UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	)	Docket No. ER99-3289-000

ANSWER OF CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO MOTIONS TO INTERVENE, MOTION FOR CONDITIONAL ACCEPTANCE, REQUEST FOR CLARIFICATION COMMENTS AND PROTESTS

I. INTRODUCTION AND SUMMARY

On June 17, 1999, the California Independent System Operator Corporation ("ISO") filed Amendment No. 17 to the ISO Tariff.[1] Amendment No. 17 proposed a variety of modifications to the ISO Tariff, including the following: a) changes related to the *pro forma* Participating Load Agreement ("PLA") submitted with the amendment; b) changes to clarify the Outage Coordination Protocol in several respects; c) changes to expand the options available to Scheduling Coordinators to satisfy financial criteria established by the ISO Tariff; d) changes to the Grid Management Charge ("GMC") formula to remove a schedule of telecommunications charges; e) changes to the ISO Tariff and the Grid Management Charge formula to add recovery mechanisms for Western Systems Coordinating Council ("WSCC") fines; f) changes to the

[1] Capitalized terms not otherwise defined herein are used in the sense given in the Master Definitions Supplement, Appendix A to the ISO Tariff.

allocation of the Regulation Energy Payment Adjustment ("REPA"); g) changes to the ISO Payment Calendar; and h) changes to the Dispatch Protocol to conform a provision of the protocol to the ISO's actual practices. In accordance with the Notice of Filing issued on June 22, 1999, a number of interventions were filed on or before July 7, 1999, some of which included comments on or protests of Amendment No. 17.

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213, the ISO submits its Answer to the Motions to Intervene, Motion for Conditional Acceptance, Request for Clarification, Comments and Protests submitted in the above-captioned docket. As explained below, the ISO does not oppose the intervention of any of the parties that have sought leave to intervene in this proceeding. The opposition and requests for substantive modifications of some parties to portions of Amendment No. 17 and the *pro forma* Participating Load Agreement, however, are unsupported. As discussed below, the ISO has committed to make certain non-substantive modifications to portions of Amendment No. 17 and the *pro forma* Participating Load Agreement. The Commission should accordingly accept Amendment No. 17 and the *pro forma* Participating Load Agreement without condition or substantive modification.

II. BACKGROUND

A. Amendment No. 17

In Amendment No. 17, the ISO proposes a number of modifications to the ISO Tariff which are the products of various stakeholder processes conducted over many months. Prior to the filing of Amendment No. 17 with the Commission, these modifications had been presented for public review by stakeholders and participants in the California electricity markets and had been approved by the ISO Governing Board.

Amendment No. 17 includes Tariff changes necessary to implement and encourage participation of Load-based resources in ISO markets in connection with the development of a Participating Load Agreement. The *pro forma* Participating Load Agreement was developed as part of the ISO's redesign of its Ancillary Service markets and was submitted with Amendment No. 17. Amendment No. 17 also includes Tariff changes which describe how the ISO will recover WSCC fines, including those fines which might be assessed under the WSCC's Reliability Management System ("RMS"). Other Tariff changes would eliminate a schedule of separate telecommunications charges to Scheduling Coordinators and would include telecommunications costs as an expense to be recovered through the ISO's Grid Management Charge ("GMC"). Amendment No. 17 revises the ISO settlement payments calendar to extend the current cycle by up to two weeks and to shift to a Business Day-based calendar. Other changes will eliminate certain final approval requirements on the day of an Approved Maintenance Outage for Participating Generators (other than

Reliability Must-Run Units). In addition, Amendment No. 17 would change a provision of the ISO Tariff governing the allocation of REPA charges so that such allocation will be consistent with the allocation of charges for capacity associated with Regulation. Amendment No. 17 also slightly revises a portion of the ISO Dispatch Protocol to reflect actual operating experience related to the issuance of Dispatch Instructions. Lastly, Amendment No. 17 includes Tariff changes which expand the options available for Scheduling Coordinators to satisfy certain financial criteria.[2]

B. Interventions

A notice of intervention was filed by the Public Utilities Commission of the State of California ("CPUC") and motions to intervene were filed by a number of parties.[3]

Most intervenors indicated support for the majority of the changes proposed in Amendment No. 17. Many of the intervenors, however, accompanied their interventions with Comments and/or Protests to portions of Amendment No. 17. One intervenor requests clarification of certain issues before supporting approval of one aspect of Amendment No. 17, while

[2] No intervenor opposes or offers any substantive comment on this aspect of Amendment No. 17 other than to support it.

[3] Timely motions to intervene were filed by California Department of Water Resources ("DWR"); California Electricity Oversight Board ("Oversight Board"); California Power Exchange ("PX"); Electric Clearinghouse, Inc. ("ECI"); Enron Power Marketing, Inc. ("Enron"); Metropolitan Water District of Southern California ("MWD"); Modesto Irrigation District ("Modesto"); Northern California Power Agency ("NCPA"); Pacific Gas and Electric Company ("PG&E"); the Cities of Redding and Santa Clara, et al. ("Redding"); Sacramento Municipal Utility District ("SMUD"); San Diego Gas & Electric Company; Southern California Edison Company ("SCE"); City and County of San Francisco; Transmission Agency of Northern California ("TANC"); Turlock Irrigation District; and Western Area Power Administration. A motion for leave to intervene out of time was filed by Reliant Energy Power Generation, Inc. ("Reliant").

another moves that the Commission's acceptance of another aspect of the Amendment be subject to certain conditions.

The ISO does not oppose the intervention of any of the parties that have sought leave to intervene. The ISO does not believe, however, that any of the substantive challenges to Amendment No. 17 or any of the proposals for substantive modification of the proposed Tariff changes or the *pro forma* Participating Load Agreement have merit. The ISO does agree to make certain non-substantive modifications to the proposed Tariff changes and the *pro forma* Participating Load Agreement, which are described below. As further explained below, the ISO does not believe that conditional acceptance of any component of Amendment No. 17 is supported or that further clarification is necessary for the Commission to act on Amendment No. 17.

III. ANSWER TO COMMENTS AND PROTESTS[4]

A. The *Pro Forma* Participating Load Agreement is an Appropriate Mechanism for Facilitating the Participation of Load-based Resources in ISO Ancillary Service Markets While Maintaining Requirements Necessary to Ensure Reliability.

The ISO is committed to increase the demand-side participation in the ISO-administered markets. The ISO Tariff, as currently in effect, contemplates

[4] Some of the intervenors commenting substantively on Amendment No. 17 do so in portions of their pleadings variously styled as "Comments" or "Comments and Protest," without differentiation. There is no prohibition on the ISO's responding to the comments in these pleadings. The ISO is entitled to respond to these pleadings and requests notwithstanding the label applied to them. *Florida Power & Light Company*, 67 FERC ¶ 61,315 (1994). In the event that any portion of this answer is deemed an answer to protests, the ISO requests waiver of Rule 213 (18 C.F.R. §385.213) to permit it to make this answer. Good cause for this waiver exists here given the nature and complexity of this proceeding and the usefulness of this answer in ensuring the development of a complete record. *See, e.g., Enron Corporation*, 78 FERC ¶ 61,179 at 61,733, 61,741 (1997); *El Paso Electric Company*, 68 FERC ¶ 61,181 at 61,899 & n.57 (1994).

that Loads may participate in Ancillary Service markets. To date, however, the participation of Loads in these markets, which has the potential to increase the amount of capacity available, has been hampered by the absence of a form of agreement that would set forth the terms and conditions that would govern a Load's provision of Ancillary Services. It also has been hampered by the need for additional communications and metering standards and retail regulatory approval that would permit participation by aggregated Loads.

