SCE appreciates the opportunity to comment on the CAISO’s “Competitive Path Assessment for MRTU Preliminary Results – Release 2”. SCE also wishes to thank the CAISO for the detailed analysis they have performed thus far, and for providing a large degree of transparency and opportunity for stakeholder input. SCE notes that the methodology for assessing competitive paths has been approved by FERC and codified in Section 39.7.2 of the MRTU tariff. We also note that it is the tariff, and not the BPMs, that must govern the process.

Although SCE is generally supportive of the approach utilized by the CAISO in this draft paper, we have several significant concerns as detailed below.

**The CAISO cannot limit its analysis to only the seven largest net suppliers in the grid**

SCE notes that the current draft assessment only looks at the seven largest net suppliers in the CAISO. Moreover, the CAISO BPM on this topic indicates they will only examine the seven largest suppliers. SCE understands the necessity of attempting to streamline the analysis process, and therefore does not object to the CAISO using only seven suppliers as part of their screening technique, nevertheless ending the analysis at this point would be a direct violation of the tariff.

Concerning the scope of pivotal suppliers, the tariff speaks clearly to this issue:

39.7.2.2 Criteria
A transmission constraint will be deemed competitive if **no three unaffiliated** suppliers are jointly pivotal in relieving congestion on that constraint. (bold added)

The tariff clearly states that “no three unaffiliated suppliers” is the correct criteria of the test. It does not provide the CAISO with discretion to only look at the impact of a small subset of suppliers (seven) when performing the test.

Thus, SCE objects to the CAISO limiting their analysis to only seven sellers. Rather, these seven sellers form a reasonable basis to perform an initial screen for competitiveness. To the extent a path fails the competitiveness test with only these suppliers the CAISO’s test is conclusive. However, to the extent a path still passes the test, the CAISO must perform additional analysis by looking at the impact of all

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2 Market Operations BPM, Attachment C, section C.8
potential suppliers that could impact results. This could be particularly important in some local areas where a small supplier may in fact be pivotal.

In conclusion, to the extent that an initial screen based solely on the large seven suppliers indicates a path is competitive, the CAISO is obligated by the tariff to look deeper at that path. The tariff requires that “no three unaffiliated suppliers are jointly pivotal” and the CAISO must satisfy this criteria before they can declare a path competitive.

The CAISO must follow prerequisite tariff requirements before it modifies its analysis based on existing contracts

On its 10/24/07 conference call on this topic, the CAISO indicated that is was sending out “surveys” to suppliers to assess if they had “tolling” contracts on any of their units. The CAISO noted they planned to follow up with related confirmation letters with purchasers.

SCE cautions against using contracts to “reduce” the effective size of a supplier. While ownership is a relatively static attribute, contracting is extremely dynamic, and moreover the degree of control transferred, as well as the incentives of the seller are all contract specific and can be nuanced and far more complex than can be revealed via a “survey”.

We note that the initial Feasibility Index results are intended to be in place for a full year. Thus, if the terms of a contract change within that year, unless the CAISO is immediately notified of the change and the CAISO performs revised analysis based on the change, the determination of the competitive paths may be incorrect and in violation of the tariff. Thus, unless there is a compelling and demonstrated reason to do otherwise, the CAISO analysis should determine the size of a seller based on ownership, rather than contracts.

Moreover, the CAISO’s Tariff is not silent on this issue, and the threshold for determining existing contracts is significantly higher than a simple “survey”.

The tariff states in part:

39.7.2.4 Feasibility Index

…The portfolio of each supplier will be based on ownership information available to the CAISO, taking into account any material transfer of sufficient length that the transfer of control could have persistent impact on the relative shares of supply within the CAISO Control Area. These transfers of control will be utilized in the assessment as provided to the CAISO by the supplier reflecting its triennial filing with FERC for market-based rate authority. (bold added)

Thus the Tariff requires contract verification consistent with what the owner has filed with FERC as part of its market based rate (MBR) process. SCE notes that these triennial filings are periodically updated when a net transfer of “control” exceeds a 100MW threshold.
As a result, consistent with the FERC process for MBR, the minimum threshold that should be met before the CAISO excludes supply based on an existing contract is that the owner has indicated to FERC that they have transferred “control” to a different party. Moreover, because the FERC MBR process has both timing, and net-transfer conditions, simply relying on static FERC MBR data will not ensure the CAISO is complying with the tariff requirements in section 39.7.2.2. That is, a contract may change such that the FERC MBR information update process is not triggered, but in the meantime the contract change would fundamentally change the CAISO’s assessment of if a path is competitive based on section 39.7.2.2.

As a result, SCE urges the CAISO to comply with all aspects of its tariff prior to making adjustments based on contracts. Only contracts that have already been filed as part of the FERC MBR process should be eligible, and only when the supplier indicates they no longer have “control” over the resource. Moreover, the term of the contract should span the entire 1st year of MRTU operations to be eligible. In addition, prior to reducing the size of a supplier’s portfolio based on such contracts, the impacted supplier should be obligated to immediately notify the CAISO of any change in contract status, even if such notification is not required based on FERC’s MBR process.

In summary, SCE is concerned about inappropriate reductions of supplier portfolios based on existing contracts. The contracting process is complex, and each contract will provide unique incentives to both the buyers and sellers. Because of this complexity, the CAISO must adopt a high standard prior to reducing the size of a supplier’s portfolio based on existing contracts. Per the tariff, the seller must have demonstrated transfer to the FERC as part of the MBR process before the CAISO considers such an exemption. In addition, the CAISO should require such suppliers to immediately notify the CAISO if there are any changes in the contract after the original FI determination.

SCE appreciates the opportunity to provide comments on this important issue. We look forward to working with the CAISO on future revisions to their analysis.

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3 That is, sellers have 30 days to report a change in status if their net position (amount of operational control) increases by 100MW of more.