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May 20, 2004

The Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: California Independent System Operator Corporation
Compliance Filing
Docket No. ER03-1102-___**

Dear Secretary Salas:

The California Independent System Operator Corporation ("ISO")¹ respectfully submits six copies of this filing in compliance with the Commission's February 20, 2004 order in the captioned docket concerning Amendment No. 55 to the ISO Tariff, 106 FERC ¶¶ 61,179 ("Compliance Order"). The ISO, in drafting this compliance filing, has also taken into account the direction provided in the Commission's May 6, 2004 order on rehearing of the Compliance Order, 107 FERC ¶¶ 61,118 ("Rehearing Order").² Two additional copies of this filing are enclosed to be date-stamped and returned to our messenger.

This transmittal letter is organized as follows. Section I describes the changes to the Enforcement Protocol that the ISO has made in response to the Compliance Order and the Rehearing Order. Section II describes the changes to other conduct rules, contained within the main body of the ISO Tariff and

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

² The Compliance Order directed the ISO to submit a compliance filing within 60 days, i.e., by April 20, 2004. Compliance Order at Ordering Paragraph (C). On April 8, 2004, the ISO moved for a 30-day extension of time, i.e., until May 20, 2004, to make that submittal. The Commission granted the ISO's motion in the Rehearing Order at P 8 n.9.

Protocols other than the Market Monitoring and Information Protocol ("MMIP"). Section III describes changes to the MMIP. Section IV describes the proposed effective dates for the changes contained herein. Lastly, Section V lists the materials included in this filing.

This compliance filing reflects extensive changes to the original proposal contained in Amendment No. 55. These changes have not been subject to stakeholder review. Additionally, the instant compliance filing represents the first attempt to conform the oversight and enforcement provisions of an ISO's tariff with the Commission's Market Behavior Rules. While the central purpose of the Enforcement Protocol is to deter and redress inappropriate behavior, the ISO believes it is essential that its terms clearly set forth responsibilities and consequences without increasing uncertainty or perceived risk of participating in ISO markets. This balance is difficult to strike absent stakeholder input regarding the clarity of the market rules. For this reason, the ISO believes that all parties and the Commission's objectives would best be served by a process that (1) provides Market Participants with an opportunity for review and comment on the revised Enforcement Protocol, and (2) allows the ISO an opportunity to submit revisions to the Enforcement Protocol that may be appropriate in response to stakeholder comments in order to assure clarity and certainty to all Market Participants. Because, as explained below, the Commission has already made clear that no direct authority shall be conferred on the ISO or the ISO's Market Monitoring Staff, and the Market Monitoring Staff already has the opportunity to refer unlawful behavior to the Commission's staff, the ISO does not believe that providing a reasonable amount of time for stakeholder comment would unnecessarily delay achievement of the Commission's objectives or create additional risks for Market Participants.

I. CHANGES TO THE ENFORCEMENT PROTOCOL

A. Changes to Reflect the Commission's Current Exclusive Enforcement Authority and Changes Concerning Objectives and Scope

The Commission directed the ISO to "revise EP 1 in its entirety to reflect the demarcation of enforcement responsibilities set forth in the MBR Tariff Order . . . All alleged market violations, except those objectively identifiable violations we allow the [ISO's market monitoring staff ("Market Monitoring Staff")] to resolve

in the first instance, must be referred to the Commission.” Compliance Order at P 44. (The MBR Tariff Order is the order found at 105 FERC ¶ 61,218 (2003). Compliance Order at P 1 n.1.) The Commission also stated that until such time as the ISO files and the Commission accepts a demonstration of independence of the ISO Governing Board, the Commission will be the enforcer of the Enforcement Protocol. Compliance Order at PP 28, 46; Rehearing Order at P 8. The Commission explained that concurrent with the ISO’s filing demonstrating the independence of its Governing Board, the ISO may file revisions to the Enforcement Protocol that will allow the Market Monitoring Staff “to administer certain behavior-related tariff provisions and to charge penalties for certain behavior consistent with the direction provided herein.” Compliance Order at P 28.

In sum, the Commission directed that the Market Monitoring Staff will not have the authority to administer the Enforcement Protocol or charge penalties under the Enforcement Protocol until the Commission (1) accepts a filing by the ISO demonstrating the independence of the ISO Governing Board and (2) accepts a concurrent filing submitted by the ISO to allow the Market Monitoring Staff to administer certain provisions of the Enforcement Protocol and to enforce penalties for objectively identifiable violations under the protocol.³

To comply with these directives, the ISO has revised the Enforcement Protocol to reflect that the Commission shall have sole authority to administer and to impose penalties under the Enforcement Protocol. To avoid any possible confusion regarding the role of the Market Monitoring Staff under the regime adopted in the Compliance Order, i.e., a regime in which the Commission is solely responsible for administering and enforcing the Enforcement Protocol, the ISO has not included any Tariff language specifying the role of the Market Monitoring Staff under a future (and at this time hypothetical) regime in which the Market Monitoring Staff would be responsible for administering and enforcing the Enforcement Protocol. At such time as the ISO makes a filing requesting authorization for the Market Monitoring Staff to administer and enforce the Enforcement Protocol, the ISO will propose changes to the Enforcement Protocol that are necessary to comply with the specific rulings in the Compliance Order

³ Further, even after the ISO has demonstrated the independence of its Governing Board to the satisfaction of the Commission, the Market Monitoring Staff must, consistent with the MBR Tariff Order, refer to the Commission all market violations or activities that fall outside the scope of the objectively identifiable violations as to which the Market Monitoring Staff will be allowed to assess penalties.

and Rehearing Order concerning the authority that the Market Monitoring Staff will have to administer and enforce the Enforcement Protocol.

Revised EP 1.10⁴ provides that, in accordance with the Compliance Order, the Rules of Conduct specified in the Enforcement Protocol will be enforced by the Commission, and no Sanctions may be assessed by the Market Monitoring Staff without prior Commission approval. In addition, revised EP 8 (discussed further in Section I.C, below) provides that until further order of the Commission, the Rules of Conduct will be enforced by the Commission, in accordance with the Commission's standard rules and procedures, and that the ISO and its Market Monitoring Staff will refer to the Commission and the Commission's staff all matters in which it has formed a reasonable belief that a violation of the Rules of Conduct may have occurred.

Pursuant to the Commission's directives concerning EP 1, the ISO has revised EP 1.2 to state that the objectives of the Enforcement Protocol are as follows: (a) to provide clear Rules of Conduct specifying the behavior expected of Market Participants; and (b) to establish in advance the Sanctions and other potential consequences for violation of the Rules of Conduct.⁵

The Commission directed the ISO to include in the Enforcement Protocol a provision stating that the Enforcement Protocol "does not modify the terms of any ISO agreements or the relationship of those agreements to the ISO Tariff." Compliance Order at P 57. Revised EP 1.5 satisfies this directive.

The Commission also directed the ISO to revise EP 1.9 by removing the following language: "and additionally shall have the authority to impose penalties equal to the market impact of a violation under this Protocol." Compliance Order

⁴ As a review of the black-lined version of the Enforcement Protocol provided in Attachment B to the present filing reveals, the ISO has significantly modified the numbering of the sections in the Enforcement Protocol. In this transmittal letter, references to a former section of the Enforcement Protocol indicate a section contained in Amendment No. 55, and references to a revised section of the Enforcement Protocol indicate a section contained in the present filing. See *infra* Section I.B (discussing the changes in the numbering of the sections of the Enforcement Protocol concerning the protocol's Rules of Conduct).

⁵ The ISO also proposes to modify EP 1.1 to reflect the objectives of the Enforcement Protocol, to modify EP 1.4 to reflect the insertion and deletion of defined terms in the Enforcement Protocol, to modify EP 1.6 to provide greater specificity as to the entities covered by the Enforcement Protocol and to state that the Enforcement Protocol applies to the Commission, and to modify EP 1.7 to conform the language in that section to the similar sections in other ISO Protocols.

at P 46. Revised EP 1.9 reflects that change. In addition, the ISO has modified EP 1.9 to reflect the scope of Commission authority described in the Compliance Order and Rehearing Order, and to remove provisions rendered obsolete by the changes to other portions of the Enforcement Protocol as discussed below (e.g., the reference in EP 1.9 to the notice procedures and other processes set forth in former EP 3 and EP 4).

B. Changes to the Rules of Conduct

The ISO proposes numerous changes to the Rules of Conduct contained in EP 2 in Amendment No. 55. In particular, the ISO proposes a comprehensive revision of the numbering of the Rules of Conduct, so they are now numbered as follows: EP 2 (formerly EP 2.2) – Comply with Operating Orders; EP 3 (formerly EP 2.3) – Submit Feasible Energy and Ancillary Service Bids and Schedules; EP 4 (formerly EP 2.6) – Comply with Availability Reporting Requirements; EP 5 (formerly EP 2.7) – Provide Factually Accurate Information; EP 6 (formerly EP 2.8) – Provide Information Required by ISO Tariff; EP 7 (formerly EP 2.10) – No Market Manipulation. The discussion below also identifies sections contained in EP 2 that were filed in Amendment No. 55 and which the ISO has eliminated in this compliance filing. In addition, the ISO has changed the structure of each of the sections containing the Rules of Conduct. Formerly, each of the Rules of Conduct provided a “General Rule” and a “Standard Penalty,” and some of the Rules of Conduct provided “Special Penalties”. Now, the Rules of Conduct contains sections titled “Expected Conduct,” which explain the behavior expected of the Market Participant; and sections titled “Sanctions,” which explain the Sanctions that apply when the Rules of Conduct have been violated. The ISO believes these non-substantive changes provide clarity and do not contravene the Compliance Order.

The Commission directed that the Enforcement Protocol should provide for a system of specified increasing sanctions for objectively identifiable violations. Compliance Order at P 30. All of the Sanctions in EP 2 through EP 7 satisfy the Commission’s directive (with the exception of violations that are to be referred to the Commission for appropriate sanction. See, e.g., EP 7.1). In addition, none of the fixed Sanction amounts specified in the Enforcement Protocol are greater than \$10,000 per event.⁶ These maximum Sanction

⁶ However, see Section I.B.5, below (discussing the formulas in Appendix A for determining penalties in failure to provide complete and accurate Settlement Quality Meter Data). In addition, some of the Sanctions that are fixed amounts will be tripled if the underlying violation

amounts, while intended to be commensurate to the respective violations they are meant to deter, are considerably below the levels of the maximum penalties proposed in Amendment No. 55. See Compliance Order at P 20 n.19 (describing potential maximum penalty levels of \$110,000 or more). Therefore, the maximum Sanction amounts satisfy the directive, contained in the Compliance Order at paragraph 29, that they be just and reasonable.

1. Revised EP 2 (Formerly EP 2.2) – Comply with Operating Orders

The Commission accepted the ISO's proposed Rule of Conduct requiring compliance with operating orders and required the ISO to re-file the penalty provisions under that rule, using the guidance provided by the Commission. Compliance Order at PP 56, 58. The ISO proposes to make a failure to adhere to the following responsibilities subject to Sanction under revised EP 2:⁷

- Market Participants must comply with operating orders issued by the ISO as authorized under the ISO Tariff. For purposes of enforcement under revised EP 2, an "operating order" means an order or orders from the ISO directing a Market Participant to undertake a single, clearly specified action that is feasible and intended to resolve a specific operating condition.⁸ If a limitation prevents the Market Participant from fulfilling the action requested by the ISO, the Market Participant must promptly and directly communicate the nature of any such limitation to the ISO.⁹ Compliance with ISO operating

occurs during a System Emergency. See, e.g., revised EP 2.5. With regard to the enhancement of penalties, the Commission explained that "[w]here the violation could result in conduct that could be harmful to the reliability of the grid, it would be appropriate for the penalty to be significantly higher to serve as a deterrent for the conduct." Compliance Order at P 29. Sanctions in the Enforcement Protocol that are tripled if they occur during a System Emergency are for violations that could be harmful to the reliability of the ISO Controlled Grid. Therefore, the tripling of those Sanctions is appropriate. Moreover, as explained in Section I.B.1, below, this tripling is consistent with the sanctioning authority which the Commission has accorded to ISO New England.

⁷ These are the same or similar to responsibilities made subject to penalty under EP 2.2 in Amendment No. 55.

⁸ The Commission directed the ISO to define an "operating order." Rehearing Order at P 60.

⁹ The Commission accepted the ISO's proposal to modify EP 2 and Section 2.3.1.2.1 of the ISO Tariff to specify that a Market Participant is not required to comply with an ISO operating order if it is physically impossible for the Market Participant to perform in compliance with that operating order, and that the Market Participant must immediately notify the ISO of its inability to

orders requires the Market Participant to make a good-faith effort to achieve full performance as soon as reasonably practicable in accordance with Good Utility Practice. EP 2.1(a).

EP 2.1(b) provides for the application of Sanctions based on the greater of the quantity of energy non-performance multiplied by the applicable Hourly Ex Post Price or the specified increasing Sanctions listed in the Section. If a quantity of energy cannot be objectively determined, then the specified Sanction amount will apply. With regard to what penalty amounts are permissible under this Rule of Conduct, the Commission stated that it may "find acceptable, for example, a \$10,000 penalty for failure to provide energy in response to a dispatch instruction from the ISO to attain at least 90 percent of the resource's maximum economic limit using the generator's ramp rate." Compliance Order at P 58. The system of specified increasing Sanctions in EP 2.1(b) includes a maximum penalty of \$10,000 per violation (subject to enhancement in System Emergency conditions as described below). A Market Participant may incur Sanctions for more than one violation per day.¹⁰

- Each Utility Distribution Company ("UDC") or Metered Subsystem ("MSS")

perform in compliance with the operating order. Compliance Order at PP 54, 56; Amendment No. 55 Answer at 36.

¹⁰ In Amendment No. 55, the ISO proposed that the penalty be \$10,000 per event. However, in the present filing, the ISO has replaced the use of the term "event" in revised EP 2.1 and elsewhere in the Enforcement Protocol with the term "violation."