In February of this year, the ISO Governing Board approved, in concept, the development of a *pro forma* Participating Load Agreement as part of the ISO's efforts to increase the amount of Ancillary Service capacity upon which it may draw.[5] Since then, the ISO has engaged in an ongoing process with interested stakeholders which led to the development of the *pro forma* Participating Load Agreement submitted in this proceeding. A number of meetings concerning both the *pro forma* Agreement and the associated Tariff changes took place from early April until shortly before the June 17 submission of Amendment No. 17.[6] Market Participants were given the opportunity to provide input on key issues related to the PLA in these meetings, including questions concerning metering, telemetry, communications, certification, testing and other requirements. The goal of these meetings was to achieve an appropriate balance between the ISO's need to establish the necessary requirements for Loads providing Ancillary Services in order to ensure reliability and the need to

[5] The ISO's commitment to develop such an agreement was discussed in the March 1, 1999 transmittal letter in Docket No. ER99-1971 describing the first phase of the ISO's redesign of its Ancillary Service markets.

[6] A table summarizing these meeting is provided as Attachment A to this Answer.

make participation of Load in the ISO-administered markets economically attractive. The Participating Load Agreement developed through that process serves a purpose analogous to the ISO's Participating Generator Agreements, which establish certain requirements for Generators providing Ancillary Services or Energy in the ISO-administered markets.

All intervenors commenting on this issue generally support the ISO's efforts to encourage the participation of Load in its markets and to develop a *pro forma* Agreement in connection with these efforts.[7] One intervenor, however, objects to the aspects of the ISO's proposal which require that Participating Loads be subject to metering requirements (as ISO Metered Entities) and direct communication requirements.[8] Enron states that the ISO's approach fails to take into account the development of a demand responsiveness market at the California retail level and that the ISO's proposal to establish certain requirements for Loads providing Ancillary Services will "crush" the developing California retail market.[9]

These concerns are misplaced at best and grossly overstated at worst. Loads are already free to provide Supplemental Energy bids in the ISO's Imbalance Energy market. There are also substantial opportunities in California for Utility Distribution Companies and Energy Service Providers to develop programs that encourage demand responsiveness and that do not depend on the ability of Loads to provide Ancillary Services in ISO-administered markets. The

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7 CPUC at 2; MWD at 9; and SCE at 1.

8 Enron at 3-5.

9 *Id.* at 4.

ISO has no role in establishing the standards for Loads to participate in demand responsiveness programs developed by a Utility Distribution Company or Energy Service Provider. The ISO merely has established standards for those Loads that seek to provide Ancillary Services in ISO markets.

As the Commission is aware, the ISO's Ancillary Service markets are fundamental component of the tools used by the ISO in fulfilling its responsibility to ensure the reliability of the ISO Controlled Grid. It is therefore critical that the initial mechanisms established for the participation of Loads in those markets have appropriate safeguards, such as the metering, telemetry and communications standards reflected in the *pro forma* Participating Load Agreement.

The ISO is also engaged in efforts to expand the opportunities for Load-based participation in ISO's Ancillary Services markets. For example, the ISO is considering alternate standards for metering, telemetry and communication for Loads, and is developing standards for the aggregation of Loads. Information from Market Participants has been requested on several occasions in support of these efforts, and the ISO is continuing to solicit any information Market Participants can provide that will assist the ISO is designing technical standards for expanded participation by Loads that may be unable to meet existing requirements.

Most intervenors recognize the appropriateness of the standards initially established for the participation of Loads in the Ancillary Service markets. For example, PG&E notes that the metering and communication requirements *pro*

forma Agreement and related Tariff changes may at first limit the ability of certain Loads to participate in the ISO's Ancillary Service markets, but recognizes that this is a reasonable initial approach.[10]

B. The Tariff Provisions Related to the Participation of Load in ISO Markets are Appropriate and Provide the ISO the Necessary Authority to Ensure Reliability.

Several intervenors express concerns about an existing Tariff provision concerning Load curtailment and a reference to this provision in the *pro forma* Participating Load Agreement.[11] Section 2.3.2.8.2 of the ISO Tariff states that "[t]he ISO, at its discretion, may require direct control over . . . Curtailable Demand to assume response capability for managing System Emergencies." Section 4.7 of the *pro forma* Participating Load Agreement is intended to provide a cross-reference to this provision of the Tariff. The ISO has not proposed any revisions to this portion of Section 2.3.2.8.2 in Amendment No. 17. Any comments on this provision are therefore simply outside the scope of this docket. Moreover, no intervenor has demonstrated that the existing provision is an unreasonable or unnecessary tool to use in ensuring the reliability of the ISO Controlled Grid.

Nonetheless, the ISO will briefly explain why the requested revisions to Section 2.3.2.8.2 are unnecessary and inappropriate. DWR expresses concerns that its large, centrally-dispatchable pumping stations should not be subject to direct control from the ISO because they are an integral part of the State Water

[10] PG&E at 3. PG&E requests that the Commission encourage the ISO to "liberalize" the requirements for participation of Load in ISO markets as soon as feasible based on the ISO's experience. As explained above, the ISO is already engaged in such efforts.

[11] MWD at 11; DWR at 1-5; and SCE at 2-3.

Project. These stations are subject to other regulatory requirements and must be turned off and on in a coordinated manner. DWR suggests revisions to Section 2.3.2.8.2 which would prevent the ISO from requiring direct control of a resource where a Curtailable Demand is under a Participating Load's centralized control or where such direct control could endanger public health and safety.[12]

The proposed revisions are unnecessary. Section 2.3.1.2.1 of the Tariff already requires Market Participants to comply with all ISO operating orders "unless such operation would impair public health or safety." The Commission approved this provision in its October 30, 1997 Order conditionally approving ISO operations and stated "we believe it is essential that participants follow all orders given by the ISO unless they would result in impairment to public health or safety, since otherwise the ISO would be unable to effectively manage and control the ISO Controlled Grid."[13] There is also no need to revise Section 2.3.2.8.2 to add a "good cause shown" standard for the ISO's discretion to exercise its authority under that provision, as suggested by DWR. The ISO is already subject to a "Good Utility Practice" standard, and there is no need to add an additional, undefined standard to the exercise of the ISO's discretion.

Section 4.7 was included in the *pro forma* Participating Load Agreement to provide a reference to the ISO's existing authority under Section 2.3.2.8.2 of the ISO Tariff and thereby to clarify for signatories their responsibilities. MWD suggests that there is some inconsistency between Section 2.3.2.8.2 and the

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12 DWR at 4-5.

13 *Pacific Gas and Electric Co., et al.* 81 FERC ¶ 61,122 at 61,456-57 (1997).

reference in Section 4.7 of the PLA.[14] DWR suggests revisions to Section 4.7 similar to the Tariff changes discussed above.[15] SCE suggests revisions to Section 4.7 that would address the possibility of exemptions from communications standards.[16] In light of these various comments, Section 4.7 apparently does not clarify the responsibilities of Participating Loads, as intended. Although it would have no substantive effect, the ISO would agree to delete Section 4.7 of the *pro forma* Participating Load Agreement. Because Section 4.7 simply refers to the ISO's existing authority under the Tariff, it is redundant and can be deleted without any impact on the application of the Participating Load Agreement. The ISO believes its existing authority under Section 2.3.2.8.2 of the Tariff is clear and that there is no need for a cross-reference in the PLA.

