R. §§ 35.3, 35.11.

VI. CONTENTS OF FILING

The CAISO's compliance filing consists of this transmittal letter and the following:

Attachment A	Clean Current ISO Tariff Sheets
Attachment B	Blacklined Current ISO Tariff Sheets
Attachment C	Clean MRTU Tariff Sheets
Attachment D	Blacklined MRTU Tariff Sheets

VII. COMMUNICATIONS

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

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and Corporate Secretary
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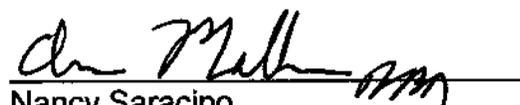
VIII. SERVICE

The CAISO has served copies of this filing on the Public Utilities Commission of the State of California, the California Energy Commission, the California Electricity Oversight Board, and all parties with Scheduling Coordinator Agreements under the CAISO Tariff. In addition, the CAISO has posted a copy of the filing on the CAISO Website and will provide courtesy copies of this filing to all parties in the MRTU proceeding, FERC Docket No. ER06-615-000, and in FERC Docket No. ER03-407.

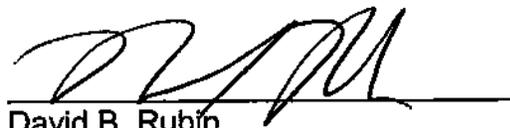
IX. CONCLUSION.

Wherefore, for the reasons expressed herein, the CAISO respectfully requests that the Commission accept the CAISO's tariff filing as proposed and as discussed herein.

Respectfully submitted,



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and Corporate Secretary
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CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically served a copy of the foregoing document on each party named in the official service list in this proceeding.

Dated at Folsom, CA this 31st day of October, 2008.

/Susan Montana/

Susan Montana

Attachment A – Clean Sheets

Transitional Merchant Transmission CRRs – Blythe Amendment Filing

Currently Effective ISO Tariff

October 31, 2008

PART I. MISCELLANEOUS SECTIONS

11.2.4.3 Payments and Charges for Monthly and Annual Auctions.

The CAISO shall charge CRR Holders for the market clearing price for CRRs obtained through the clearing of the CRR Auction as described in Section 36.13.6 of this Appendix. To the extent the CRR Holder purchases a CRR through a CRR Auction that has a negative value, the CAISO shall pay the CRR Holder for taking the applicable CRR. The CAISO shall net all revenue received and payments made through this process and shall add the net remaining seasonal and monthly CRR Auction revenue amounts (either negative or positive amounts) to the CRR Balancing Account for the appropriate month. CRR Auction revenues for each season are allocated uniformly across the three monthly accounts comprising each season.

24.7.3 Provided that the CAISO has Operational Control of the Merchant Transmission Facility, a Project Sponsor that does not recover the investment cost under a FERC-approved rate through the Access Charge or a reimbursement or direct payment from a Participating TO shall be entitled to receive Merchant CRRs as provided in Section 36.11 of this Appendix. The full amount of capacity added to the system by such transmission upgrades or additions will be as determined through the regional reliability council process of the Western Electricity Coordinating Council or its successor.

24.7.3.1 Pursuant to its Project Sponsor status as specified in Section 4.3.1.3, consistent with FERC's findings in Docket Nos. EL04-133-001, ER04-1198-000, and ER04-1198-001, issued on May 16, 2006 (115 FERC ¶ 61,178), Western Path 15 shall receive compensation associated with transmission usage rights modeled for Western Path 15. In the event that Western Path 15 has an approved rate schedule that returns excess revenue from any compensation obtained from the CAISO associated with the transmission usage rights for Western Path 15, such revenue shall be returned to the CAISO through a procedure established by the CAISO and the Western Area Power Administration for that purpose.