With regard to the basis on which the maximum penalty allowed under EP 2.2 (as well as EP 2.3) in Amendment No. 55 could be applied (per-event, per-day, etc.), the Commission stated that it would "withhold judgment on the issue until the Commission has had the opportunity to evaluate the CAISO's compliance filing." Rehearing Order at P 31. In this regard, the ISO notes that the Commission approved penalties proposed by the Midwest Independent System Operator ("Midwest ISO"), relating to violations of operating orders, that are "up to \$10,000 per day *per violation*." *Midwest Independent Transmission System Operator, Inc.*, 84 FERC ¶ 61,230, at 62,161 (1998) (emphasis added). In light of the Commission's retention of sole authority to administer and to charge penalties under the Enforcement Protocol, and the independence of the ISO Governing Board that will have been demonstrated by the time the Market Monitoring Staff is permitted to enforce penalties for objectively verifiable violations, the penalty basis approved for the Midwest ISO is also appropriate for the Enforcement Protocol.

Moreover, applying Sanctions under EP 2.2 and 2.3 on a per-violation basis will serve as a more effective deterrent than applying them on a per-day basis. If the Sanctions were to be applied on a per-day basis, a Market Participant, once it had incurred a Sanction on a given day, would in effect have a "free ticket," good for the rest of that day, to repeat with impunity the behavior that had led to the Sanction being applied.

Operator must promptly comply with any ISO operating order to curtail interruptible or firm load pursuant to Section 4.4.4 of the ISO Tariff. EP 2.2(a).

- Market Participants must undertake such operating or maintenance practices as necessary to avoid contributing to a major outage or prolonging response time as indicated by Section 2.3.2.9.3 of the ISO Tariff. EP 2.3(a).
- Each Market Participant must start its Generating Units within 30 minutes of the time at which a must-offer waiver revocation becomes effective, or report the derate, outage, or other event outside the control of the Market Participant that prevents the Generating Unit from being started by such time. EP 2.4(a).

Revised EP 2.5 provides that, except as otherwise specifically provided, penalty amounts will be tripled for any violation of revised EP 2.1 through EP 2.4 if an ISO System Emergency exists at the time an operating order becomes effective or at any time during the Market Participant's non-performance.¹¹ This provision is similar to the ISO's proposed enhancement of penalties in EP 5.3 in Amendment No. 55, which would have applied to most of the Rules of Conduct under the Enforcement Protocol. The Commission directed the ISO to state the specific amount to be assessed for each enhancement under the previously proposed EP 5.3, and to demonstrate how use of an enhancement is consistent with penalty provisions approved for other independent system operators. Compliance Order at P 31. The specific amount that will be assessed under revised EP 2.5 will be triple the amount that would normally apply under the rest of revised EP 2. Moreover, the market rules used in ISO New England state that a sanction may be increased to an amount up to triple the base amount of the sanction if the sanctionable behavior occurs during a system emergency. NEPOOL Market Rule 1, Section 4.3.2(a); NEPOOL Market Rules & Procedures, Section 13.5.3(a). The ISO's proposed enhancement under revised EP 2.5 is more specific than ISO-NE's, because it states the amount of the enhancement will be exactly triple rather than up to triple.

¹¹ EP 2.5 also states that, notwithstanding the earlier-stated provisions in EP 2.5, violations of EP 2.1 through EP 2.4 that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.2.4.1.2 of the ISO Tariff may be assessed are subject to Sanction under EP 2 only to the extent that the ISO has issued a separate and distinct non-automated Dispatch Instruction to the Market Participant.

2. Revised EP 3 (Formerly EP 2.3) – Submit Feasible Energy and Ancillary Service Bids and Schedules

The Commission accepted the ISO's proposed Rule of Conduct requiring the submission of feasible Energy and Ancillary Services bids and Schedules, but required the addition of a provision (proposed by the ISO in the answer it submitted in the captioned proceeding on September 5, 2003 ("Amendment No. 55 Answer")) to ensure that Market Participants are not held responsible for events beyond their control or knowledge. Compliance Order at P 69; Amendment No. 55 Answer at 39. The ISO has revised EP 3.1(a) to comply with this directive. Revised EP 3.2(b) provides that a Market Participant that fails to perform in accordance with the expected conduct described in EP 3.1(a) will be subject to having the payment rescinded for any portion of an Ancillary Service that is unavailable.

The ISO proposes to add a self-certification requirement under EP 3.2(a). Pursuant to that requirement, the ISO will provide each Scheduling Coordinator that schedules Ancillary Services from Generating Units, Curtailable Demand, System Units, and System Resources a monthly listing of schedules including the hour, location, and service type of all Ancillary Services that were not Dispatched by the ISO. Each Scheduling Coordinator must identify and advise the ISO in a certification form of any Ancillary Services schedules in the monthly listing for which 10 percent or more of the scheduled service could not have been delivered, in accordance with the terms of the bid, for any reason.¹² Any certification form that identifies Ancillary Service schedules that could not be performed within the 10 percent tolerance band must be returned within 30 days of the Scheduling Coordinator's receipt of the associated monthly listing. If all such schedules could have been performed within the 10 percent tolerance band, no certification form from the Scheduling Coordinator will be required, and the undispached Ancillary Service schedules will be deemed certified with no exceptions. If information indicating that one or more Ancillary Service schedules could not have been performed within the 10 percent tolerance band becomes available to the Scheduling Coordinator subsequent to the 30-day deadline, then a revised certification form must be promptly submitted.

Pursuant to revised EP 3.2(b), if a self-certification indicates that all or a portion of the scheduled Ancillary Service was unavailable, then payment for the

¹² With regard to this Rule of Conduct, the Commission determined that the ISO should include a safe harbor bandwidth. Compliance Order at P 70.

unavailable Ancillary Service shall be rescinded. Unless some other obligation under the ISO Tariff is violated, the only consequence for an unavailable Ancillary Service identified through a timely self-certification form will be the rescission of payment for the unavailable Ancillary Service in accordance with EP 3.2(b). Failure to provide a timely self-certification will be subject to EP 6 if such a late-filed self-certification indicates that any undispached Ancillary Service schedules were not deliverable as provided above. If definitive information indicates that a self-certification form should have been submitted but was not (i.e., services were incorrectly deemed deliverable), or that a submitted self-certification form was incomplete, the result in either instance will be the false declaration of an Ancillary Service as being available, and the provisions of EP 5 will apply. No Sanction will apply for failure to submit a self-certification where no exceptions are subsequently identified.

Pursuant to revised EP 3.2(c), the Market Monitoring Staff and the Commission will have the authority to request any relevant information in support of an audit of any Ancillary Services schedule that is self-certified as available by the Scheduling Coordinator to the extent that such information is required to be available by the Commission's Market Behavior Rule for record retention as approved in Docket No. EL01-118. For System Resources, such information will include the identity of the physical resources and documentation supporting the associated firm transmission service that was available to the Scheduling Coordinator to comply with any ISO Dispatch of the associated Ancillary Service schedule.

The ISO believes the self-certification requirement is reasonable because it will help to prevent payments being retained by Scheduling Coordinators for scheduled Ancillary Services that they were not in fact able to provide. The Commission, in rejecting the ISO's proposed limitation on the buyback of Ancillary Services to deter paper trading and arbitrage on Ancillary Services (discussed in Section II.C, below), invited the ISO to require imports to identify the physical resource behind their bids. Compliance Order at P 136. A self-certification process could be used to require specification of the physical resources behind Operating Reserve Schedules on the ties. The ISO notes that self-certification is used by the Western Electricity Coordinating Council to verify that criteria and standards are met.

Moreover, the self-certification requirement does not impose a substantially greater responsibility on Scheduling Coordinators than the

responsibility already contemplated in the Compliance Order. In that regard, each Market Participant is already required to bid and schedule only from resources that are reasonably expected to be available and to remain available. See Compliance Order at P 69 (citing EP 2.3(a)). The self-certification requirement would merely compel Scheduling Coordinators to certify after the fact that they did indeed make their resources available, and would rescind payments for resources that were not made available.

Revised EP 3.3 provides that violations of EP 3.1 and 3.2 that result in circumstances in which an Uninstructed Deviation Penalty may be assessed under Section 11.2.4.1.2 of the ISO Tariff or for which payments have been eliminated under Section 2.5.26 of the ISO Tariff or EP 3.2(a) are not subject to Sanction under EP 3.3. Further, the submission of a Schedule that causes, or that the ISO expects to cause, Intra-Zonal Congestion will not by itself constitute a violation of EP 3.1 unless the Market Participant fails to comply with an obligation under the ISO Tariff to modify Schedules as directed by the ISO to mitigate such Congestion or such Schedules violate another element of this Rule of Conduct.

3. Former EP 2.4 – No Physical Withholding, and Former EP 2.5 – No Economic Withholding

The Commission directed the ISO to delete EP 2.4, containing a prohibition on physical withholding, and EP 2.5, containing a prohibition on economic withholding. Compliance Order at P 78. The ISO has removed these provisions from the Enforcement Protocol.

4. Revised EP 4 (Formerly EP 2.6) – Comply with Availability Reporting Requirements

The Commission required the ISO to clarify EP 2.6(a) in Amendment No. 55 by listing the specific provisions of the ISO Tariff covered by that Rule of Conduct. Compliance Order at P 84. To comply with these directives, the ISO has listed in revised EP 4.1 through 4.3 specific types of behavior covered by specified sections of the ISO Tariff and Protocols that are subject to Sanction, and has listed the Sanctions for engaging in that behavior. These sections of revised EP 4 concern the following:

- Market Participants must report to the ISO Control Center any Outage of a Generating Unit subject to Section 5 of the ISO Tariff within 30 minutes after the Outage occurs. EP 4.1(a).¹³
- Market Participants must not undertake an Outage except as approved by the ISO Outage Coordination Office and must obtain final approval from the ISO Control Center before commencing an approved Outage. EP 4.2(a).
- Each Market Participant must provide an explanation of a Forced Outage to the ISO that includes a description of the equipment failure or other cause and a description of all remedial actions taken by the Operator, within two working days of the commencement of the Forced Outage, and must promptly provide information requested by the ISO to enable the ISO to review the explanation submitted by the Operator and to prepare a report on the Forced Outage. EP 4.3(a).

The Commission also directed the ISO to modify the structure of EP 2.6 in Amendment No. 55 so that what constitutes a violation is clear and the Sanction amounts are reasonable. See Compliance Order at P 84. The provisions listed in revised EP 4, described above, make clear the specific conduct that is required of Market Participants and, therefore, what would constitute a violation of EP 4.1 through 4.3. Moreover, the Sanctions listed in revised EP 4 are graduated. The largest Sanction for a violation occurring outside of a System Emergency is \$10,000. That Sanction applies the second time a Market Participant fails to obtain approval under EP 4.2(a) before undertaking an Outage within a rolling 12-month period.¹⁴ Under EP 4.4, if the Market Participant violates EP 4.1, 4.2, or 4.3 during an ISO System Emergency, the Sanction will be tripled.¹⁵

The Commission directed the ISO to clarify the criteria that will be applied to determine whether it will assess the Sanctions under this Rule of Conduct or an Uninstructed Deviation Penalty. Compliance Order at P 84. EP 4.4 provides

¹³ The Commission directed the ISO to define the term "immediately" as used in one of the provisions in EP 2.6(a) in Amendment No. 55. Rehearing Order at P 60. Revised EP 4.1(a) replaces the provision in EP 2.6(a) that contained the word "immediately." The requirement in revised EP 4.1(a) that Outages be reported within thirty minutes after the Outage satisfies the directive that the ISO define specifically what it meant.

¹⁴ The same \$10,000 Sanction will apply to each subsequent violation of EP 4.2 after the second one.

¹⁵ See *supra* footnote 6.

that violations of EP 4 that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.2.4.1.2 of the ISO Tariff may be assessed will not be subject to Sanction under EP 4.

5. Revised EP 5 (Formerly EP 2.7) – Provide Factually Accurate Information

The Commission accepted the ISO's proposed rule concerning the provision of factually accurate information and determined that the proposed penalties for violations of the rule, in conjunction with modifications ordered by the Commission, may be reasonable for applications, routine reports, and other communications. Compliance Order at P 91. In revised EP 5, the ISO proposes that a Sanction be imposed when a Market Participant fails to adhere to the following responsibilities:¹⁶

- All applications, Schedules, reports, and other communications by a Market Participant or agent of a Market Participant to the ISO must be submitted by a responsible company official who is knowledgeable of the facts submitted. All such information submitted must be true, complete, and consistent with the operational plans of the company to the best knowledge of the person submitting the information. EP 5.1(a).
- Market Participants must provide complete and accurate Settlement Quality Meter Data for each trade hour prior to the issuance of Final Settlement Statements. Failure to provide complete and accurate Settlement Quality Meter Data, as required by Section 10 of the ISO Tariff and that results in an error that is discovered after issuance of Final Settlement Statements, will be a violation of this rule. EP 5.2(a).

Violations under EP 5.2 will be subject to the Sanctions described in Appendix A to the Enforcement Protocol. EP 5.2(b). The ISO proposes to modify Appendix A to provide two alternate methods for calculating the penalty for inaccurate Meter Data. The first alternate method applies when the ISO reruns its market and is the same method that was filed in Amendment No. 55. The second alternate method applies when the ISO does not rerun its market.¹⁷ This method is new, and is intended to alleviate

¹⁶ These are the same or similar to responsibilities the ISO proposed to make subject to penalty under EP 2.7 in Amendment No. 55.

¹⁷ At present, rerunning the ISO market is a time-consuming and labor-intensive process.

inequitable and surely unintended consequences for certain Scheduling Coordinators (those that represent loads and Exports) of the Commission's directive that Scheduling Coordinators that have not been found to be in violation of the Rules of Conduct under the Enforcement Protocol should be allocated penalty proceeds at the end of each calendar year as a credit against their portion of the Grid Management Charge ("GMC"). See Compliance Order at P 40; see *also infra* Section I.E.5 (describing the Commission's directives concerning the distribution of penalty proceeds).