Only one intervenor submitted comments on proposed changes to the ISO Tariff in Amendment No. 17 related to the Participating Load Agreement. TANC seeks clarification of the revisions to Tariff Section 2.3.2.8.2 which concern restrictions on the provision of Curtailable Demand by non-firm Loads. That provision, as revised, establishes that non-firm Loads which are receiving incentives for interruption under existing programs approved by a Local Regulatory Authority shall not be eligible to provide Curtailable Demand unless:

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[14] MWD at 10-11.

[15] DWR at 5.

[16] SCE at 3. SCE's comments with respect to possible exemptions of metering and communications standards for Participating Loads are discussed further below.

> a) participation in the ISO's Ancillary Services markets is specifically authorized by such Local Regulatory Authority, and b) there exist no contingencies on the availability, nor any unmitigated incentives encouraging prior curtailment, of such interruptible Load for Dispatch as Curtailable Demand as a result of the operation of such existing program.

TANC requests that the ISO explain what is meant by the term "unmitigated incentives" in this provision.[17]

This language was added to prevent a circumstance where an interruptible Load has a greater incentive to comply with an interruption that would be called under its retail tariff than it would to curtail at the direction of the ISO, and thereby fail to preserve the Ancillary Service capacity procured by the ISO. For example, if a Load is penalized $8,000/MW for failing to interrupt in accordance with a retail tariff, and if the risk for failing to maintain the Load as required by bids into the ISO's Ancillary Service markets is $250/MW, then the Load would have an "unmitigated incentive" to curtail contrary to its obligation to maintain the capacity represented by that Load in accordance with its bid into the ISO Ancillary Service markets. This concept was discussed with stakeholders in the development of the *pro forma* Participating Load Agreement and the related Tariff revisions. The ISO is currently working with stakeholders to develop appropriate mitigation mechanisms for such a Load that wishes to participate in the ISO's Ancillary Service markets.

C. The Provisions of the *Pro Forma* Participating Load Agreement and Associated Tariff Revisions Establish Reasonable Requirements for Load-based Resources Seeking to Participate in ISO Markets.

[17] TANC at 8-9.

As explained above, the ISO has included certain metering and communications requirements in the *pro forma* Participating Load Agreement in order to ensure that the appropriate safeguards are in place for Loads which will provide Ancillary Services in the ISO-administered markets. One intervenor, SCE, explains that it has contractual rights to certain Loads, under which it has already been bidding Ancillary Services in the ISO markets, but which do not give SCE the right to install additional meters. SCE suggests revisions to Sections 4.2.1 and 4.2.2 of the *pro forma* Agreement which would state that those requirements can be waived if existing facilities can provide data to verify Load interruption and if those existing metering facilities can provide data which is substantially the same as the equipment which would be required by the ISO's communication and metering requirements.[18]

The ISO does not believe that the proposed revisions to the Participating Load Agreement are necessary. A Participating Load will be an ISO Metered Entity. Pursuant to Section 10.5.2 of the ISO Tariff, the ISO already has the authority to grant exemptions from ISO metering standards. Indeed, the ISO has already exercised its authority to grant temporary waivers of communications and metering requirements with respect to a number of Participating Generators. Given the ISO's explicit authority to grant such waivers, there is no need to add additional and redundant references in the PLA. The ISO will work with any Participating Load that believes it needs to seek a temporary waiver of ISO metering and communication requirements.

[18] SCE at 2-3.

SCE requests the addition of a sentence to Section 6.1 of the *pro forma* Participating Load Agreement which would state: "Nothing in this provision shall alter the provisions of an existing contract regarding the allocation of operating and maintenance costs."[19] This change is also unnecessary. Nothing in this provision could be read as affecting the terms of an existing agreement. Moreover, the ISO is already subject to numerous provisions which prevent it from upsetting the terms of existing agreements.[20]

Another intervenor objects to the second sentence of Section 4.5 of the *pro forma* Agreement, which explicitly incorporates, by reference, the ISO Tariff into the Participating Load Agreement. MWD contends that this sentence contradicts the first sentence of Section 4.5, which requires that Participating Loads comply with all applicable provisions of the ISO Tariff. MWD also argues that the ISO should be required to identify those Tariff provisions it intends to enforce against Participating Loads.[21]

The two sentences in Section 4.5 of the Participating Load Agreement are not contradictory, but rather complement one another. This provision is intended to make it clear that Participating Loads are subject to the entire ISO Tariff as it is currently in effect and may be revised from time to time. For example, the ISO has agreed to delete Section 4.7 of the *pro forma* Participating Load Agreement in this Answer because Participating Loads are already subject to the existing provisions of Section 2.3.2.8.2 of the ISO Tariff. Language similar to that in

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19 SCE at 4.

20 *See, e.g.,* Section 2.4.4 of the ISO Tariff.

21 MWD at 9-10.

Section 4.5 of the PLA is included in other jurisdictional agreements filed with the Commission, such as the Participating Generator Agreement. Identifying all Tariff provisions which are applicable to Participating Loads would be contrary to the intent of this provision, not to mention needlessly laborious.

Another intervenor, TANC, objects to the requirement in Section 4.4 of the *pro forma* Agreement that a Participating Load must provide the ISO with sixty days' prior notice before a proposed change to the technical information set forth in Schedule 1 to the Agreement, and suggests that thirty days would be a more appropriate notice period.[22] While the notice period is, in part, necessary to ensure that the ISO has sufficient time to make the necessary operating adjustments related to such a change of technical information, the primary reason for the sixty-day period is to ensure that revisions to Schedule 1 can be submitted to the Commission sixty days in advance of a proposed change to Schedule 1. Schedule 1 of the Participating Load Agreement is intended to contain technical information analogous to that contained in Schedule 1 of various Participating Generator Agreements. The Commission has directed the ISO to submit changes to Schedule 1 of the Participating Generator Agreements as a Section 205 filing.[23] In fact, TANC was one of the parties commenting on the Participating Generator Agreements that requested that Schedule 1 be submitted in a 205 filing.[24]

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22 TANC at 9.

23 *See California Independent System Operator Corp.*, 82 FERC ¶ 61,174 at 61,622 (1998).

24 *See* January 16, 1998 Motion to Intervene of TANC in Docket No. ER98-992 at 9.

TANC also requests clarification of what technical information would be required to be included in Schedule 1.[25] The ISO expects that this information will be analogous to the information included in Schedule 1 of the Participating Generator Agreements, numerous examples of which have been filed with the Commission. The ISO is still working with interested stakeholders to determine exactly what technical information will be included in individual Participating Load Agreements. The ISO encourages the participation of TANC and other Market Participants in these efforts. The individual PLAs, including the Load-specific Schedule 1, will be filed with the Commission. Parties will have an opportunity to comment on the information contained in Schedule 1 of those agreements in the resulting Commission dockets.

Lastly, TANC suggests that the *pro forma* Participating Load Agreement should have operating instructions similar to those set forth in Participating Generator Agreements.[26] Participating Generator Agreements do not include operating instructions, however. The ISO intends to include a level of detail in the PLAs similar to that set forth in the Participating Generator Agreements.