24.7.3.2 Pursuant to its Project Sponsor status, consistent with FERC's findings in Docket No. ER03-407, issued on June 15, 2006 (115 FERC ¶ 61, 329), FPL Energy, LLC shall receive Merchant CRRs associated with transmission usage rights modeled for the Blythe Path 59 upgrade, such Merchant CRRs to be in effect for a period of thirty years, or the pre-specified intended life of the Merchant Transmission Facility, whichever is less, from the date of Blythe Path 59 was energized. For the purpose of allocating Merchant CRRs to FPL Energy, LLC over the Path 59 upgrade the allocation of Option CRRs in the import (east to west, from the Blythe Scheduling Point to the 230 kV side of the 161 kV to 230 kV transformer at the Eagle Mountain substation) as well as Option CRRs in the export (west to east) direction will be based on 57.1 percent of the total upgrade (96 MWs out of the 168 MWs), which is FPL Energy, LLC's share of the total upgrade as approved by FERC in the Letter Order issued by FERC on June 15, 2006 in Docket No. ER03-407 (115 FERC ¶ 61,329).

Attachment B – Blacklines

Transitional Merchant Transmission CRRs – Blythe Amendment Filing

Currently Effective ISO Tariff

October 31, 2008

* * *

ISO TARIFF APPENDIX BB

* * *

PART I. MISCELLANEOUS SECTIONS

* * *

24.7.3 Provided that the CAISO has Operational Control of the Merchant Transmission Facility, a Project Sponsor that does not recover the investment cost under a FERC-approved rate through the Access Charge or a reimbursement or direct payment from a Participating TO shall be entitled to receive Merchant CRRs as provided in Section 36.11 of this Appendix. The full amount of capacity added to the system by such transmission upgrades or additions will be as determined through the regional reliability council process of the Western Electricity Coordinating Council or its successor.

24.7.3.1 Pursuant to its Project Sponsor status as specified in Section 4.3.1.3, consistent with FERC's findings in Docket Nos. EL04-133-001, ER04-1198-000, and ER04-1198-001, issued on May 16, 2006 (115 FERC ¶ 61,178), Western Path 15 shall receive compensation associated with transmission usage rights modeled for Western Path 15. In the event that Western Path 15 has an approved rate schedule that returns excess revenue from any compensation obtained from the CAISO associated with the transmission usage rights for Western Path 15, such revenue shall be returned to the CAISO through a procedure established by the CAISO and the Western Area Power Administration for that purpose.

24.7.3.2 Pursuant to its Project Sponsor status, consistent with FERC's findings in Docket No. ER03-407, issued on June 15, 2006 (115 FERC ¶ 61, 329), FPL Energy, LLC shall receive Merchant CRRs associated with transmission usage rights modeled for the Blythe Path 59 upgrade, such Merchant CRRs to be in effect for a period of thirty years, or the pre-specified intended life of the Merchant Transmission Facility, whichever is less, from the date of Blythe Path 59 was energized. For the purpose of allocating Merchant CRRs to FPL Energy, LLC over the Path 59 upgrade the allocation of Option CRRs in the import (east to west, from the Blythe Scheduling Point to the 230 kV side of the 161 kV to 230 kV transformer at the Eagle Mountain substation) as well as Option CRRs in the export (west to east) direction will be based on 57.1 percent of the total upgrade (96 MWs out of the 168 MWs), which is FPL Energy, LLC's share of the total upgrade as approved by FERC in the Letter Order issued by FERC on June 15, 2006 in Docket No. ER03-407 (115 FERC ¶ 61,329).

* * *

Attachment C –Clean Sheets

Transitional Merchant Transmission CRRs – Blythe Amendment Filing

4th Replacement Tariff (MRTU)

October 31, 2008

24.10.2 Where the need for a transmission addition or upgrade is determined by the CAISO or as a result of the CAISO ADR Procedure as set forth in subsection (3) of Section 24.1.1, the cost of the transmission addition or upgrade shall be borne by the Participating TO that will be the owner of the transmission addition or upgrade and shall be reflected in its Transmission Revenue Requirement.

24.10.3 Provided that the CAISO has Operational Control of the Merchant Transmission Facility, a Project Sponsor that does not recover the investment cost under a FERC-approved rate through the Access Charge or a reimbursement or direct payment from a Participating TO shall be entitled to receive Merchant CRRs as provided in Section 36.11. The full amount of capacity added to the system by such transmission upgrades or additions will be as determined through the regional reliability council process of the Western Electricity Coordinating Council or its successor.