Scheduling Coordinators that represent loads and Exports (with the three IOUs being the three largest Scheduling Coordinators that represent loads in California) bear the majority of the settlement consequences (cost-shifting) that occurs when Scheduling Coordinators reports inaccurate Settlement Quality Meter Data. For example, if a Scheduling Coordinator under-reports its load, this results in charges to Scheduling Coordinators for Unaccounted For Energy ("UFE"). UFE is charged to metered Demand in each UDC territory, and therefore all Scheduling Coordinators that represent loads and Exports must pay for the UFE. (The three IOUs pay the majority of the UFE.) They have to pay the UFE in order to make up for the entities that under-reported load. Pursuant to the penalty allocation methodology the ISO proposed in Amendment No. 55, penalty proceeds would have been allocated to metered Demand, and thus the UFE charges the IOUs incurred would have been allocated to them as penalty amounts in the same manner as they incurred the UFE charges – through metered Demand. However, the Commission did not accept that penalty allocation methodology.

The ISO does not believe the Scheduling Coordinators that are required to pay UFE charges due to the under-reporting of load by other Scheduling Coordinators should be required to treat the UFE charges as penalties. For this reason, the ISO proposes the second alternate method described in Appendix A.¹⁸ Under that method, an approximated value of the inaccurate Meter Data in question will be calculated and returned to the market based on the average of the pro rata share of UFE charged in the UDC territory during the period of the inaccurate Meter Data event. This will only be done

The ISO anticipates that in 2005, when it expects to implement new software for rerunning the market, market reruns will take much less time and effort.

¹⁸ When the ISO reruns its market, it is able to adjust its rerun to reflect the UFE charges described above. It is for this reason that the ISO does not propose changes to the first alternate method contained in Appendix A.

when a Scheduling Coordinator owes the market. The effect of the second alternate method will be to remove the UFE charges from the penalty amounts.

EP 5.2(c) contains specific provisions for the disposition of Sanction proceeds. It states that, for purposes of redistributing collected penalties, any amounts collected pursuant to EP 5.2 will be applied first to those parties affected by the conduct, , and any excess amounts will be disposed of as provided in EP 9.4 (i.e., the provision concerning the distribution of penalty proceeds). See also *infra* Section I.E.5 (describing EP 9.4). EP 5.2(c) implements the penalty allocation methodology described in Appendix A.

In addition, under revised EP 5.3, self-certifications provided by Market Participants in accordance with EP 3.2 must be factually accurate. See *supra* Section I.B.2.

The ISO also proposes to remove from the Enforcement Protocol the penalty for over-scheduling of load (formerly contained in EP 2.7(c)(i)). In the Rehearing Order, the Commission found that the penalty was not reasonable standing alone, and could only become reasonable when coupled with a similar, symmetric penalty for under-scheduling of load. Rehearing Order at P 38. Thus, any implementation of an over-scheduled load penalty is conditioned on the proposal (and, the ISO assumes, approval) of an under-scheduled load penalty. The ISO has not developed a penalty for the under-scheduling of load, and for that reason is removing the penalty for the over-scheduling of load.

The Commission directed the ISO to clarify what constitutes a violation under this Rule of Conduct. See Compliance Order at P 92; Rehearing Order at P 60. A violation under revised EP 5.1(b) means each submittal of false information, and an event under revised EP 5.3(b) means each monthly self-certification that is incomplete, inaccurate, or not appropriately filed. Sanctions under EP 5.2 are calculated using the formulas described in Appendix A to the Enforcement Protocol, and therefore no definition of an event is required for EP 5.2.

The Commission also stated that it would not accept the penalty proposed in EP 2.7(c)(iii) in Amendment No. 55 that would have applied to Market Participants who engage in circular scheduling. Compliance Order at P 142. To

comply with this directive, the ISO proposes to delete that penalty from revised EP 5.

6. Revised EP 6 (Formerly EP 2.8) – Provide Information Required by ISO Tariff

The Commission accepted the ISO's proposed rule and penalties concerning the provision of information required by the ISO Tariff. Compliance Order at P 96. Revised EP 6 provides even greater specificity with regard to the violations of the rule that will subject Market Participants to Sanctions. The ISO proposes to make failure to adhere to the following responsibilities subject to Sanction under EP 6:

- Except as provided in EP 6.6 (discussed below), all information that is required to be submitted to the ISO under the ISO Tariff, ISO Protocols, or jurisdictional contracts must be submitted in a complete, accurate, and timely manner. Market Participants must comply with requests for information or data by the ISO authorized under the ISO Tariff, including timelines specified in the ISO Tariff for submitting Schedules and other information. EP 6.1(a). This rule is virtually identical to the rule in former EP 2.8(a) in Amendment No. 55, which the Commission approved.
- Market Participants must provide Preferred Day-Ahead Schedules, Revised Day-Ahead Schedules, and Hour-Ahead Schedules by the deadlines specified in the Scheduling Protocol. EP 6.2(a). The ISO proposes to track the provision of late Schedules on the basis of SC Agreements. The ISO believes that it is the responsibility of the Scheduling Coordinator to submit timely schedules for Market Participants.¹⁹ Under EP 6.2(b), no Sanction will apply to the first 20 late Schedules in a calendar month.
- Except as provided in EP 6.6, Market Participants must submit timely information in response to a written request from the ISO for information reasonably necessary to conduct an investigation authorized by the ISO

¹⁹ Section 2.2.6.2 of the ISO Tariff provides that each Scheduling Coordinator is responsible for submitting Schedules for Energy in the Day-Ahead Market and Hour-Ahead Market in relation to Market Participants for which it serves as Scheduling Coordinator, and Section 2.2.6.9 of the ISO Tariff provides that each Scheduling Coordinator is responsible for complying with all ISO Protocols and ensuring compliance by each of the Market Participants it represents with all applicable provisions of the ISO Protocols.

Tariff. EP 6.3(a). This provision is virtually identical to a provision in former EP 2.8(c), which was approved. Revised EP 6.3(b) specifies that a violation will be each failure to provide a full response to a written request from the date that the response was due until a full response to the request is received, and a deficiency in response to more than one question or item in a single written request will be treated as a single violation.

- Except as provided in EP 6.6, Market Participants must comply with the ISO's audit and test procedures, and must perform and timely submit an annual self-audit as required under the ISO Tariff. EP 6.4(a). Revised EP 6.4(b) specifies that a violation will be each failure to provide all information required under the audit or test, from the date that the information was due until all required information is received by the ISO, and that a deficiency of information with respect to several items or procedures in a single audit or test will be treated as a single violation.
- Market Participants must submit on a timely basis those self-certification forms (*see supra* Section I.B.2) that are required to be submitted under EP 3.2. EP 6.5(a).

The Commission stated that it agreed with the ISO's proposal that language should be added to EP 2.8 to clarify that a Market Participant who objects to an information request may challenge that request before the Commission. Compliance Order at P 96; Amendment No. 55 Answer at 53-54. To comply with this directive, revised EP 6.6 provides that a Market Participant who objects to an information, audit, or test obligation that is enforceable under EP 6.1, 6.3, or 6.4 will have the right immediately (and in all events, no later than the due date for the information) to seek review of the obligation with the Commission. In the event that such review is sought, the time for submitting the response or other information to the ISO will be tolled until the Commission resolves the issue.

7. Former EP 2.9 – No Detrimental Practices, and Revised EP 7 (Formerly EP 2.10) – No Market Manipulation

The Commission stated that it accepted (with certain modifications) the concept underlying the general prohibitions stated under EP 2.9(a) in Amendment No. 55, which would prohibit detrimental practices, and EP 2.10(a), which would prohibit market manipulation. However, the Commission required

the ISO to replace the proposed language in EP 2.9(a) and EP 2.10(a) with Market Rule 2 of the MBR Tariff Order. Compliance Order at P 100. The ISO has revised those provisions to comply with the Commission's directives. Because Market Rule 2 of the MBR Tariff Order only pertains to market manipulation (not detrimental practices), the ISO proposes to delete in its entirety the provision in the Enforcement Protocol concerning detrimental practices, and adds Market Rule 2 of the MBR Tariff Order as the provision in the Enforcement Protocol concerning market manipulation, i.e., revised EP 7. The ISO has adapted Market Rule 2 to the Enforcement Protocol, e.g., by changing references to the requirements imposed on a seller into references to the requirements imposed on a Market Participant.

In revised EP 7, the ISO proposes to make several modifications to the provisions set forth in Market Rule 2. First, revised EP 7.4, concerning artificial congestion, provides that a Market Participant will not knowingly undertake a transaction to nullify the Congestion relief the ISO expects when a Dispatch instruction is issued (unless the Market Participant exercised due diligence to prevent such an occurrence). This addition is needed to prevent a Market Participant from undermining the ISO's efforts at Congestion relief. Also, revised EP 7.5, concerning collusion, provides an example of what constitutes collusion. This addition is a clarifying example.

The Commission directed the ISO to replace the proposed penalty provisions under EP 2.9 and EP 2.10 with language that states that violations of these Rules of Conduct will be referred to the Commission. Compliance Order at P 101. Revised EP 7 replaces the proposed penalty provisions with language that complies with the Commission's directive.

C. Revised EP 8 (Formerly EP 3) – Process for Investigation and Enforcement

Former EP 3 concerned the process for investigation and enforcement under the Enforcement Protocol. In light of the fact that the Commission is retaining sole authority to administer and to charge penalties under the Enforcement Protocol (*see supra* Section I.A), the ISO has deleted former EP 3. Revised EP 8 now contains the investigation and enforcement provisions that will apply while the Commission has sole authority to administer and charge penalties under the Enforcement Protocol. Pursuant to revised EP 8, the Rules of Conduct will be enforced by the Commission, in accordance with the Commission's standard rules and procedures. The ISO and its Market Monitoring Staff will refer to the Commission and the Commission's staff all matters in which it has formed a reasonable belief that a violation of the Rules of Conduct may have occurred.²⁰

²⁰ As explained in Section I.A, above, in any filing the ISO makes seeking authorization to implement Tariff provisions allowing the ISO's Market Monitoring Staff to administer and enforce the Enforcement Protocol, the ISO will propose changes to the Enforcement Protocol that comply with the specific directives in the Compliance Order and Rehearing Order concerning the authority and obligations that the Market Monitoring Staff will have – and the procedures the Market Monitoring Staff will be required to follow – when the Market Monitoring Staff is authorized to administer and enforce the Enforcement Protocol. In particular, that ISO filing will include provisions that reflect the Commission's directives concerning the investigation and enforcement process the Market Monitoring Staff will employ, once the Commission grants the Market Monitoring Staff authority to administer and enforce the EP. See Compliance Order at P 109; Rehearing Order at PP 47-49. For example, the Commission directed that the process "must be re-filed to reflect the reporting relationship adopted by the Commission in the MBR Tariff Order." Compliance Order at P 109. In addition, the filing will include provisions to comply with the Commission's directives concerning the factors, formerly contained in EP 5.1, that are permissible for use in determining the specific penalty to be assessed, and the factors that the Market Monitoring Staff is required to monitor and report directly to the Commission. See Compliance Order at PP 30-31.

The ISO notes that any provisions allowing the Market Monitoring Staff to employ an investigation and enforcement process will not go into effect until some as-yet undetermined time in the future. In the meantime, the Commission will retain sole authority to administer and enforce the Enforcement Protocol. Thus, there is no reason at this time to submit a filing containing the Market Monitoring Staff's investigation and enforcement process.

The ISO has initiated preliminary discussions with the Commission's staff regarding coordination of investigations and support for the Commission's interim administration of the Enforcement Protocol. The ISO is committed to working with the Commission's staff to make sure that the process for investigations during this interim period is practical, transparent, rigorous and fair to Market Participants and consistent with the Commission's intent as conveyed by the Compliance and Rehearing Orders.

D. Changes Concerning the Process for Prohibiting Detrimental Practices and Market Manipulation (Former EP 4)

As filed in Amendment No. 55, former EP 4 concerned the process for prohibiting detrimental practices under former EP 2.9 and market manipulation under former EP 2.10. The Commission stated that because it has enforcement responsibilities for the Enforcement Protocol, it would not accept EP 4. Compliance Order at P 101. Former EP 4 has been deleted in its entirety to comply with this directive.

E. Administration of Sanctions (Revised EP 9)

1. Revised EP 9.1 (Formerly a Portion of EP 5.1) – Assessment; Waivers and Enhancements

Revised EP 9.1 contains the provisions in the Enforcement Protocol concerning how Sanctions are to be assessed and how waivers and enhancements of Sanctions are to occur. Under revised EP 9.1, the penalty amounts for violations of the Rules of Conduct will be calculated as specified in EP 2 through EP 7. The Commission will have the authority to waive, reduce, or increase a Sanction specified in the Enforcement Protocol when it determines that such adjustment is just and reasonable. An adjustment generally will be deemed appropriate if the prescribed Sanction appears to be insufficient to deter the prohibited behavior, or if the circumstances suggest that the violation was inadvertent, unintentional, or if some other mitigating circumstances exist.

2. Revised EP 9.2 (Formerly EP 5.2) – Excuse

Revised EP 9.2 contains the provisions formerly contained in EP 5.2, concerning the circumstances that excuse a violation of a Rule of Conduct under the Enforcement Protocol. In the Compliance Order, the Commission did not

issue any directives specifically concerning the excuse provisions, and in the Rehearing Order, the Commission noted the provisions in former EP 5.2 but did not require the ISO to modify the section by adding further excuse provisions. See Rehearing Order at P 50.