D. Amendment No. 17 Provides the ISO With Appropriate Recovery Mechanisms for WSCC Fines.

As explained in the Amendment No. 17 transmittal letter, the ISO has proposed amendments to two ISO Tariff provisions in order to provide recovery mechanisms for fines which might be imposed on the ISO in connection with the WSCC Reliability Management System. The Commission approved the implementation of the RMS on an experimental basis in a declaratory order

[25] TANC at 9.

issued on April 14, 1999.[27] The RMS would permit the WSCC to impose sanctions, including monetary fines, upon transmission operators such as the ISO if those transmission operators fail to comply with certain reliability criteria.

The ISO believes that the advent of the RMS will increase the likelihood that actions by Market Participants or the ISO might occasion a fine from the WSCC. Prior to submission of Amendment No. 17, the ISO Tariff included no mechanism for the recovery of WSCC fines. The ISO has entered into an arrangement with the WSCC, whereby the ISO would not be subject to RMS fines until Tariff amendments providing for such a recovery mechanism go into effect. Those mechanisms are included as part of Amendment No. 17. To the extent that the ISO reasonably determines that all or a portion of a penalty is attributable to the actions or inactions of a Market Participant, the ISO would assign that portion of the penalty to the Scheduling Coordinator representing the Market Participant, subject to ADR. If the ISO is unable to determine that all or a portion of a WSCC fine or penalty is attributable to such Market Participants, the ISO would include such penalties as a component of the operational costs to be recovered through the Grid Management Charge ("GMC").

1. The Direct Assignment of WSCC Fines

Most intervenors support the Tariff revisions which permit recovery of WSCC fines that are attributable to the action or inaction of a Scheduling Coordinator.[28] One intervenor, Redding, suggests that the ISO should eliminate language in Section 2.5.26.5 which would limit the actions or inactions which

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[26] *Id.* at 9-10.

[27] *Western Systems Coordinating Council*, 87 FERC ¶ 61,060 (1999).

subject a Market Participant to assignment of a WSCC penalty to actions or inactions "contrary to an operating order or Dispatch Instruction from the ISO."[29] The ISO believes that this is a valid comment. Market Participants could engage in actions or inactions which are not necessarily contrary to an ISO operating order or Dispatch Instruction, but which are otherwise prohibited and which lead to assessment of a WSCC fine against the ISO. For example, a Generator could cause the ISO to incur such a fine by failing to meet the applicable performance standards in Section 5.4 of the ISO Tariff. The ISO therefore offers the following clarifying changes to Section 2.5.26.5 to be submitted in a compliance filing in this docket:

> **2.5.26.5** If the ISO determines that ~~actions or inactions~~non-compliance of a Load, Generating Unit, or System Resource~~, which are contrary to~~ with an operating order or Dispatch instruction from the ISO, or with any other applicable technical standard under the ISO Tariff, cause~~s~~ or exacerbate~~s~~ system conditions for which the WSCC imposes a penalty on the ISO, then the Scheduling Coordinator of such Load, Generating Unit, or System Resource shall be assigned that portion of the WSCC penalty which the ISO reasonably determines is attributable to such ~~actions or inactions~~ non-compliance, in addition to any other penalties or sanctions applicable under the ISO Tariff.

Redding also suggests that entities such as Participating Sellers and others should be included in the list of entities against which WSCC fines can be directly assigned under Section 2.5.26.5.[30] The ISO believes that the entities whose actions or inactions would lead to the assessment of WSCC fines (*e.g.*, Loads, Generating Units, or System Resources) will be represented by a Scheduling Coordinator or will themselves be a Scheduling Coordinator. For

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[28] *See, e.g.,* SMUD at 4-5.

[29] Redding at 8.

example, Participating Sellers must be represented by a Scheduling Coordinator. Scheduling Coordinators are therefore the appropriate group against whom to assess WSCC fines.

Two intervenors request that the Commission direct the ISO to provide additional detail on the procedures it intends to use to implement Section 2.5.26.5[31] WAPA specifically requests clarification concerning the time frame in which the ISO will identify a Scheduling Coordinator potentially responsible for WSCC fines, the extent to which the ISO will challenge such fines before the WSCC, and the opportunity of third parties to participate in the ISO's determination of whether to seek recovery from a Scheduling Coordinator.

The requested level of detail is unnecessary for the Commission to act on the proposed Amendment. The Tariff language is clear as to the authority the ISO will be able to exercise to assess fines or portions of fines against Scheduling Coordinators. No Market Participant contends that Scheduling Coordinators should not be subject to such an assessment. There is no need for the ISO to explain how this authority will be exercised under every set of circumstances.

The ISO nonetheless commits to develop, through a public stakeholder process, an Operating Procedure which will describe the process the ISO will undergo in determining whether to assess WSCC fines against a Scheduling Coordinator. Through this process, the ISO will be able to take into account the comments of all interested stakeholders. This process will also permit the ISO to

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30 *Id.*

31 TANC at 7-8 and WAPA at 4-6.

gain an additional understanding of how the RMS will be implemented as it develops this Operating Procedure.[32] The Operating Procedure developed through this process will then be posted on the ISO Home Page.

In approving the ISO's proposal in Amendment No. 14 to establish communications and control standards for Generators providing Regulation service, the Commission ruled that the ISO need not incorporate performance standards for Generators providing such service into the ISO Tariff.[33] The Commission accepted the ISO's proposal to post information related to these requirements on the ISO Home Page. The Commission should recognize that similar principles apply here and permit the ISO to publicize the details of how it will assess WSCC penalties in the Operating Procedure to be developed through the stakeholder process described above.

PG&E notes that the ISO does not propose a mechanism for a Scheduling Coordinator to apportion fines assessed against it to a Generator that is at fault.[34] The ISO does not believe that this a question which would be appropriate or even feasible for the ISO to address. The ISO's role in this process is limited to assessing the penalties or portions thereof to the appropriate Scheduling Coordinators. Any arrangement for the apportionment of such penalties between individual Scheduling Coordinators and the entities they represent is a matter to be arranged between those parties.

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[32] As the Commission has recognized, implementation of RMS itself is currently in the "experimental" stage.

[33] *AES Redondo Beach, L.L.C., et al.*, 87 FERC ¶ 61,208 at 61,816 (1999).

[34] PG&E at 4.

PG&E also proposes the deletion of a reference to "other penalties or sanctions applicable under the ISO Tariff" in Section 2.5.26.5 because "there currently are none."[35] This statement is simply incorrect. The ISO Tariff currently provides for a variety of other penalties and sanctions. For example, Section 2.5.26.1 provides for the assessment of penalties against a Scheduling Coordinator that represents Generating Units or Curtailable Demands that fail availability tests. There is therefore no justification for the requested deletion.

2. The Recovery of Unassignable WSCC Fines

Intervenors submitted a range of comments on the ISO's proposal to recover those WSCC penalties not directly assignable to a Scheduling Coordinator through the GMC. As explained in the Amendment No. 17 transmittal letter, the ISO would do so by adding a provision for "Penalties" to be included as a component of "Operating Expenses" in the GMC rate formula set forth in Appendix F of the ISO Tariff. The CPUC suggests that, in order to be consistent with the ISO's explanation in the June 17 transmittal letter that WSCC fines will only be recovered in the GMC to the extent they cannot be directly assigned to Scheduling Coordinator, the definition of "Penalties" in the GMC formula should be revised by adding the phrase "which the ISO cannot reasonably determine is attributable to the action or inaction of a Market Participant."[36] Redding offers a similar revision to Section 2.5.26.5 which would state that the ISO will only assess WSCC fines through the GMC if it is unable, after the exercise of "best efforts or due diligence," to identify the entity

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35 *Id.* at 3.