24.10.3.1 Pursuant to its Project Sponsor status as specified in Section 4.3.1.3, consistent with FERC's findings in Docket Nos. EL04-133-001, ER04-1198-000, and ER04-1198-001, issued on May 16, 2006 (115 FERC ¶ 61,178), Western Path 15 shall receive compensation associated with transmission usage rights modeled for Western Path 15. In the event that Western Path 15 has an approved rate schedule that returns excess revenue from any compensation obtained from the CAISO associated with the transmission usage rights for Western Path 15, such revenue shall be returned to the CAISO through a procedure established by the CAISO and the Western Area Power Administration for that purpose.

24.10.3.2 Pursuant to its Project Sponsor status, consistent with FERC's findings in Docket No. ER03-407, issued on June 15, 2006 (115 FERC ¶ 61, 329), FPL Energy, LLC shall receive Merchant CRRs associated with transmission usage rights modeled for the Blythe Path 59 upgrade, such Merchant CRRs to be in effect for a period of thirty years, or the pre-specified intended life of the Merchant Transmission Facility, whichever is less, from the date of Blythe Path 59 was energized. For the purpose of allocating Merchant CRRs to FPL Energy, LLC over the Path 59 upgrade the allocation of Option CRRs in the import (east to west, from the Blythe Scheduling Point to the 230 kV side of the 161 kV to 230 kV transformer at the Eagle Mountain substation) as well as of Option CRRs in the export (west to east) direction will be based on 57.1 percent of the total upgrade (96 MWs out of the 168 MWs), which is FPL Energy, LLC's share of the total upgrade as approved by FERC in the Letter Order issued by FERC on June 15, 2006 in Docket No. ER03-407 (115 FERC ¶ 61,329).

24.10.4 Once a New Participating TO has executed the Transmission Control Agreement and it has become effective, the cost for New High Voltage Facilities for all Participating TOs shall be included in the CAISO Grid-wide component of the High Voltage Access Charge in accordance with Schedule 3 of Appendix F, unless and with respect to Western Path 15 only, cost recovery is provided in Section 24.7.3. The Participating TO who is supporting the cost of the New High Voltage Facility shall include such costs in its High Voltage Transmission Revenue Requirement, regardless of which TAC Area the facility is geographically located.

Attachment D – Blacklines

Transitional Merchant Transmission CRRs – Blythe Amendment Filing

4th Replacement Tariff (MRTU)

October 31, 2008

* * *

24.10.3 Provided that the CAISO has Operational Control of the Merchant Transmission Facility, a Project Sponsor that does not recover the investment cost under a FERC-approved rate through the Access Charge or a reimbursement or direct payment from a Participating TO shall be entitled to receive Merchant CRRs as provided in Section 36.11. The full amount of capacity added to the system by such transmission upgrades or additions will be as determined through the regional reliability council process of the Western Electricity Coordinating Council or its successor.

24.10.3.1 Pursuant to its Project Sponsor status as specified in Section 4.3.1.3, consistent with FERC's findings in Docket Nos. EL04-133-001, ER04-1198-000, and ER04-1198-001, issued on May 16, 2006 (115 FERC ¶ 61,178), Western Path 15 shall receive compensation associated with transmission usage rights modeled for Western Path 15. In the event that Western Path 15 has an approved rate schedule that returns excess revenue from any compensation obtained from the CAISO associated with the transmission usage rights for Western Path 15, such revenue shall be returned to the CAISO through a procedure established by the CAISO and the Western Area Power Administration for that purpose.

24.10.3.2 Pursuant to its Project Sponsor status, consistent with FERC's findings in Docket No. ER03-407, issued on June 15, 2006 (115 FERC ¶ 61, 329), FPL Energy, LLC shall receive Merchant CRRs associated with transmission usage rights modeled for the Blythe Path 59 upgrade, such Merchant CRRs to be in effect for a period of thirty years, or the pre-specified intended life of the Merchant Transmission Facility, whichever is less, from the date of Blythe Path 59 was energized. For the purpose of allocating Merchant CRRs to FPL Energy, LLC over the Path 59 upgrade the allocation of Option CRRs in the import (east to west, from the Blythe Scheduling Point to the 230 kV side of the 161 kV to 230 kV transformer at the Eagle Mountain substation) as well as of Option CRRs in the export (west to east) direction will be based on 57.1 percent of the total upgrade (96 MWs out of the 168 MWs), which is FPL Energy, LLC's share of the total upgrade as approved by FERC in the Letter Order issued by FERC on June 15, 2006 in Docket No. ER03-407 (115 FERC ¶ 61,329).

* * *