Revised EP 9.2 provides that the excuse provisions will (rather than may) excuse a violation of the Rule of Conduct. EP 9.2(a) has been revised to eliminate the provision that Uncontrollable Force, as defined in the ISO Tariff, is a factor that may be considered in determining whether a Rule of Conduct violation should be penalized. In its place is a new provision stating that no failure by a Market Participant to satisfy the Rules of Conduct will be subject to the penalty to the extent and for the period that the Market Participant's inability to satisfy the Rules of Conduct is caused by an event or condition of Uncontrollable Force affecting the Market Participant, provided that the Market Participant gives notice to the ISO of the event or condition of Uncontrollable Force as promptly as possible after it knows of the event or condition and makes all reasonable efforts to cure, mitigate, or remedy the effects of the event or condition. The wording of this provision is virtually identical to one of the excuse provisions employed by ISO New England.²¹ The other excuse provisions contained in revised EP 9.2(b) (concerning safety, licensing, or other requirements), 9.2(c) (concerning good-faith efforts to follow Good Utility Practice in emergencies), and 9.2(d) (concerning conflicting directives) are virtually identical to excuse provisions employed in ISO New England.²²

3. Former EP 5.3 – Enhancement

The ISO has deleted from the Enforcement Protocol former EP 5.3, filed in Amendment No. 55, concerning enhancement of penalties. Former EP 5.3

²¹ The relevant ISO New England provision states:

No failure by a Participant to perform Participant Obligations shall be Sanctionable Behavior to the extent and for the period that the Participant's inability to perform is caused by an event or condition of force majeure affecting the Participant; provided that the Participant gives notice to the ISO of the event or condition as promptly as possible after it knows of the event or condition and makes all reasonable efforts to cure, mitigate or remedy the effects of the force majeure event or condition.

NEPOOL Market Rules & Procedures, § 13.4.6.1; NEPOOL Market Rule 1, Appendix B, § 3.6.1.
²² See NEPOOL Market Rules & Procedures, §§ 13.4.6.2, 13.4.6.3, 13.4.6.4; NEPOOL Market Rule 1, Appendix B, §§ 3.6.2, 3.6.3, 3.6.4.

provided the ISO with discretion to triple the maximum amounts of penalties in two circumstances: (1) where a violation occurred during a System Emergency and (2) where the ISO determined that the violation was part of a continuing pattern of the same violation for which penalties had already been imposed on the Market Participant. Instead, under the Enforcement Protocol contained in the present filing, whether a violation occurred during a System Emergency and the frequency of the violation are factors that are used in determining the severity of penalties for violating some of the Rules of Conduct. For example, EP 2.5 provides for the tripling of the penalty amount for a violation of EP 2.1 through EP 2.4 that occurs during a System Emergency; and under EP 4.1(b), the Sanction for failing to report Outages of a Generating Unit within 30 minutes increases by a specified amount based on the number of times, within a rolling twelve-month period, a Market Participant fails to timely report the Outages.

4. Revised EP 9.3 (Formerly EP 5.4) – Settlement

The ISO proposes to modify the provisions in the Enforcement Protocol concerning the Settlement process applicable to assessed Sanctions. These provisions were formerly contained in EP 5.4; the modified provisions are contained in revised EP 9.3. They have been modified to reflect that the Commission retains sole authority to administer and charge penalties under the Enforcement Protocol. See *supra* Section I.A. Under revised EP 9.3(a), the ISO will administer any penalties issued under the Enforcement Protocol through Preliminary Settlement Statements and Final Settlement Statements issued to the responsible Scheduling Coordinator by the ISO. Before invoicing a financial penalty through the Settlement process, the ISO will provide the responsible Scheduling Coordinator with a description of the penalty. Where the Commission has determined the Sanction, the ISO will provide the information in the description that is provided to the ISO by the Commission. The ISO may also publish this information on the ISO Home Page after Final Settlement Statements are issued.

Revised EP 9.3(b) states that, except as provided in revised EP 9.3(c), the Scheduling Coordinator will be obligated to pay all penalty amounts reflected on the Preliminary and Final Settlement Statements to the ISO pursuant to the ISO's Settlement process, as set forth in Section 11 of the ISO Tariff.

Pursuant to revised EP 9.3(c), where parties other than the Scheduling Coordinator are responsible for the conduct giving rise to a penalty reflected on a

Preliminary or Final Settlement Statement, and the Scheduling Coordinator bears no responsibility for the conduct, such other parties ultimately will be liable for the penalty. Under such circumstances, the Scheduling Coordinator will use reasonable efforts to obtain payment of the penalty from the responsible parties and to remit such payment to the ISO in the ordinary course of the Settlement process. In the event that the responsible parties wish to dispute the penalty, or the Scheduling Coordinator otherwise is unable to obtain payment from the responsible parties, the Scheduling Coordinator must notify the ISO and dispute the Preliminary Settlement Statement. The ISO will promptly notify the Commission. The Scheduling Coordinator must pay the full amount of the Invoice, inclusive of the penalty, unless the Commission specifically authorizes the Scheduling Coordinator to net its payment by the amount of the penalty in question. The ISO may refuse to offer further service to any responsible party that fails to pay a penalty, unless excused under the terms of the ISO Tariff or the Enforcement Protocol. Following such notice, the Scheduling Coordinator will be liable for any subsequent penalties assessed on account of the responsible party.

These provisions are intended to reflect the Settlement process described in Section 11 of the ISO Tariff and also the directives the Commission provided in the Rehearing Order. The Commission directed that a Scheduling Coordinator would not be held responsible for an ISO Tariff violation or manipulative conduct attributable solely to one of its Market Participants. Rehearing Order at P 21. The Commission explained that if it is not possible to distinguish whether the Scheduling Coordinator or its Market Participants created a harm in violation of the Enforcement Protocol and there is no reasonable basis for determining the contribution of each to the resulting harm, the Scheduling Coordinator and its Market Participants will be jointly and severally liable for the harm and will be assessed penalties accordingly. Rehearing Order at P 21. The Commission also clarified that if the ISO determines that the Market Participant is solely responsible for the payment of a penalty, then, even if the Market Participant uses its Scheduling Coordinator to pay the penalty, the Market Participant, not the Scheduling Coordinator, is ultimately responsible for the Market Participant's payment of the penalty. Rehearing Order at P 51.

Further, under revised EP 9.3(d), the right that a Market Participant may otherwise have under the ISO Tariff or the Enforcement Protocol to dispute a penalty that has been determined by the Commission will be limited to a claim

that the ISO failed properly to implement the penalty or other Sanction ordered by the Commission.²³

In addition, the ISO proposes modifications to Section 11.16.1 of the ISO Tariff, which concerns the pro rata reduction in payments to ISO Creditors that occurs if it is not possible to clear the ISO Clearing Account on a Payment Date. The modifications state that the provisions of Section 11.16.1 will not apply to non-payment of any penalty amount that a Scheduling Coordinator has disputed and as to which the Commission has specifically authorized the Scheduling Coordinator to net its payment to the ISO by the amount of the penalty in question in accordance with EP 9.3 in which case the non-payment account will be allocated exclusively to the ISO penalty trust account and not allocated to ISO Creditors.

5. Revised EP 9.4 (Formerly EP 5.5) – Disposition of Proceeds

The Commission directed that the cost of the Oversight and Investigation program should be recovered through the GMC. The Commission also directed that only Scheduling Coordinators that have not been found to be in violation of the Rules of Conduct under the Enforcement Protocol should be allocated penalty proceeds at the end of each calendar year as a credit against their portion of the GMC. Compliance Order at P 40. Further, in the Rehearing Order, the Commission directed the ISO to modify the Enforcement Protocol to reflect that, if a Scheduling Coordinator acts for multiple Market Participants, no penalty payments transferred to such a Scheduling Coordinator may be passed on to the Market Participant that was responsible for the sanctionable behavior. Rehearing Order at P 57.

To comply with these directives, the ISO proposes revised EP 9.4 to implement its methodology for allocating penalty proceeds, and proposes to delete the methodology from Amendment No. 55 contained in Section 3.1.2 of the Settlement and Billing Protocol ("SABP"). Under revised EP 9.4, the ISO will collect penalties assessed pursuant to the Enforcement Protocol and deposit those amounts in an interest bearing trust account. After the end of each

²³ In light of the Commission's sole authority to administer the Enforcement Protocol and charge penalties under the Enforcement Protocol until the Commission has accepted the ISO's demonstration of independence of its Governing Board, the ISO proposes to delete former EP 5.7, concerning recommendations of sanctions by the ISO.

calendar year, the ISO will distribute the penalty amounts together with interest earned through payments to Scheduling Coordinators as provided in the section. Each Scheduling Coordinator that paid GMC during the calendar year will identify, in a manner to be specified by the ISO, the amount of GMC paid by each Market Participant for whom that Scheduling Coordinator provided service during that calendar year. The total amount assigned to all Market Participants served by that Scheduling Coordinator in such calendar year (including the Scheduling Coordinator itself for services provided on its own behalf), will equal the total GMC paid by that Scheduling Coordinator.

Further, under revised EP 9.4, the ISO will calculate the payment due each Scheduling Coordinator based on the lesser of the GMC actually paid by all eligible Market Participants represented by that Scheduling Coordinator,²⁴ or the product of (a) the amount in the trust account, including interest, and (b) the ratio of the GMC paid by each Scheduling Coordinator on behalf of eligible Market Participants, to the total of such amounts paid by all Scheduling Coordinators. Each Scheduling Coordinator is responsible for distributing payments to the eligible Market Participants it represented in proportion to GMC collected from each eligible Market Participant. Prior to allocating the penalty proceeds, the ISO will obtain the Commission's approval of its determination of the eligible Market Participants and their respective shares of the trust account proceeds. If the total amount in the trust account to be so allocated exceeds the total GMC obligation of all eligible Market Participants, then such excess will be treated in accordance with SABP 6.5.2(b).

Also, in Amendment No. 55, the ISO proposed to modify SABP 6.5.2(a) to reference the distribution method stated in SABP 3.1.2 (i.e., to metered Demand). The ISO now proposes to modify SABP 6.5.2(a) to remove that change and to provide that any amounts paid to the ISO in respect of penalties or sanctions referred to in SABP 3.1.1 will be credited to the Surplus Account, subject, however, to SABP 6.5.2(b). SABP 6.5.2(b) has been revised to state that the funds referred to in SABP 6.5.2(a) pertaining to penalties or sanctions as provided in SABP 3.1.1 shall first be applied towards any expenses, loss, or costs incurred by the ISO except for that portion of those amounts collected pursuant to the Enforcement Protocol that are credited to Market Participants pursuant to EP 9.4; any excess after such application will be credited to the Surplus Account pursuant to SABP 6.5.2(a). In addition, SABP 3.1.1(b) has

²⁴ EP 9.4 defines "eligible Market Participants" as those Market Participants that were not assessed a financial penalty pursuant to the Enforcement Protocol during the calendar year.

been modified to remove changes proposed in Amendment No. 55 and to provide that the ISO is authorized to levy addition charges or payments as special adjustments in regard to amounts in respect of penalties or sanctions which may be levied by the ISO in accordance with the ISO Tariff or ISO Protocols. These charges will be levied on the Market Participants liable for payment of the penalty or sanction.

The ISO notes that a consequence of the methodology directed by the Commission for allocating penalty amounts is that Market Participants may incur a significant financial "hit" as a result of being penalized for the first time in a calendar year. The amount of that first penalty assessed to a Market Participant may be less significant than the fact that the Market Participant will thereby be ineligible to receive penalty proceeds at the end of the calendar year.

Lastly, the ISO wishes to emphasize that only a violation of the Rules of Conduct that is subject to a *Sanction*, as that term is defined in revised EP 1.4 (see *supra* Section I.A), will serve to disqualify a Market Participant from being allocated penalty proceeds. An example will illustrate what the ISO means. Pursuant to revised EP 6.2(b), if more than twenty late Schedules are submitted in a calendar month, a Sanction will be imposed as described in that section. If, however, twenty or fewer late Schedules are submitted in the month, a Sanction will not be imposed. In the circumstance where twenty or fewer late Schedules are submitted, the Market Participant responsible for submitting those late Schedules will not be disqualified from receiving penalty proceeds, because the Market Participant will not have been subject to Sanction. The ISO believes its proposal mitigates potentially unfair results that could otherwise occur.²⁵

F. Miscellaneous Provisions (Revised EP 10)

The Commission directed the ISO to revise the Enforcement Protocol to state that a penalty may be assessed under the Enforcement Protocol up to one year after discovery of a violation but no later than three years after the date of a violation, and that an investigation of events potentially subject to sanction must

²⁵ In the Rehearing Order, the Commission noted the ISO's request for clarification as to whether a minor first offense for which no financial penalty was levied served to disqualify the offending party from being allocated penalty proceeds, but did not appear to squarely address the request for clarification. The Commission noted the request for clarification in the context of explaining that a Scheduling Coordinator that acts for multiple Market Participants is not automatically prevented from receiving penalty payments because of the improper actions of one of its Market Participants. See Rehearing Order at P 57 & n.44.

be initiated within 90 days of the discovery of the events. Compliance Order at P 32; Rehearing Order at P 54. Revised EP 10.1 complies with these directives. In the Rehearing Order, the Commission clarified that it will entertain requests for extensions of the one-year time limitation, upon a showing by the ISO that good cause exists. Rehearing Order at P 55. Revised EP 10.1 also states that nothing in the section will limit the rights or liabilities of any party under any other provision of applicable laws, regulations, or tariff provisions.

In addition, the Commission accepted EP 6 and EP 7 as proposed in Amendment No. 55. Compliance Order at P 109 n.57. The provisions in EP 6 and EP 7 have been moved to revised EP 10.2 and EP 10.3.