36 CPUC at 2-4.

responsible for the WSCC fines.[37] TANC similarly suggests that the GMC formula should state that only those costs not directly attributable to a Scheduling Coordinator are to be included in the WSCC penalties collected through the GMC.[38]

The ISO believes it is appropriate to modify the proposed revisions to Appendix F of the ISO Tariff to clarify that the ISO will only collect through the GMC those WSCC fines that it cannot directly assign to a Scheduling Coordinator. The ISO therefore commits to make the following revisions to the definition of "Penalties" in the GMC formula in a compliance filing to be submitted in this docket:

> Penalties - payments by the ISO for penalties or fines incurred for violation of WSCC reliability criteria (Account 426.3) <u>that cannot be reasonably assigned and recovered pursuant to Section 2.5.26.5.</u>

A number of intervenors express concerns that the mechanism which permits the ISO to recover WSCC fines through the GMC will provide the ISO with a disincentive to assign fines to individual Scheduling Coordinators.[39] NCPA contends that Market Participants who comply with ISO requirements should not be subject to a share of WSCC fines just because apportionment or collection from the responsible parties may be difficult.[40] Redding argues that the ISO

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[37] Redding at 9.

[38] TANC at 7. TANC also suggests that stakeholders have not had an opportunity to consider the magnitude of the costs involved with the ISO's proposal "because this issue has not been discussed in any stakeholder process. " *Id.* The ISO notes that the assessment of those WSCC fines which could not be directly assigned to Market Participants through the GMC was discussed in an April 27, 1999 Memorandum to the ISO Governing Board on the ISO's quarterly Tariff filing, which was posted on the ISO Home Page. The ISO also notes that information about these proposals was presented to Market Participants at the public Market Issues Forum on May 12, 1999. The ISO believes stakeholders had ample opportunity to comment on these proposals.

[39] *See* PG&E at 4 and WAPA at 6.

[40] NCPA at 3.

should propose another mechanism, such as the Neutrality Adjustment, which would assign those WSCC penalties which cannot be assessed against individual Scheduling Coordinators to a different range of entities which Redding contends could be a group of entities which are "more likely" to be responsible for unassignable ISO WSCC penalties.[41]

First, the ISO already has a very strong incentive to ensure that WSCC fines are directly assigned to Scheduling Coordinators who can reasonably be determined to be responsible for such fines - reduction of the overall GMC. Reduction of the GMC will encourage broader participation in ISO-administered markets and is supported by virtually every Market Participant. As explained below, any WSCC fines included in the GMC will be subject to substantial stakeholder scrutiny through the GMC budgeting process.[42]

In addition, as a not-for-profit entity, all costs incurred by the ISO, including WSCC penalties assessed against the ISO, must be recovered from entities participating in the ISO markets through some recovery mechanism. To the extent the ISO can reasonably ascertain that Market Participants are responsible for some or all of a penalty, the ISO is committed to assigning related costs to the Scheduling Coordinator for such Participants. This commitment is demonstrated by the modifications to the proposed Tariff provisions that the ISO has agreed to make in this Answer. The ISO must, however, have a mechanism for recovering those costs which cannot be directly assigned to an individual Scheduling Coordinator. Certain intervenors seem unwilling to accept this basic

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41 Redding at 9.

42 An additional incentive, related to ISO "bonus" compensation, is discussed below.

fact. Thus, although NCPA expresses concern about the possibility that Market Participants who have not been shown to have violated ISO or WSCC standards might share even a small portion of WSCC fines, it does not propose an alternative recovery mechanism. Similarly, Redding's comments appear to suggest that the ISO should recover such unassignable WSCC fines from a nebulous subset of Market Participants that "might" be responsible for the fines through some undefined mechanism. It goes without saying that such an approach would lead to substantial dispute as to who should be included in that subset.

The approach proposed by the ISO in Amendment No. 17 is reasonable. Those fines and penalties that the ISO can reasonably determine are attributable to Market Participants are assigned to those Participants through their Scheduling Coordinators. Any remaining WSCC fines and penalties represent costs the ISO has incurred while fulfilling its responsibility of ensuring the reliability of the ISO Controlled Grid. The only equitable distribution of those costs is recovery of those costs from all Market Participants through the existing mechanism of the GMC.

Two intervenors suggest that recovery of unassignable WSCC fines through the GMC would require Market Participants to "indemnify the ISO against its own negligence."[43] MWD proposes either that the GMC rate formula be modified to exclude WSCC fines due to ISO negligence, which fines could then be paid for by funds currently set aside for ISO management bonuses, or that

[43] ECI at 6-9 and MWD at 8-9.

WSCC fines should only be collected through the GMC upon express approval by the ISO Governing Board. These objections are unfounded and MWD's proposed modifications are unnecessary and inappropriate.

First, the ISO is not seeking indemnification from third parties from the consequences of its own negligence. The ISO's proposes simply the opportunity to recover a new category of operating expenses that will be imposed on it under the WSCC's RMS proposal in order to promote regional reliability. ECI's citation of the Commission's discussion of Section 14 of the ISO Tariff in its October 30, 1997 Order is accordingly inapposite.[44] Nothing in Amendment No. 17 will alter the ISO Tariff provisions relating to indemnification and negligence in Section 14. More to the point, the fact that certain WSCC fines cannot be directly allocated to particular Scheduling Coordinators does not necessarily imply that they result from the negligence of the ISO. Every Control Area will sometimes fail to meet reliability criteria, especially when it must coordinate the scheduled and Real-Time activities of numerous Market Participants and is dependent upon their compliance with its directives to satisfy those criteria. It will not always be possible to identify one or more Market Participants whose actions or inactions cause a WSCC fine to be incurred. Moreover, a lack of perfection in this process is to be expected; it is hardly an indication of negligence.

MWD's proposal for ISO Board approval of the recovery of WSCC fines in the GMC is unnecessary. The ISO already is required to present all components of the GMC for stakeholder review and approval of the ISO Governing Board. In

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[44] *Pacific Gas and Electric Co., et al.* 81 FERC ¶ 61,122 at 61,519-20.

accordance with the settlement approved by the Commission in Docket No. ER98-211, the ISO is required to make an informational filing by December 15 of each year which will set forth the information required to establish the GMC for the following calendar year.[45] The process leading up to this filing includes presentation of annual data to Market Participants beginning in October and culminates in ISO Governing Board approval of the GMC to go into effect for the following calendar year. This year this process will include presentation of information about any unassignable WSCC fines to be included in next year's GMC.

MWD's alternative proposal to hold pay any unassignable fines attributable to ISO negligence from funds reserved for management bonuses is therefore unnecessary. It is also inappropriate. The ISO agrees that its compliance with operating performance standards - which form the basis for WSCC fines - should be taken into account in determining performance incentives for ISO management. Indeed compliance with certain operating performance standards is *currently* one of the components that determine the level of such incentives for all ISO employees. ISO employees therefore already have a personal compensation incentive to prevent actions which will result in WSCC fines. It would, however, be inappropriate in addition to use the funds for the performance bonuses of ISO management to pay any unassignable WSCC fines. MWD cites no instance in which any utility's management, let alone the management of a non-profit utility, bears that exposure.

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[45] *See* Appendix F to the ISO Tariff. The Commission approved this settlement by letter order issued in Docket Nos. ER98-211 *et al.* on June 1, 1998.