G. Consistency of the Enforcement Protocol with the MBR Tariff Order

In the Compliance Order, the Commission directed the ISO to “file revisions which are consistent with the approach set forth in the MBR Tariff Order regarding the scope of behaviors that the Commission has made subject to potential sanctions and remedies.” Compliance Order at P 19. Revised EP 2, EP 3, and EP 4 are consistent with the direction provided in Market Rule 1 of the MBR Tariff Order, which requires sellers to “operate and schedule generating facilities, undertake maintenance, declare outages, and commit or otherwise bid supply in a manner that complies with the Commission-approved rules and regulations of the applicable power market.” See MBR Tariff Order at Appendix A. Revised EP 7, as described in Section I.B.7, above, is consistent with Market Rule 2 of the MBR Tariff Order. See MBR Tariff Order at Appendix A. Revised EP 5 and EP 6 are consistent with the direction provided in Market Rule 3 of the MBR Tariff Order, which requires sellers to “provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication” See MBR Tariff Order at Appendix A.²⁶ Market Rule 5 of the MBR Tariff Order, concerning record retention by sellers, is referenced in revised EP 3, as described above in Section I.B.2. See MBR Tariff Order at Appendix A. (Market Rule 4 of the MBR Tariff Order concerns reporting

²⁶ Although Market Rule 3 concerns information provided in a communication, the ISO presumes that the market rule also covers the situation in which a seller *fails to make* a communication it is required to make, i.e., that a failure to make a required communication constitutes an omission of material information under the market rule. Otherwise, a seller would be in compliance with Market Rule 3 if it were to simply decline to make the required communication.

of transactions to publishers of electricity or natural gas indices, and Market Rule 6 concerns violations of the seller's market-based rate code of conduct and Order No. 889 standards of conduct, and therefore those market rules have no analogue in the Enforcement Protocol. See MBR Tariff Order at Appendix A.)

II. CHANGES TO THE OTHER CONDUCT RULES IN THE ISO TARIFF AND PROTOCOLS

A. Scheduling on Zero-Rated Transmission Paths

The Commission accepted the ISO's prohibition against intentionally scheduling over zero-rated transmission paths, as proposed in Section 2.2.9 of the ISO Tariff, effective as of the date of implementation of changes the ISO committed to make to its scheduling system to permit that prohibition. Compliance Order at P 121. To comply with the Commission's directive, the ISO does not propose any further substantive changes to Section 2.2.9 or the definition of "Operating Transfer Capability" in Appendix A to the ISO Tariff, which are the provisions that would implement the prohibition against scheduling on zero-rated transmission paths. Instead, the ISO proposes to make the "clean" ISO Tariff sheets implementing those provisions, contained in Attachment A to the present filing, effective upon notice by the ISO as described below in Section IV.

The ISO provides two points of clarification with regard to the implementation of Section 2.2.9. First, in the Amendment No. 55 Answer, the ISO wrote as follows:

In the event that a Scheduling Coordinator failed to resubmit a Balanced Schedule without the flow across the zero-rated path, the previously submitted Schedule would not pass the validation processes conducted prior to the close of the Day-Ahead and Hour-Ahead Markets, and the ISO would request that the Scheduling Coordinator revise the Schedule to remove the flow across the zero-rated path and balance the Schedule.

Amendment No. 55 Answer at 66.²⁷ With regard to the statement about the previously submitted Schedule not passing the validation processes conducted prior to the close of the Day-Ahead and Hour-Ahead Markets, the ISO clarifies that, in fact, in that situation the ISO would request that the Scheduling Coordinator revise and rebalance the Schedule, but if the Scheduling Coordinator did not, the Schedule would still pass the validation process. The ISO would subsequently cancel the flow across the zero-rated path in real time, in the same manner as the ISO explained in the Amendment No. 55 Answer would be done if the rating on a path was reduced to zero after the close of the Hour-Ahead Market. See Amendment No. 55 Answer at 66. This approach is also consistent with the sentence in Section 2.2.9 that reads, "As necessary to comply with Applicable Reliability Criteria, the ISO shall reduce any non-zero Final Hour-Ahead Schedules across zero-rated transmission paths to zero after the close of the Hour-Ahead Market."

The second clarification concerns the sentence in Section 2.2.9 that reads, "No Usage Charges will be assessed, nor will any Usage Charges for counter-flow be paid, for Schedules across a path with an Operating Transfer Capability of zero." Usage Charges are comprised of charges tied to the respective Congestion that exists at the times of the Day-Ahead and Hour-Ahead Markets. The above-quoted sentence means that Day-Ahead Usage Charges will not be assessed or paid if the Operating Transfer Capability of the path is zero at the time of the Day-Ahead Market, and that Hour-Ahead Usage Charges will not be assessed or paid if the Operating Transfer Capability of the path is zero at the time of the Hour-Ahead Market. If it happens that the Operating Transfer Capability of the path is reduced to zero after the close of either market, the Usage Charges incurred for that market will stand.

B. Elimination of Usage Payments for Undelivered Counter-Flow Schedules

The Commission stated that it would not accept the proposed changes to Section 7.3.1.5.2 of the ISO Tariff to eliminate payment of Usage Charges for undelivered counter-flow schedules. Compliance Order at P 129. The ISO proposes to delete those changes to comply with the Commission's directive.

²⁷ The Commission noted this statement in the Compliance Order. See Compliance Order at P 119.

C. Buy-Back of Ancillary Services in the Hour-Ahead Market

The Commission stated that it would not accept the changes proposed in Amendment No. 55 to Sections 2.3.1.2.1 and 2.5.21 of the ISO Tariff, Section 5.3 of the Schedules and Bids Protocol, and Sections 9.1 and 9.3 of the Scheduling Protocol. Compliance Order at PP 130 n.67, 136. The ISO proposes to delete those changes to comply with the Commission's directive.²⁸ In the Rehearing Order, the Commission accepted the ISO's proposal, contained in its Amendment No. 55 Answer, to add to Section 2.3.1.2.1 a sentence stating that the section "does not prohibit a Scheduling Coordinator from modifying its Schedule or re-purchasing Energy in the Hour-Ahead Market." Rehearing Order at P 69; Amendment No. 55 Answer at 70. The ISO proposes to add the sentence to Section 2.3.1.2.1.

D. Prohibition on Circular Schedules

The Commission accepted the ISO's proposed prohibition on circular schedules. It found that "[t]his type of market manipulation is captured under Market Behavior Rule 2(c) of the MBR Tariff Order . . . therefore, this prohibition will be enforced by the Commission." The Commission determined that the ISO was not granted the authority to impose penalties for circular schedules. Compliance Order at P 142. To comply with these directives, the ISO proposes to delete new Section 7.3.1.5.3 of the ISO Tariff, in which the ISO had proposed that Scheduling Coordinators not receive a Usage Charge payment for scheduled flows in a counter direction if such scheduled flow is the result of a Circular Schedule.

In the Rehearing Order, the Commission directed the ISO to state, in the definition of Circular Schedule in Appendix A to the ISO Tariff, that the definition does not apply to the circumstance in which a Scheduling Coordinator submits a Schedule that is an amalgam of different Market Participants' separate but simultaneously submitted Schedules. Rehearing Order at P 70. The ISO proposes to modify the definition to reflect this directive.

²⁸ The ISO notes that the Commission listed the proposed changes to Section 2.3.1.2.1 of the ISO Tariff as being among the changes concerning Hour-Ahead Ancillary Services buy-back. Compliance Order at P 130 n.67; Rehearing Order at n.51. In fact, these were changes the ISO proposed concerning Schedules and bids being binding obligations. Transmittal Letter for Amendment No. 55 at 66-67; Attachment D to Amendment No. 55 at page captioned "Changes Concerning Schedules and Bids Being Binding Obligations."

E. Sharing of Confidential Information

The Commission did not accept the ISO's proposal to share information with oversight and enforcement agencies. Compliance Order at P 164. To comply with this directive, the ISO proposes to delete new Section 20.3.5 of the ISO Tariff and to delete the new defined term "Oversight and Enforcement Agency" from Appendix A to the ISO Tariff.

III. CHANGES TO THE MARKET MONITORING AND INFORMATION PROTOCOL

In conjunction with the use in the Enforcement Protocol of Market Rule 2 of the MBR Tariff Order with regard to the Rule of Conduct concerning market manipulation (*see supra* Section I.B.7), the Commission directed the ISO to remove Sections 2.1.1 and 2.1.3 of the MMIP, regarding gaming and anomalous market behavior. Compliance Order at P 100. To comply with this directive, the ISO proposes to delete these sections from the MMIP.²⁹

In addition, the ISO proposes several other changes to the MMIP to reflect the deletion of Sections 2.1.1 and 2.1.3. The ISO proposes to delete the phrase in Section 2.1.4 of the MMIP that refers to design flaws and inefficiencies "which may be evident from anomalous market behavior monitored under MMIP 2.1.1 above, from evidence of gaming monitored under MMIP 2.1.3 above, or from other activities." The ISO also proposes to delete Section 2.3.3 of the MMIP, because that section concerns the steps to be taken under the MMIP if evidence of gaming exists. The ISO proposes to re-number the Table of Contents and the sections of the MMIP as needed in light of the deletion of Sections 2.1.1, 2.1.3, and 2.3.3 from the MMIP.

The Commission also directed the ISO to "clarify that it will continue to provide published reports regarding important market information . . . that enable market participants to make better informed decisions in spite of the elimination of Section 8.2 of the MMIP," and to explain the deletion of Section 8.2 of the MMIP. Compliance Order at P 155. The intent of deleting Section 8.2 from the MMIP is that with the ISO's organization, responsibility for publication of the information formerly provided pursuant to that section lies with other

²⁹ The Commission noted that Sections 2.1.1 and 2.1.3 of the MMIP are enforceable for the period predating their removal. Compliance Order at P 100 n.55.

Departments of the ISO rather than with the Department of Market Analysis (“DMA”) (or Market Monitoring Unit (“MMU”)). Currently, the ISO provides this information on a regular basis through a combination of (1) OASIS, (2) other regular reports available on the ISO Home Page under the heading of “The Grid,” and (3) regular monthly and seasonal reports issued by various Departments of the ISO including but not limited to the DMA.

Provided below is a description of how each of the types of information formerly listed in Section 8.2 of the MMIP is currently provided to Market Participants on a regular basis. The ISO intends to continue providing such market information.

- **Market Clearing Prices (“MCPs”) for Energy:** MCPs for real-time Energy by Zone are available for download on OASIS and are updated on a daily basis.
- **Market Clearing Prices for Ancillary Services:** Hourly MCPs and quantities of Ancillary Services purchased in both the Day-Ahead and Hour-Ahead Markets are available for download on OASIS and are updated on a daily basis.
- **Aggregate Supply and Demand for each Zone:** Total aggregate supply and demand schedules for each Zone at the close of the Day-Ahead and Hour-Ahead Markets are available for download on OASIS. Total hourly system demand forecasts for each day are provided seven days in advance, and are updated daily on OASIS. In addition, a final Hour-Ahead forecast is provided for each hour during each operating day on OASIS. Actual total system demand is also provided on OASIS after each operating hour. In addition, the ISO provides an hourly comparison of total available supply resources, forecast demand, and actual demand in the *Today’s Outlook* report posted on the ISO Home Page under “System Conditions.” These data are updated every 10 minutes during each operating day.

Each year, the ISO also publishes a Summer Assessment and a Winter Assessment of expected system conditions, including summary monthly peak load and resource forecasts. These assessments provide detailed information on historical and expected available capacity for a variety of resource categories, including thermal, nuclear, hydro-electric, pump

storage, solar, and wind. Information is also provided on capacity additions and retirements.

- Congestion and Congestion costs: Detailed data on available transmission, scheduled flows, Congestion, and Congestion costs are provided for each inter-zonal and inter-tie transmission path on OASIS. Hourly data are available for download on OASIS and are updated on a daily basis. Forecasts of available transmission capacity and transmission outages are also provided on OASIS. In addition, summary analyses of Congestion trends and costs are also provided on a monthly basis in the DMA Director's Report, which is posted on the ISO Home Page each month.
- Generating Unit and transmission line outages: Data on Generating Unit and transmission line outages are provided in a variety of formats and levels of detail.
 - A list of non-operational units and associated capacity reflecting capacity the ISO expects to be unavailable that operating day is published twice daily on the ISO Home Page at <http://www.caiso.com/docs/2001/01/25/2001012508442613704.html>.
 - Hourly data on aggregate capacity that is expected to be unavailable is published daily, as part of the ISO's Daily Outlook Report, on the ISO Home Page at <http://www.caiso.com/outlook.html>.
 - Summary analyses of generation outage levels and trends are also provided on a monthly basis in the DMA Director's Report, which is posted on the ISO Home Page each month.
 - Detailed data on forecast and available transmission for each inter-zonal and inter-tie transmission path are posted on OASIS.
 - Special updates on transmission conditions are provided through Market Notices which are emailed and posted on the ISO Home Page throughout out the day.

- Hydro-electric Generation: Each year, the ISO publishes a Summer Assessment and a Winter Assessment of expected system conditions, including summary monthly peak load and resource forecasts, which include information on historical and expected available capacity for hydro-electric and pump storage resources. Summaries of actual average hourly generation from hydro-electric resources are also provided on a monthly basis in the DMA Director's Report, which is posted on the ISO Home Page.

IV. EFFECTIVE DATE

As explained in Section I.A, above, the Commission will have sole authority to administer and charge penalties under the Enforcement Protocol. Therefore, the ISO requests that the new provisions contained in the present filing be made effective as of the date the Commission approves such provisions.

The Honorable Magalie R. Salas
May 20, 2004
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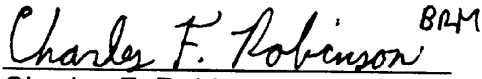
V. MATERIALS INCLUDED IN THE PRESENT FILING

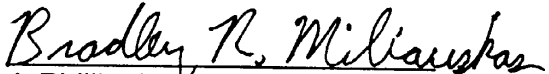
In addition to this transmittal letter, the present filing includes the following attachments:

- | | |
|--------------|--|
| Attachment A | Revised ISO Tariff sheets |
| Attachment B | Black-lined ISO Tariff sheets showing proposed modifications |
| Attachment C | A form notice of filing, suitable for publication in the Federal Register, along with a computer diskette containing the notice. |

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

Respectfully submitted,


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ATTACHMENT A

changes to the Suggested Adjusted Schedules, all of the Suggested Adjusted Schedules shall become the Final Schedules. The Final Schedules shall serve as the basis for Settlement between the ISO and each Scheduling Coordinator.