Finally, MWD requests confirmation that the ISO seeks no increase in the currently effective GMC rate to accommodate recovery of WSCC penalties.[46] As MWD accurately states, the Commission recently approved Amendment No. 16 to the ISO Tariff, which extends the current GMC formula rate until December 31, 2000.[47] MWD seems to be under the misapprehension that the current amount of the GMC will not change during that period. Nothing in Amendment No. 17 will impact the GMC for calendar year 1999. As described above, however, the ISO will reapply the currently effective GMC formula to calculate the applicable rate for 2000 by December 15 of this year. That calculation will take into account any unassignable WSCC penalties which might be incurred during the latter part of 1999, to be recovered in the applicable GMC rate in the year 2000.

E. Eliminating the Separate Telecommunications Charge Provides the Proper Incentives for Market Participants to Use More Efficient Connections to the ISO's Energy Communications Network and Has a *De Minimis* Impact on the Grid Management Charge.

In Amendment No. 17, the ISO proposed the elimination from the ISO Tariff of a schedule of charges for connections to the ISO's communications network provided by the ISO's vendor. The ISO's discussion in the Amendment No. 17 transmittal letter of the background behind this proposal and the potential impact of this proposal on the GMC appears to have created significant confusion among the three intervenors submitting comments on this proposal. The ISO will accordingly clarify this proposal before explaining how the concerns of the few intervenors submitting comments on this proposal are misplaced.

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46 MWD at 8.

47 *California Independent System Operator Corp.*, 87 FERC ¶ 61,304 (1999)

The telecommunications charges to be eliminated by Amendment No. 17 are directly assigned to Scheduling Coordinators and are assessed in addition to the GMC. The ISO has entered into an agreement with a vendor whereby it has reserved certain bandwidth for the connection of a variety of "Connected Entities", including Scheduling Coordinators, Generators and other Market Participants, to the ISO's Energy Communication Network ("ECN"). This bandwidth is not currently used by the ISO and is reserved for the use of Connected Entities. The costs of this bandwidth reservation do not vary based on usage. Increased usage of this bandwidth by Connected Entities (*e.g.,* through the use of higher speed connections) will not result in an increased cost to the ISO. The annual costs for this telecommunication bandwidth are approximately $ 6million.

The telecommunications charges were originally intended to recover the costs for this bandwidth. As explained in the Amendment No. 17 transmittal letter, the recovery rate of these costs through the telecommunications charges has been significantly less than anticipated - less than 2% of the actual cost in 1998 and 10% or less projected for 1999. This underrecovery is due in part to certain unintended perverse incentives created by the structure of the telecommunications charges. Scheduling Coordinators and other Connected Entities could pay significantly less in telecommunications charges if they chose a lower-speed and less reliable connection to the ECN. Since the ISO's costs do not vary based on those entities' use of slower connections, any portion of the bandwidth costs not recovered via the telecommunications charges are already

recovered as an operating expense in the GMC. Thus, the vast majority of these costs are already being collected through the GMC. The telecommunications charges are having the primary effect of discouraging Market Participants from utilizing bandwidth for which the ISO is already paying.

In the Amendment No. 17 transmittal letter, the ISO discussed a potential impact on the GMC of approximately $0.03/MWh. This is more accurately identified as the portion of the GMC which is attributable to all of the communications costs discussed above. Most of these costs are already included in the GMC. The impact of eliminating the telecommunications charges will actually be closer to $0.0025/MWh and could be as little as $0.001/MWh depending on the actual collection of telecommunications charges during 1999. The proposed amendment will therefore have a *de minimis* impact on the GMC.

This explanation should address most of the comments on this aspect of Amendment No. 17. For example, SMUD contends that the ISO has not justified elimination of the telecommunications charge and suggests that, prior to eliminating the telecommunications charge, the ISO should explain why revisions to the existing charge, such as assessing charges for all potential connection speeds, could not be implemented.[48] As explained above, the telecommunications charges create disincentives for utilization of bandwidth reserved for the use of Market Participants. Since the impact on the GMC will be so minimal, there would be no reason to attempt to revise the

[48] SMUD at 5-8.

telecommunications charges. Even a revised charges schedule would still result in the incentives the ISO is attempting to avoid.

SMUD also expresses concerns that recovery through the GMC will require those with slower connections to subsidize those with faster connections, contrary to cost causation principles, and that this will create an incentive for all Market Participants to use the higher quality connection, increasing overall GMC costs.[49] Redding similarly contends that the proposed change is inappropriate because Generators cause these costs to be incurred and shifting such costs to all Market Participants is contrary to FERC policy that costs should be borne by the entities that cause such costs to be incurred.[50] It is not just Generators, however, but a wide range of Market Participants that cause these costs to be incurred. The ISO is indeed seeking to promote the use of faster and more efficient connections by a wide range of Market Participants, because the ISO and the Market Participants paying the GMC are already paying for the bandwidth to make such connections available. The deletion of the telecommunications charges will have a very minor impact on the GMC and will promote the use of more efficient telecommunications connections by numerous Market Participants. This aspect of Amendment No. 17 therefore does not raise any cost causation concerns.

MWD opposes the modification of the GMC to recover telecommunications charges to the extent such modification would result in

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49 *Id.*

50 Redding at 9-10.

an increase to the GMC rate of filed and approved in Amendment No. 16.[51] As the ISO has explained above, Amendment No. 16 merely extended the existing GMC formula through the end of 2000. The GMC for 1999 will not be at all impacted by the elimination of telecommunications charges. The GMC for 2000 will only be minimally affected by the inclusion of the full communications connections charge in the GMC.

F. The Revisions to the ISO Settlement Payments Calendar Represent a Reasonable Balance of the Needs of Market Participants.

Since November of 1998, the ISO's Settlement Improvements Team ("SIT") has been meeting with stakeholders to investigate a variety of issues related to the settlement process. For many Market Participants, the highest priority issues addressed by the SIT related to the settlements payment calendar. Some Market Participants, including the California Power Exchange ("PX") asserted that the current calendar provided them insufficient time to provide accurate, settlement-quality metering data to the ISO, to review Preliminary Settlement Statements and file disputes with the ISO, and to review and process monthly payment invoices. Other Market Participants opposed any extension of the settlement payments calendar. The SIT reviewed a number of options to address these concerns. There was no consensus on the optimal calendar. The proposed revisions in Amendment No. 17 represent the ISO Board's determination of the best balance between satisfying the immediate needs of certain Market Participants for additional time to fulfill critical settlement functions

[51] MWD at 6-7.

and the goal of minimizing the cost to the ISO and Market Participants in credit requirements and carrying costs. The proposed changes to the calendar, which include a change from Calendar Days to Business Days, would modestly lengthen the current cycle by approximately two weeks, depending on intervening weekends and holidays. The ISO also committed to work through the SIT to investigate options for shortening the settlements payment calendar once the immediate needs of certain Market Participants were met.

Several intervenors support the proposed changes to the settlement payments calendar, while at least one is opposed to the change. The Electricity Oversight Board strongly supports the changes to the payments calendar, which it states will greatly benefit all Scheduling Coordinators with high volumes for the summer months.[52] PG&E supports the extension of the calendar, specifically noting that it will give the PX, among others, adequate time to distribute, evaluate and pay its bills to the ISO.[53]

Conversely, ECI opposes the proposed change. ECI takes issue with the ISO's explanation of the proposed change in the Amendment No. 17 transmittal letter. Specifically, ECI claims that: the revised calendar does not permit Scheduling Coordinators more time to review Preliminary Settlement statements and file disputes with the ISO, and that it is unclear why additional time was provided for the submission of payments to the ISO under the revised calendar.

[52] Oversight Board at 3-4.
[53] PG&E at 2.

ECI also asks why the revised calendar provides additional time for the ISO to issue Preliminary and Final Settlement statements.[54]

Contrary to ECI's claims, the revised calendar does provide Scheduling Coordinators more time to review Preliminary Settlement statements during the periods that stakeholders cited as most often problematic, those that which include holidays and/or more than one weekend. The additional time provided for submission of payments to the ISO was added at the request of a number of Scheduling Coordinators, who have indicated conflicts with the preparation of settlement statements and invoices for their own clients under the existing calendar. Through the SIT, Scheduling Coordinators have stated that they cannot consistently meet the timing requirements set forth in the current calendar while simultaneously processing the end-of-month settlements and invoices for their own clients.

The conversion of the calendar to Business Days has required certain additional time for the ISO to process Settlement statements for operating days that fall on weekends and holidays. The ISO has allowed enough time to issue Preliminary Settlement statements for up to five consecutive non-Business Days. The move to Business Days brings the ISO in accordance with industry practices. Under these practices, the ISO will not issue Settlement statements on weekends or holidays. This additional time is therefore required.[55]

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[54] ECI at 5-6.

[55] ECI suggests that the ISO Governing Board was unaware of this aspect of the proposed revisions to the settlement payments calendar because they were apparently "confused" by the comparison of Calendar Days and Business Days. ECI at 6. ECI offers no support for this suggestion, and the ISO has no reason to believe that the members of its Governing Board should have had any difficulty with such a comparison.

ECI also argues that the proposed revisions to the settlement payments calendar were designed to benefit a single Scheduling Coordinator: the PX.[56] As the ISO has explained above, however, the changes were developed through the SIT based on the comments of a number of Scheduling Coordinators. ECI's primary concerns are, of course, the potential financial impact of the proposed extension of the settlement payments calendar to generation owners. The ISO did not ignore such concerns in the development of this revision. The ISO took into account the costs of credit requirements and carrying costs in considering this change, but the ISO also had to consider the need to provide Scheduling Coordinators with the time necessary to fulfill critical settlement functions. The resulting modest extension of the calendar, coupled with a shift to Business Days, is a reasonable balance of the positions of various Market Participants, strongly supported by some while completely opposed by only one intervenor.

Another intervenor, Reliant, does not oppose the proposed revision to the settlement payments calendar, but characterizes the SIT process as controversial and notes that the ISO Governing board has directed the ISO to investigate options to shorten the payment calendar.[57] Reliant moves that the Commission condition acceptance of this aspect of Amendment No. 17 on the requirement that the ISO complete those investigations prior to the next quarterly Tariff amendment filing and file a proposed Tariff amendment to shorten the settlement payments calendar "if the study identifies a means to do so."[58] The

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56 ECI at 3.
57 Reliant at 4-5.
58 *Id.* at 5-6.

ISO is committed to pursuing the concerns of all Market Participants on the settlement payments calendar and will continue its efforts to explore this issue through the SIT and any other appropriate forum. Any additional revisions to the settlement payment calendar should be developed through those ISO stakeholder processes, with the input of all Market Participants resulting in ISO action approved by the Governing Board. The ISO should not be bound to file an additional Tariff amendment no matter what the outcome of those processes. The Commission should therefore reject the motion for conditional acceptance.

Another intervenor raises settlement issues unrelated to the proposed revision of the payments calendar in Amendment No. 17. Redding does not oppose the proposed revisions to the settlement payment calendar, including the "decrease from ten days to eight days" of the time permitted to dispute the Preliminary Settlement statement, but contends that Scheduling Coordinators should be permitted to raise disputes related to such statements even after the allotted period.[59] As an initial matter, the ISO notes that the "decrease" mentioned by Redding is actually an increase in the overall time permitted to raise such disputes due to the shift to a Business Day calendar. Redding's issue actually has nothing to do with the proposed amendment. Nothing in Amendment No. 17 will alter the rights of Scheduling Coordinators with respect to disputes of Settlement statements, other than providing more time for the filing of such disputes. Redding's comment therefore goes beyond the scope of the

[59] Redding at 11.

instant docket. There is simply no need for the Commission to address here claims that have no bearing on the proposals before it.[60]

G. The Elimination of the Requirement that Certain Generators Seek Final ISO Approval On the Day of an Approved Maintenance Outage, as Reflected in the Amendment No. 17 Tariff Changes, Lessens the Reporting Requirement for Generators That Are Not Reliability Must-Run Units.

Amendment No. 17 eliminates a requirement that most Participating Generators seek final ISO approval on the day of an Approved Maintenance Outage. Section 4.4.9 of the Outage Coordination Protocol, as currently in effect, requires Participating Generators to seek final ISO approval on the day of an Approved Maintenance Outage. There are also two related Tariff provisions which are not applicable to Participating Generators that are not Reliability Must-Run Units. Section 4.3.8 of the Outage Coordination Protocol requires only Reliability Must-Run Units to seek final ISO approval on the day of an Approved Maintenance Outage. Section 2.3.3.8 of the ISO Tariff, which applies only to Reliability Must-Run Units and *transmission* facilities that form a part of the ISO Controlled Grid, has a similar requirement of final ISO approval on the day of an Approved Maintenance Outage.[61]

As explained in the Amendment No. 17 transmittal letter, the ISO has concluded, based on experience to date, that final approval on the day of an

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[60] *See California independent System Operator Corp.* 84 FERC ¶ 61,234 at 62,197 (1998) (wherein the Commission declined to address issues not implicated by a Tariff amendment filing.).

[61] Section 2.3.3.8 establishes approval requirements for "Operators." The Master Definitions Supplement defines the term "Operator" as an operator of facilities comprising part of the ISO Controlled Grid or Reliability Must-Run Units.

Approved Maintenance Outage is not needed in the case of Participating Generators other than Reliability Must-Run Units that have scheduled the outage with adequate lead time. Amendment No. 17 would therefore modify OCP 4.4.9 to eliminate the need for final approval in the case of Participating Generators (other than Reliability Must-Run Units) as long as the ISO has been given seven days' notice of any change in the scope of the work or Outage time.

Amendment No. 17 also makes two revisions to Section 2.3.3.8 of the ISO Tariff which are intended merely to clarify that provision. First, many Market Participants have expressed confusion about the use of the term "Operator" in that provision, believing that the provision may be applicable to Participating Generators which are not Reliability Must-Run Units. The amendment adds an explicit reference to make clear that the provision is only applicable to Reliability Must-Run Units and facilities that are part of the ISO Controlled Grid.

In addition, Section 2.3.3.8 currently requires the Operator, on the day *preceding* the day on which an Approved Maintenance Outage is to commence, to "confirm its requirements with the ISO Control Center." This confirmation requirement is a separate requirement from the final approval requirement. Section 5.3.2 of the Outage Coordination Protocol also governs confirmation requirements. As noted in the Amendment No. 17 transmittal letter, however, there are certain inconsistencies between the first sentence of Section 2.3.3.8 and OCP 5.3.2. Since the confirmation provisions of the OCP are consistent with ISO practice and the provisions of Section 2.3.3.8 are not, the ISO has amended

Section 2.3.3.8 by eliminating the first sentence of the section, which refers to these confirmation requirements.