2.2.9 Prohibition on Scheduling Across Out-of-Service Transmission Paths. Scheduling Coordinators shall not submit any Schedule using a transmission path for any Settlement Period for which the Operating Transfer Capability for that path is zero MW. The ISO shall reject Schedules submitted for transmission paths on which the Operating Transfer Capability is zero MW. If the Operating Transfer Capability of a transmission path is reduced to zero after Final Day-Ahead Schedules have been submitted, then, if time permits, the ISO shall direct the responsible Scheduling Coordinators to reduce all Schedules on such zero-rated transmission paths to zero in the Hour-Ahead Market. As necessary to comply with Applicable Reliability Criteria, the ISO shall reduce any non-zero Final Hour-Ahead Schedules across zero-rated transmission paths to zero after the close of the Hour-Ahead Market. No Usage Charges will be assessed, nor will any Usage Charges for counter-flow be paid, for Schedules across a path with an Operating Transfer Capability of zero.

2.2.10 Information to be Provided by the ISO to all Scheduling Coordinators.

By 6:00 p.m. two days prior to a Trading Day, the ISO shall publish on WEnet information, including the following to all Scheduling Coordinators for each Settlement Period of the Trading Day:

2.2.10.1 Scheduled Line Outages. Scheduled transmission line Outages;

2.2.10.2 [Not Used]

2.2.10.3 Forecast Loop-Flow. Forecast Loop Flow over ISO Inter-zonal Interfaces and Scheduling Points;

2.2.10.4 Advisory Demand Forecasts. Advisory Demand Forecasts by location;

2.2.10.5 Updated Transmission Loss Factors. Updated Generation Meter Multipliers reflecting Transmission Losses to be supplied by each Generating Unit and by each import into the ISO Control Area;

2.2.10.6 Ancillary Services. Expected Ancillary Services requirement by reference to Zones for each of the reserve Ancillary Services.

2.2.10.7 [Not Used]

2.2.10.8 [Not Used]

2.3.1.2 Market Participant Responsibilities.

2.3.1.2.1 Comply with Operating Orders Issued. With respect to this Section 2.3.1.2, all Market Participants within the ISO Control Area and all System Resources shall comply fully and promptly with the ISO's operating orders, unless such operation would impair public health or safety. A Market Participant is not required to comply with an ISO operating order if it is physically impossible for the Market Participant to perform in compliance with that operating order. The Market Participant shall immediately notify the ISO of its inability to perform in compliance with the operating order. The ISO will honor the terms of Existing Contracts, except during a System Emergency and circumstances in which the ISO considers that a System Emergency is imminent or threatened. In a System Emergency and circumstances in which the ISO considers that a System Emergency is imminent or threatened, Existing Rights Holders must follow ISO operating orders even if those operating orders conflict with the terms of Existing Contracts. For this purpose ISO operating orders to shed Load shall not be considered as an impairment to public health or safety. This section does not prohibit a Scheduling Coordinator from modifying its Schedule or re-purchasing Energy in the Hour-Ahead Market.

2.3.1.2.2 Implementation of Instructions. All Market Participants shall respond to ISO instructions with no more delay than specified in the response times set out in the ISO Protocols.

2.3.1.3 Operating Reliability Criteria.

2.3.1.3.1 The ISO shall exercise Operational Control over the ISO Controlled Grid to meet planning and Operating Reserve criteria no less stringent than those established by WSCC and NERC as those standards may be modified from time to time, and Local Reliability Criteria that are in existence on the ISO Operations Date and have been submitted to the ISO by each Participating TO pursuant to

Section 2.2.1(v) of the TCA. All Market Participants and the ISO shall comply with the ISO reliability criteria, standards, and procedures.

2.3.1.3.2 The ISO may establish planning and Operating Reserve criteria more stringent than those established by WSCC and NERC or revise the Local Reliability Criteria subject to and in accordance with the provisions of the TCA.

2.3.2 Management of System Emergencies.

2.3.2.1 Declaration of System Emergencies. The ISO shall, when it considers that conditions giving rise to a System Emergency exist, declare the existence of such System

services. Accordingly the Scheduling Coordinators shall adjust their schedules to accommodate the minimum outputs required by the Generating Units included on the Schedules.

Notwithstanding the foregoing, a Scheduling Coordinator who has sold or self-provided Regulation, Spinning Reserve, Non-Spinning Reserve or Replacement Reserve capacity to the ISO in the Day-Ahead Market shall be required to replace that capacity in whole or in part from the ISO if the scheduled self-provision is decreased between the Day-Ahead and Hour-Ahead Markets, or if the Ancillary Service associated with a Generating Unit, Curtailable Demand, or System Resource successfully bid in a Day-Ahead Ancillary Service Market is reduced in the Hour-Ahead Market, for any reason (other than the negligence or willful misconduct of the ISO, or a Scheduling Coordinator's involuntary decrease in such sold capacity or scheduled self-provision on the instruction of the ISO). The price for such replaced Ancillary Service shall be the Market Clearing Price in the Hour-Ahead Market for the Ancillary Service for the Settlement Period concerned for the Zone in which the Generating Units or other resources are located. The ISO will purchase the Ancillary Service concerned from another Scheduling Coordinator in the Hour-Ahead Market in accordance with the provisions of the ISO Tariff.

2.5.22 Rules For Real Time Dispatch of Imbalance Energy Resources.

2.5.22.1 Overview. During real time, the ISO shall dispatch Generating Units, Loads and System Resources to procure Imbalance Energy. In addition, the ISO may also need to purchase additional Ancillary Services if the services arranged in advance are used to provide Imbalance Energy, and such depletion needs to be recovered to meet reliability contingency requirements.

Charge for each hour they have counter-scheduled on the Congested Inter-Zonal Interfaces.

The amount payable shall be the product of the Usage Charge referred to in Section 7.3.1.2 for that particular hour, multiplied by the Scheduling Coordinator's scheduled flows.

7.3.1.5.2 If a Scheduling Coordinator fails to provide the scheduled flows in a counter direction, it must reimburse the ISO for the ISO's costs of buying or selling Imbalance Energy in each of the Zones affected by the non-provided scheduled flows in a counter direction, at the ISO's Zonal Imbalance Energy prices. That is, for any Scheduling Coordinator that does not produce, in real time, the amount of Energy scheduled in the Day-Ahead Market or Hour-Ahead Market will be deemed to have purchased/sold the amount of Energy under/over produced in the real time imbalance market at the real time price.

7.3.1.6 ISO Disbursement of Net Usage Charge Revenues. The ISO will determine the net Usage Charges on an interface-by-interface basis by subtracting the Usage Charge fees paid to

Scheduling Coordinators from the Usage Charge fees paid by Scheduling Coordinators. The net Usage Charge revenues collected by the ISO for each Inter-Zonal Interface shall be, subject to the provisions of Section 7.3.1.7 of the ISO Tariff, paid to: (i) FTR Holders, in accordance with Section 9.6; and (ii) to the extent not paid to FTR Holders, to Participating TOs who own the Inter-Zonal Interfaces and Project Sponsors as provided in Section 3.2.7.3. Participating TOs will credit in turn the Usage Charge revenue to their Transmission Revenue Balancing Accounts, or, for those Participating TOs that do not have such accounts, to their Transmission Revenue Requirements.

7.3.1.7 ISO Debit of Net Usage Charge Revenues. If, after the issuance of Final Day-Ahead Schedules by the ISO, (a) Participating TOs instruct the ISO to reduce interface limits based on operating conditions or (b) an unscheduled transmission outage occurs and as a result of either of those events, Congestion is increased and Available Transfer

Reserve Account including drawing on any credit support provided by the defaulting Scheduling Coordinator pursuant to Section 2.2.3.2 of this ISO Tariff or serving demands on any defaulting Scheduling Coordinators with an Approved Credit Rating.

11.15 Prohibition on transfers.

The ISO shall at no time instruct the ISO Bank to transfer any sum from an ISO Account to another account (not being an ISO Account) unless that account is a Settlement Account or the amount is owed to the ISO under this ISO Tariff.

11.16 Alternative Payment Procedures.

11.16.1 Pro Rata Reduction to Payments.

If it is not possible to clear the ISO Clearing Account on a Payment Date because of an insufficiency of funds available in the ISO Reserve Account or by enforcing any guarantee, letter of credit or other credit support provided by a defaulting Scheduling Coordinator, the ISO shall reduce payments to all ISO Creditors proportionately to the net amounts payable to them on the relevant Payment Date to the extent necessary to clear the ISO Clearing Account. The ISO shall account for such reduction in the ISO ledger accounts as amounts due and owing by the non-paying ISO Debtor to each ISO Creditor whose payment was so reduced. The provisions of this section shall not apply to non-payment of any penalty amount that a Scheduling Coordinator has disputed and FERC has specifically authorized the Scheduling Coordinator to net its payment to the ISO by the amount of the penalty in question in accordance with EP 9.3, in which case the non-payment amount will be allocated exclusively to the ISO penalty trust account and not allocated to ISO Creditors.

11.16.2 Payment of Defaulted Receivables.

Collections of defaulted receivables (other than Interest) will be distributed pro rata to ISO Creditors for the month of default.

- (1) If the total collected in that closing related to the past due trade month is less than \$5,000, then the funds shall accumulate in an Interest-bearing account until either: (a) the account exceeds \$5,000, (b) there have been no distributions from the account for six months, or (c) all defaults for that month have been collected exclusive of any bankruptcy defaults.

law. The ISO shall cooperate with the affected Market Participant to obtain proprietary or confidential treatment of confidential information by the person to whom such information is disclosed prior to any such disclosure.

- (c) In order to maintain reliable operation of the ISO Control Area, the ISO may share individual Generating Unit Outage information with the operations engineering and/or the outage coordination division(s) of other Control Area operators, Participating TOs, MSS Operators engaged in the operation and maintenance of the electric supply system whose system is significantly affected by the Generating Unit and who have executed the Western Electricity Coordinating Council Confidentiality Agreement for Electric System Data.

20.4 Staffing and Training To Meet Obligations.

The ISO shall engage sufficient staff to perform its obligations under this ISO Tariff in a satisfactory manner consistent with Good Utility Practice. The ISO shall make its own arrangements for the engagement of all staff and labor necessary to perform its obligations hereunder and for their payment. The ISO shall employ (or cause to be employed) only persons who are appropriately qualified, skilled and experienced in their respective trades or occupations. ISO employees and contractors shall abide by the ISO Code of Conduct for employees contained in the ISO bylaws and approved by FERC.

20.5 Accounts and Reports.

The ISO shall notify Market Participants of any significant change in the accounting treatment or methodology of any costs or any change in the accounting procedures, which is expected to result in a significant cost increase to any Market Participant. Such notice shall be given at the earliest possible time, but no later than, sixty (60) days before implementation of such change.

BEEP Interval Ex Post Prices

The prices charged to or paid by Scheduling Coordinators for Imbalance Energy in each Zone in each BEEP Interval.

BEEP Software

The balancing energy and ex post pricing software which is used by the ISO to determine which Ancillary Service and Supplemental Energy resources to Dispatch and to calculate the Ex Post Prices.

Black Start

The procedure by which a Generating Unit self-starts without an external source of electricity thereby restoring power to the ISO Controlled Grid following system or local area blackouts.

Black Start Generator

A Participating Generator in its capacity as party to an Interim Black Start Agreement with the ISO for the provision of Black Start services, but shall exclude Participating Generators in their capacity as providers of Black Start services under their Reliability Must-Run Contracts

Bulk Supply Point

A UDC metering point.

Business Day

A day on which banks are open to conduct general banking business in California.

C.F.R.

Code of Federal Regulations.

Circular Schedule

A Schedule or set of Schedules that creates a closed loop of Energy Schedules between the ISO Controlled Grid and one or more other Control Areas that do not have a source and sink in separate Control Areas, which includes Energy scheduled in a counter direction over a Congested Inter-Zonal Interface through two or more Scheduling Points. A closed loop of Energy Schedules that includes a transmission segment on the Pacific DC Intertie shall not be a Circular Schedule because such a Schedule directly changes power flows on the network and can mitigate Congestion between SP15 and NP15. This

definition of a Circular Schedule does not apply to the circumstance in which a Scheduling Coordinator submits a Schedule that is an amalgam of different Market Participants' separate but simultaneously submitted Schedules.

Completed Application Date

For purposes of Section 5.7, the date on which a New Facility Operator submits an Interconnection Application to the ISO that satisfies the requirements of the ISO Tariff and the TO Tariff of the Interconnecting PTO.

Completed Interconnection Application

An Interconnection Application that meets the information requirements as specified by the ISO and posted on the ISO Home Page.

Conditional Energy Bids

A Bid for Energy to serve Demand at or below a specified price.

Congestion

A condition that occurs when there is insufficient Available Transfer Capacity to implement all Preferred Schedules simultaneously or, in real time, to serve all Generation and Demand. "Congested" shall be construed accordingly.

Congestion Management

The alleviation of Congestion in accordance with Applicable ISO Protocols and Good Utility Practice.

<u>Operating Reserve</u>	The combination of Spinning and Non-Spinning Reserve required to meet WSCC and NERC requirements for reliable operation of the ISO Control Area.
<u>Operating Transfer Capability</u>	The maximum capability of a transmission path to transmit real power, expressed in MW, at a given point in time.
<u>Operational Control</u>	The rights of the ISO under the Transmission Control Agreement and the ISO Tariff to direct Participating TOs how to operate their transmission lines and facilities and other electric plant affecting the reliability of those lines and facilities for the purpose of affording comparable non-discriminatory transmission access and meeting Applicable Reliability Criteria.
<u>Operator</u>	The operator of facilities that comprise the ISO Controlled Grid or a Participating Generator.
<u>OPF (Optimal Power Flow)</u>	A computer optimization program which uses a set of control variables (which may include active power and/or reactive power controls) to determine a steady-state operating condition for the transmission grid for which a set of system operating constraints (which may include active power and/or reactive power constraints) are satisfied and an objective function (e.g. total cost or shift of schedules) is minimized.
<u>Order No. 888</u>	The final rule issued by FERC entitled "Promoting Wholesale Competition through Open Access Non- discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities," 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. & Regs., Regulations Preambles [1991-1996] ¶ 31,036 (1996), Order on Rehearing, Order No. 888-A, 78 FERC ¶ 61,220 (1997), as it may be amended from time to time.

Order No. 889

The final rule issued by FERC entitled "Open Access Same-Time Information System (formerly Real Time Information Networks) and Standards of Conduct," 61 Fed. Reg. 21,737 (May 10, 1996), FERC Stats. & Regs., Regulations Preambles [1991-1996] ¶¶ 31,035 (1996), Order on Rehearing, Order No. 889-A, 78 FERC ¶¶ 61,221 (1997), as it may be amended from time to time.

Original Participating TO

A Participating TO that was a Participating TO as of January 1, 2000.

Outage

Disconnection or separation, planned or forced, of one or more elements of an electric system.

Overgeneration

A condition that occurs when total Generation exceeds total Demand in the ISO Control Area.

Participating Buyer

A Direct Access End-User or a wholesale buyer of Energy or Ancillary Services through Scheduling Coordinators.

Participating Intermittent Resource

One or more Eligible Intermittent Resources that meets the requirements of the technical standards for Participating Intermittent Resources adopted by the ISO and published on the ISO Home Page.

ISO MARKET MONITORING AND INFORMATION PROTOCOL

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that affect the operation of the ISO Markets and that provide indications of the phenomena set forth below in this Section 2.1. Where appropriate, it will take such further action as it considers necessary under Section 2.3.

MMIP 2.1.1 Abuse of Reliability Must-Run Unit Status

Where Generating Units are determined by the ISO to be Reliability Must-Run Units, circumstances that indicate that such Generating Units are being operated in a manner that will adversely affect the competitive nature and efficient workings of the ISO Markets.

MMIP 2.1.2 ISO and Other Market Design Flaws

Design flaws and inefficiencies in the ISO Tariff, ISO Protocols and operational rules and procedures of the ISO, including the potential for problems between the ISO and other independent power markets or exchanges insofar as they affect the ISO Markets.

MMIP 2.1.3 Market Structure Flaws

With respect to flaws in the overall structure of the California energy markets that may reveal undue concentrations of market power in Generation or other structural flaws, the Department of Market Analysis shall provide such information or evidence of such flaws and such analysis as it may conduct to the ISO CEO and/or to the ISO Governing Board, subject to due protections of confidential or commercially sensitive information. After due internal consultation, if instructed by any of such ISO institutions or persons, the Department of Market Analysis shall also provide such information or evidence to the Market Surveillance Committee, the appropriate regulatory and antitrust enforcement agency or agencies, subject to due protections of confidential or commercially sensitive information. The Department of Market Analysis shall, at the direction of the ISO CEO and/or the ISO Governing Board, or their designee, provide such other evidence, views, analyses or testimony as may be appropriate or required and as it is reasonably capable of providing to assist the investigations of such agencies.

MMIP 2.2 Scrutiny of Participant Changes Potentially Affecting Market Structure

The Department of Market Analysis may undertake the following measures to monitor the special circumstances that may affect the operation of the ISO Markets due to corporate reorganizations including bankruptcies or changes in affiliate relationships and may recommend corrective actions as provided in Section 2.3.

MMIP 2.2.1 Exercises of Horizontal Market Power

The Department of Market Analysis may analyze the impact of changes in market structure on the ability of Market Participants to exercise short-term horizontal market power.

MMIP 2.3.3 Adverse Effects of Transition Mechanisms

Should the monitoring and analysis conducted under MMIP 2.2.3 reveal significant adverse effects of transition mechanisms on competition in or the efficient operation of the ISO Markets, the Department of Market Analysis shall examine and fully assess the efficacy of all possible measures that may be taken by the ISO, in order to prevent or to mitigate such adverse effects. The Department of Market Analysis shall make such recommendations to the CEO of the ISO and to the ISO Governing Board as it considers appropriate for action by the ISO and/or for referral to regulatory or law enforcement agencies. Such proposed measures may include, but shall not be limited to the following:

- MMIP 2.3.3.1** the use of direct bid caps as a mechanism to prevent or mitigate artificially high Market Clearing Prices caused by abuses of market power;
- MMIP 2.3.3.2** the use of contracts for differences for eliminating the incentive for Generators to bid ISO prices to artificially high levels enabled by the presence of market power;
- MMIP 2.3.3.3** calling upon Reliability Must-Run Units to operate; and to modify Reliability Must-Run Contracts;
- MMIP 2.3.3.4** bid floors to prevent or mitigate the possible exercise of below-cost bidding or predatory pricing.

In the event that the ISO Governing Board adopts, and where necessary obtains regulatory approval for, any

measure proposed pursuant to MMIP 2.3.3, the Department of Market Analysis shall monitor the implementation and effect of such measure on the state of the ISO Markets and shall periodically report on them to the CEO and the ISO Governing Board.

MMIP 3 ISO DEPARTMENT OF MARKET ANALYSIS

MMIP 3.1 Establishment

There shall be established on or before ISO Operations Date within the ISO a Department of Market Analysis that shall be responsible for the ongoing development, implementation, and execution of the ISO Market monitoring and information scheme described in this MMIP and the adherence to its objectives, as set forth in MMIP 1.1.

MMIP 3.2 Composition

The Department of Market Analysis shall be adequately staffed by the ISO with full-time ISO staff with the experience and qualifications necessary to fulfill the functions referred to in this MMIP. Such qualifications may include professional training pertinent to and experience in the operation of markets analogous to ISO Markets, in the electric power industry, and in the field of competition and antitrust law, economics and policy. The Department of Market Analysis shall be under the general management of the ISO CEO, provided that the CEO may designate another ISO officer (currently the General Counsel) for day-to-day oversight of the Department.

MMIP 3.3 Accountability and Responsibilities

MMIP 3.3.1 Department of Market Analysis

The Department of Market Analysis shall report to and be accountable to the ISO CEO and his or her designee on all matters pertaining to policy and other matters that may affect the effectiveness and integrity of the monitoring function referred to in this Protocol, including matters pertaining to market monitoring, information development and dissemination and pertaining to generic or entity-specific investigations, corrective actions or enforcement.

MMIP 3.3.2 CEO and MSC

The ISO CEO and the MSC shall each have the independent authority to refer any of the matters referred to in MMIP 3.3.1 to the ISO Governing Board for approval of recommended actions.

MMIP 3.3.3 Chief Executive Officer (CEO)

MMIP 3.3.3.1

The Department of Market Analysis shall report to and be accountable to the ISO CEO and his or her designee on all matters relating to administration of the Department and the internal resources and organization of the ISO in accordance with MMIP 3.3.3.2.

- (3) Resource_ID2 (required only for individual interchange schedules and Inter-SC Trades);
- (4) Energy type – firm (FIRM), non-firm (NFIRM), wheeling (WHEEL), dynamic (DYN), Energy (ENGY), Spinning Reserve (CSPN), Non-Spinning Reserve (CNSPN) or Replacement Reserve (CRPLC); and
- (5) Hourly scheduled Energy or Ancillary Service, utilizing the same sign convention as set forth in (g) above.

SBP 2.1.7 No Scheduling Coordinator shall submit a Circular Schedule. The ISO may periodically provide examples of such Circular Schedules under the ISO Home Page.

SBP 2.2 Validation of Balanced Schedules

Each SC will be assigned a workspace within the ISO's scheduling system. Each workspace will have a work area for Day-Ahead and Hour-Ahead Schedules, Adjustment Bids and Supplemental Energy bids. The SC shall only be allowed to access and manipulate its Schedule and bid data within this workspace. Each area is organized into segments. A segment is used to hold the SC's Schedules relating to the same Trading Day. The Schedule validation process is divided into two stages. The ISO shall carry out the first stage validation immediately after it has received a Schedule. The ISO shall carry out the second stage validation ten (10) minutes before (pre-validation) and immediately after each deadline (as specified in the SP) for submission of Schedules. However, a SC can also initiate the stage two validation at any time prior to that deadline, as described in more detail in the SP. If the SC adds a new Schedule or modifies an existing Schedule, that Schedule must be re-validated. SCs must comply with the ISO Data Templates and Validation Rules document, which contains the validation criteria for Balanced Schedules.

SBP 2.2.1 Stage One Validation

During stage one validation, each incoming Schedule will be validated to verify proper content, format and syntax. The ISO will check that the SC had not exceeded its Security Amount and verify that the SC is certified in accordance with the ISO Tariff. The ISO will further verify that the SC has inputted valid Generating Unit and Demand location identification. Scheduled Reliability Must-Run Generation will be verified against the contract reference numbers in the ISO's Scheduling Coordinator database. A technical validation will be performed verifying that a scheduled Generating *Unit's* output is not beyond its declared capacity and/or operating limits. If there is an error found during stage one validation, the SC will be notified immediately through WEnet. The SC can then look at the notification messages to review the detailed list of errors, make changes, and resubmit the Schedule if it is still within the timing requirements of the SP. Additionally, if the ISO detects an invalid contract usage (of either Existing Contract rights or Firm Transmission Rights), the ISO will issue an error message in similar manner to the SC and allow the SC to view the message(s), to make changes, and to resubmit the contract usage template(s) if it is still

SBP 5.2.3 Validation Checks

The ISO's stage one validation checks are performed automatically whenever Ancillary Services Schedules and bids are submitted, as described in the SP. The ISO's stage two validation is performed automatically in accordance with the timing requirements described in the SP. A SC can also check whether its Ancillary Services Schedules and bids will pass the ISO's stage two validation by manually initiating validation of its Ancillary Services Schedules and bids, as described in the SP, at any time prior to the deadline for submission of Ancillary Services Schedules and bids. It is a SC's responsibility to perform such checks.

SBP 5.3 Buy Back of Ancillary Services

A Scheduling Coordinator who has sold or self-provided Regulation, Spinning Reserve, Non-Spinning Reserve or Replacement Reserve capacity to the ISO in the Day-Ahead Market shall be required to replace such capacity to the extent scheduled self-provision is decreased between the Day-Ahead and Hour-Ahead Markets, or to the extent the Ancillary Service associated with a Generating Unit, Curtailable Demand, or System Resource successfully bid in a Day-Ahead Ancillary Service Market is reduced in the Hour-Ahead Market, for any reason (other than the negligence or willful misconduct of the ISO, or a Scheduling Coordinator's involuntary decrease in such sold capacity or scheduled self-provision on the instruction of the ISO). The price for such replaced Ancillary Service shall be the Market Clearing Price in the Hour-Ahead Market for the same Settlement Period for the Ancillary Service capacity concerned.

SBP 6 ENERGY BIDS

SCs must submit Energy Bids for resources providing Spinning, Non-Spinning, or Replacement Reserves. The upper portion of the Energy Bid that corresponds to the resource's available capacity up to the highest operating limit, shall be allocated to any awarded or self-provided Ancillary Services in the following order from higher to lower capacity: a) Regulation Up; b) Spinning Reserve; c) Non-Spinning Reserve; and d) Replacement Reserve. For resources providing Regulation Up, the upper regulating limit shall be used if it is lower than the highest operating limit. The remaining portion of the Energy Bid, if there is any, shall constitute Supplemental Energy. Supplemental Energy bids are available to the ISO for procurement and use for Imbalance Energy, additional Voltage Support and Congestion Management in the Real Time Market.

SBP 6.1 Content of Energy Bids

SBP 6.1.1 Generation Section of Energy Bid Data

Each SC offering Spinnin, Non-Spinning, or Replacement Reserve, or Supplemental Energy to the ISO will submit the following information for each Generating Unit for each Settlement Period:

the negligence or willful misconduct of the ISO, or a Scheduling Coordinator's involuntary decrease in such sold capacity or scheduled self-provision on the instruction of the ISO). The price for such replaced Ancillary Service shall be at the Market Clearing Price in the Hour-Ahead Market for the same Settlement Period for the Ancillary Service capacity concerned. Increases in each Scheduling Coordinator's self-provided Ancillary Services between the Day-Ahead and Hour-Ahead Markets shall be limited to the estimated incremental Ancillary Service requirement associated with the increase between the Day-Ahead and Hour-Ahead Markets in that Scheduling Coordinator's scheduled Zonal Load. Notwithstanding this limit on increases in Hour-Ahead self-provision, a Scheduling Coordinator may buy or sell Ancillary Services through Inter-Scheduling Coordinator Ancillary Service Trades in the Hour-Ahead Market;

- (f) due to the design of the ISO's scheduling software, the ISO will not take into account Usage Charges in the evaluation of Ancillary Services bids or in price determination and, in the event of Congestion in the Day-Ahead Market or Hour-Ahead Market, Ancillary Services will be procured and priced on a Zonal basis; and
- (g) due to the design of the ISO's scheduling system, any specific resource can bid to supply a specific Ancillary Service or can self-provide such Ancillary Service but cannot do both in the same Settlement Period.