Only two intervenors submit comments on this aspect of Amendment No. 17, and their comments seem to be based on confusion concerning the proposed revisions. WAPA expresses opposition to these changes stating that they somehow exceed standard utility practice.[62] WAPA seems to suggest that the proposed revisions would somehow alter the responsibilities of the ISO with respect to cancellation of an Outage. WAPA notes that it has raised issues related to Outages in the settlement proceeding addressing numerous unresolved issues in Docket Nos. ER98-3760 *et al.*

WAPA's concerns are misplaced. The proposed revisions eliminate final approval requirements for all Participating Generators that are not Reliability Must-Run units and that have not changed the scope of work or Outage time with less than seven days' advance notice to the ISO. Amendment No. 17 does not affect the responsibilities of parties with respect to cancellation of Outages. Overall, the ISO believes that the proposed changes are consistent with WAPA's stated goal of reducing burdens to parties scheduling Outages. The ISO notes that nothing it has proposed in Amendment No. 17 will limit WAPA's rights in the unresolved issues proceeding, and the ISO will continue to discuss WAPA's overall concerns about Outages in the context of that proceeding.

TANC agrees with the ISO's goal of eliminating the requirement of final approval of an Outage so long as the ISO has been given adequate notice by a

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62 WAPA at 3-4.

Participating Generator. TANC suggests, however, that the revisions to Section 2.3.3.8 of the Tariff and OCP 4.49 do not adequately reflect the ISO's intent as stated in the transmittal letter. TANC proposes revising this provision to refer to final *notification* on the day of the Outage, not final approval.[63] Such a change is not appropriate. Final approval is still required for transmission facilities that form a part of the ISO Controlled Grid, Reliability Must-Run Units, and Participating Generators that have changed the scope of work or Outage time with less than seven days' advance notice to the ISO. Final notification would be insufficient. The ISO's intent, as stated in the transmittal letter, was to eliminate the final *approval* requirement for (non-RMR) Participating Generators that have given seven day advance notice of a change in the scope of work or Outage time.

H. Amendment No. 17 Properly Modifies the Allocation of REPA Charges Making Them Consistent With the Allocation of Capacity Associated with Regulation.

Amendment No. 17 proposes an adjustment to the allocation of costs associated with the Regulation Energy Payment Adjustment (AREPA@), a mechanism established to provide a variable additional payment for Regulation.[64] As explained in the Amendment No. 17 transmittal letter, the REPA variable payment has been suspended since November 1998, and the ISO does not currently envision reinstating this payment. The REPA provisions do remain in the Tariff, and, at the urging of participants in the SIT, the ISO decided to correct a cost allocation issue related to REPA in Amendment No. 17.

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63 TANC at 6.

64 The Commission approved REPA in Amendment No. 8 to the ISO Tariff. *California Independent System Operator Corp.*, 83 FERC & 61,309 (1998)

The ISO Tariff, as currently in effect, provides that the REPA costs be charged to Scheduling Coordinators based on Load and Exports. This requirement is inconsistent with the methodology that is used to allocate charges for capacity associated with Regulation. Such charges are allocated only to Load. The ISO believes that capacity and Energy costs should be assessed on the same basis. In addition, Scheduling Coordinators exporting Energy do not receive any benefit from the Regulation service and should be excluded from responsibility for REPA costs. Amendment No. 17 would therefore revise temporary Section 11.2.9.1 of the ISO Tariff (as set forth in Section 29.2.1 of the Tariff) to provide that REPA charges are allocated according to Demand exclusive of Exports.

Two intervenors submitted comments related to this change. PG&E first states that similar revisions should also be made to the temporary version of SABP 3.1.1 in Section 29.2.1 of the ISO Tariff.[65] PG&E is correct, and the ISO commits to make the conforming changes in a compliance filing to be submitted in this docket. PG&E also questions why charges for Regulation should be allocated to only Load, while charges for other services such as Spinning and Non-Spinning Reserve are allocated to Load plus Exports.[66] This distinction is appropriate because Regulation is a service which does not benefit entities exporting Energy. The Commission has recognized this distinction in Order No. 888, where it stated that Regulation service "must be offered only for

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65 PG&E at 5.

66 *Id.*

transmission within or into the transmission provider's control area to serve load in the area."[67]

Another intervenor, ECI, while not objecting to the change, notes that REPA was intended to be applied on an interim basis and asks when the Regulation market will be implemented as originally intended. Since the REPA payment has been suspended, the Regulation market currently is being implemented as originally intended. The authority to reinstate the REPA payment, if justified by changes in market conditions, is still in the ISO Tariff. The changes to REPA allocation in Amendment No. 17 are proposed due to the possibility, which is not presently a likelihood, that the REPA payment will need to be reinstated at some point in the future.[68]

I. The Revisions to the ISO Dispatch Protocol Will Ensure Reliability While Accurately Reflecting Actual Operating Experience.

One aspect of Amendment No. 17 was proposed in response to a recommendation made in the Operational Audit of ISO Control Room operations conducted by PricewaterhouseCoopers LLP. The audit identified one instance in which the practices of ISO operations staff and Market Participants did not fully reflect a provision of the ISO Tariff. Section 4.3 of the Dispatch Protocol ("DP") provides that the ISO Dispatcher will instruct a unit to move a certain number of

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[67] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 Fed. Reg. 21540 at 21587, FERC Stats. & Regs. ¶ 31,036 (1996), Order on Reh'g, Order No. 888-A, 62 Fed. Reg. 12274, FERC Stats. & Regs. ¶ 31,048 at 30,249 (1997), Order on Reh'g, Order No. 888-B, 62 Fed. Reg. 64688, Order on Reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998).

[68] The ISO further addressed the current status of REPA in its March 1, 1999 "Ancillary Service market redesign" filing submitted as part of Amendment No. 14 in Docket No. ER99-1971.

megawatts and will instruct the unit to move to a specific output level or end point. Under current practice, however, the ISO Dispatcher does not provide an end point, but only the number of megawatts the resource is to move. Amendment No. 17 would revise DP 4.3 to eliminate the requirement that the instruction state a specific output level or end point, and thus conform the Dispatch Protocol to the ISO's actual practice.

Only one intervenor opposes the removal of this requirement. ECI contends that its affiliates use this information to ensure reliable operations at generation facilities by confirming that the ISO and the generator are operating under the same assumptions and as an internal tracking system for the plants of ECI's affiliates. ECI also questions why this information is not needed for reliability purposes.[69] These concerns are misplaced. The proposed revision to DP 4.3 is based on the observations of the auditors that Market Participants do not request information on the end point or output level when receiving an instruction. In Real-Time operations, the ISO operational staff will, on certain occasions, not know the current output level of a specific generating unit. This fact raises no reliability concerns, as the ISO operations staff has ample information about aggregate output and the schedules of individual units. If the ISO operations staff were to include a required end point with every dispatch instruction, Market Participants, including ECI's affiliates, would enjoy less flexibility in Real-Time operations than they currently do. The proposed revision to DP 4.3 accurately reflects existing operational practices.

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[69] ECI at 9-10.

IV. CONCLUSION

For the foregoing reasons, the Commission should accept Amendment No. 17 to the ISO Tariff and the *pro forma* Participating Load Agreement with only such minor modifications as the ISO has committed to make in this Answer.

Respectfully submitted,

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Dated: July 22, 1999

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all parties on the official service list compiled by the Secretary in the above-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 Washington, D.C. this 22nd day of July, 1999.

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Sean A. Atkins