SP 9.2

Sequential Evaluation of Bids

- (a) When SCs bid into the Regulation, Spinning Reserve, Non-Spinning Reserve and Replacement Reserve markets, the same resource capacity may be offered into more than one of these Ancillary Services markets at the same time. The ISO will evaluate bids in the reserve markets for Regulation, Spinning Reserve, Non-Spinning Reserve and Replacement Reserve sequentially and separately in the following order:
 - (i) Regulation
 - (ii) Spinning Reserve
 - (iii) Non-Spinning Reserve; and
 - (iv) Replacement Reserve.
- (b) SCs are allowed to specify different reserve prices and different Energy prices for each Ancillary Service they bid. SCs can bid the same resource capacity into any one or all of the Ancillary Service markets they desire. Any resource capacity accepted by the ISO in one of these reserve markets will be deducted from the resource capacity bid into the other reserve markets, except that resource

capacity accepted in the Regulation market that represents the downward range of movement accepted by the ISO will not be deducted from the resource capacity bid into other reserve markets.

SP 9.3 Scheduling Ancillary Services Resources

- (a) SCs are allowed to self-provide all or a portion of the following Ancillary Services to satisfy their obligations to the ISO:
 - (i) Regulation;
 - (ii) Spinning Reserve;
 - (iii) Non-Spinning Reserve; and
 - (iv) Replacement Reserve.
- (b) The ISO will reduce the quantity of Ancillary Services it competitively procures by the corresponding amount of the Ancillary Services that SCs self-provide.
- (c) The ISO shall prepare supplier schedules for Ancillary Services (both self-provided and purchased by the ISO) for the Day-Ahead Market and the Hour-Ahead Market.
- (d) The Ancillary Services schedules shall contain the information set out in the SBP for each Settlement Period of the following Trading Day in the case of the Day-Ahead schedules or for a specific Settlement Period in the case of Hour-Ahead schedules.
- (e) Once the ISO has given SCs notice of the Day-Ahead and Hour-Ahead schedules, these schedules represent binding commitments made in the reserve markets between the ISO and the SCs concerned. A Scheduling Coordinator who has sold or self-provided Regulation, Spinning Reserve, Non-Spinning Reserve or Replacement Reserve capacity to the ISO in the Day-Ahead Market shall be required to replace such capacity to the extent scheduled self-provision is decreased between the Day-Ahead and Hour-Ahead Markets, or to the extent the Ancillary Service associated with a Generating Unit, Curtailable Demand, or System Resource successfully bid in a Day-Ahead Ancillary Service Market is reduced in the Hour-Ahead Market, for any reason (other than the negligence or willful misconduct of the ISO, or a Scheduling Coordinator's involuntary decrease in such sold capacity or scheduled self-provision on the instruction of the ISO). The price for such replacement shall be at the Market Clearing Price in the Hour-Ahead Market for the Ancillary Service for the Settlement Period concerned for the Zone in which the Generating Unit or other resources on behalf of which the Scheduling Coordinator buys back the capacity, are located. The ISO will purchase the Ancillary Service concerned from another Scheduling

- (b) amounts in respect of penalties or sanctions which may be levied by the ISO in accordance with the ISO Tariff or ISO Protocols. These charges will be levied on the Market Participants liable for payment of the penalty or sanction.
- (c) amounts required to reach an accounting trial balance of zero in the course of the Settlement process in the event that the charges calculated as due from ISO Debtors are lower

than payments calculated as due to the ISO Creditors for the same Trading Day. These charges will be allocated amongst the Scheduling Coordinators who traded on that Trading Day pro rata to their metered Demand (including exports) in MWh of Energy for that Trading Day. In the event that the charges due from ISO Debtors are higher than the payments due to ISO Creditors, the ISO shall allocate a payment to the Scheduling Coordinators who traded on that Trading Day pro rata to their metered Demand (including exports) in MWh of Energy for that Trading Day.

- (d) amounts required with respect to payment adjustments for regulating Energy as calculated in accordance with Section 2.5.27.1 of the ISO Tariff. These charges will be allocated amongst the Scheduling Coordinators who traded on that Trading Day pro rata to their metered Demand (including exports) in MWh for that Trading Day.

SABP 3.2

Method of Settlement of Charges

SABP 3.2.1

Settlement of Payments to/from Scheduling Coordinators and Participating TOs

The ISO will calculate for each charge the amounts payable by the relevant Scheduling Coordinator, Black Start Generator or Participating TO for each Settlement Period of the Trading Day, and the amounts payable to that Scheduling Coordinator, Black Start Generator or Participating TO for each charge for each Settlement Period of that Trading Day and shall arrive at a net amount payable for each charge by or to that Scheduling Coordinator, Black Start Generator or Participating TO for each charge for that Trading Day. Each of these amounts will appear in the Preliminary and Final Settlement Statements that the ISO will provide to the relevant Scheduling Coordinator, Black Start Generator or Participating TO as provided in SABP 4.

The three components of the Grid Management Charge will be included in the Preliminary Settlement Statement and Final Settlement Statement with the other types of charges referred to in SABP 3.1, but a separate invoice for the Grid Management Charge, stating the rate, billing determinant volume and total charge for each of its three components, will be issued by the ISO.

SABP 4

SETTLEMENT STATEMENTS

SABP 4.1

Preliminary Settlement Statements

SABP 4.1.1

Timing of Preliminary Settlement Statements

The ISO shall provide to each Scheduling Coordinator, Black Start Generator or Participating TO for validation a Preliminary Settlement Statement for each Trading Day in accordance with the ISO Payments Calendar.

SABP 6.3 Payment Process

SABP 6.3.1 Use of the ISO Clearing Account

- (a) Subject to SABP 6.1.2 each ISO Debtor shall remit to the ISO Clearing Account the amount shown on the invoice as payable by that ISO Debtor for value not later than 10:00 am on the Payment Date.
- (b) On the Payment Date the ISO shall be entitled to cause the transfer of such amounts held in a Scheduling Coordinator's ISO prepayment account to the ISO Clearing Account as provided in SABP 6.1.2(c).

SABP 6.3.1.2 Distribution to ISO Creditors

The ISO shall calculate the amounts available for distribution to ISO Creditors on the Payment Date and shall give irrevocable instructions to the ISO Bank to remit from the ISO Clearing Account to the relevant Settlement Account maintained by each ISO Creditor for same day value the amounts determined by the ISO to be available for payment to each ISO Creditor. If required, the ISO shall instruct the ISO Bank to transfer amounts from the ISO Reserve Account to enable the ISO Clearing Account to clear by the close of banking business on the Payment Date.

SABP 6.3.1.3 Grid Management Charge

The ISO is authorized to instruct the ISO Bank to debit the ISO Clearing Account and transfer to the relevant ISO account sufficient funds to pay in full the Grid Management Charge falling due on any Payment Day with priority over any other payments to be made on that or on subsequent days out of the ISO Clearing Account.

SABP 6.4 Use of the ISO Reserve Account

If there are insufficient funds in the ISO Clearing Account to pay ISO Creditors and clear the account on any Payment Date, due to payment default by one or more ISO Debtors, the ISO shall transfer funds from the ISO Reserve Account to the ISO Clearing Account to clear it by close of banking business on that Payment Date pursuant to SABP 6.7.2.

SABP 6.5 Use of the ISO Surplus Account

SABP 6.5.1 Establishment

The ISO shall establish and maintain a bank account in accordance with this Protocol denominated the "ISO Surplus Account".

SABP 6.5.2 Other Funds Used in the ISO Surplus Account.

- (a) Any amounts paid to the ISO in respect of penalties or sanctions referred to in SABP 3.1.1 shall be credited to the Surplus Account, subject, however, to SABP 6.5.2(b).

- (b) The funds referred to in SABP 6.5.2(a) pertaining to penalties or sanctions as provided in SABP 3.1.1 shall first be applied towards any expenses, loss or costs incurred by the ISO except for that portion of those amounts collected pursuant to EP 9.4. Any

excess after such application will be credited to the Surplus Account pursuant to SABP 6.5.2(a).

- (c) The funds referred to in SABP 6.5.2(a) pertaining to default interest referred to in SABP 6.10.5 shall first be applied towards any unpaid creditor balances for the trade month in which the default interest was assessed and second to any other unpaid creditor balances. Only after all unpaid creditor balances are satisfied in full will any excess funds pertaining to default interest be credited to the Surplus Account pursuant to SABP 6.5.2(a).

SABP 6.5.3 Distribution of Funds

In the event that there are funds in the ISO Surplus Account in excess of an amount to be determined by the ISO Governing Board and noticed by the ISO to Market Participants, the amount of such excess will be distributed to Scheduling Coordinators using the same method of apportioning the refund as the method employed in apportioning the liability for the Grid Management Charge.

SABP 6.5.4 Trust

All amounts standing to the credit of the ISO Surplus Account will be held at all times on trust for Market Participants in accordance with this Protocol.

SABP 6.6 System Failure

SABP 6.6.1 At ISO Debtor's Bank

If any ISO Debtor becomes aware that a payment will not, or is unlikely to be, remitted to the ISO Bank by 10:00 am on the relevant Payment Date for any reason (including failure of the Fed-Wire or any computer system), it shall immediately notify the ISO, giving full details of the payment delay (including the reasons for the payment delay). The ISO Debtor shall make all reasonable efforts to remit payment as soon as possible, by an alternative method if necessary, to ensure that funds are received for value no later than 10:00 am on the Payment Date, or as soon as possible thereafter.

SABP 6.6.2 At the ISO's Bank

In the event of failure of any electronic transfer system affecting the ISO Bank, the ISO shall use reasonable efforts to establish alternative methods of remitting funds to the ISO Creditors' Settlement Accounts by close of banking business on that Payment Date, or as soon as possible thereafter. The ISO shall notify the ISO Debtors and the ISO Creditors of occurrence of the system failure and the alternative methods and anticipated time of payment.

SABP 6.7 Payment Default

Subject to SABP 6.8, if by 10:00 am on a Payment Date the ISO, in its reasonable opinion, believes that all or any part of any amount due to be remitted to the ISO Clearing Account by any Scheduling

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
FERC ELECTRIC TARIFF
FIRST REPLACEMENT VOLUME NO. II

First Revised Sheet No. 858
Superseding Original Sheet No. 858

ISO Enforcement Protocol

Issued by: Charles F. Robinson, Vice President and General Counsel
Issued on: May 20, 2004

Effective: Upon Commission Approval

ISO ENFORCEMENT PROTOCOL

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ISO ENFORCEMENT PROTOCOL (“EP”)

EP 1 OBJECTIVES, DEFINITIONS, AND SCOPE

EP 1.1 Purpose

This Protocol sets forth the guiding principles for participation in the markets administered by the California Independent System Operator. The specified Rules of Conduct are intended to provide fair notice to Market Participants of the conduct expected of them, to provide an environment in which all parties may participate on a fair and equal basis, to redress instances of gaming and other instances of anticompetitive behavior, and thereby to foster confidence of Market Participants, ratepayers and the general public in the proper functioning of the ISO markets.

EP 1.2 Objectives

The objectives of this Protocol are to:

- (a) Provide clear Rules of Conduct specifying the behavior expected of Market Participants; and
- (b) Establish in advance the Sanctions and other potential consequences for violation of the specified Rules of Conduct.

EP 1.3 Master Definitions Supplement

Unless the context otherwise requires, any word or expression defined in the Master Definitions Supplement to the ISO Tariff shall have the same meaning where used in this Protocol. References to a Section or Appendix are to a section of or an appendix to the ISO Tariff. References to EP are to this Protocol or to the stated section or paragraph of, or appendix to, this Protocol.

EP 1.4 Special Terms for This Protocol

In this Protocol, the following words and expressions shall have the meanings set opposite them:

- (a) **“FERC”** means the Federal Energy Regulatory Commission.

- (d) Participating Transmission Owners (PTOs);
- (e) Participating Generators;
- (f) Control Area Operators, to the extent the agreement between the Control Area Operator and the ISO so provides;
- (g) Operators;
- (h) Other Market Participants;
- (i) The ISO; and
- (j) FERC

EP 1.7 Liability of ISO

Any liability of the ISO arising out of or in relation to this Protocol shall be subject to Section 14 of the ISO Tariff as if references to the ISO Tariff were references to this Protocol.

EP 1.8 Application of Other Remedies

The activities and remedies authorized under this Protocol are in addition to any other actions or relief that may be available to the ISO elsewhere in the ISO Tariff or under law, regulation or order. Nothing in this Protocol limits or should be construed to limit the right of the ISO to take action or seek relief otherwise available to it, and such action or relief may be pursued in lieu of or in addition to the action or relief specified in this Protocol.

EP 1.9 FERC Authority

In addition to any authority afforded Market Monitoring Staff in this Protocol, FERC shall have the authority to assess the sanctions, and otherwise to enforce the rules as set forth and described in this Protocol. FERC shall have authority to remedy a violation under this Protocol from the date of the violation. Nothing in this Protocol shall be deemed to be a limitation or condition on the authority of FERC or other entities under current law or regulation.

EP 1.10 Administration of the EP

Pursuant to the FERC Order dated February 20, 2004 in Docket ER03-1102, until a subsequent filing by the ISO and further order of FERC, the Rules of Conduct specified herein shall be enforced by FERC, and no Sanctions may be assessed by Market Monitoring Staff without prior FERC approval.

EP 2 COMPLY WITH OPERATING ORDERS

EP 2.1 Compliance with Orders Generally

- (a) **Expected Conduct.** Market Participants must comply with operating orders issued by the ISO as authorized under the ISO Tariff. For purposes of enforcement under this EP 2, an operating order shall be an order(s) from the ISO directing a Market Participant to undertake, a single, clearly specified action (e.g., the operation of a specific device, or change in status of a particular Generating Unit) that is feasible and intended to resolve a specific operating condition. If some limitation prevents the Market Participant from fulfilling the action requested by the ISO, then the Market Participant must promptly and directly communicate the nature of any such limitation to the ISO. Compliance with ISO operating orders requires a good faith effort to achieve full performance as soon as is reasonably practicable in accordance with Good Utility Practice.
- (b) **Sanctions.** The Sanction for a violation of this Section shall be the greater of the quantity of Energy non-performance multiplied by the applicable Hourly Ex Post Price or the following: for the first violation in a rolling twelve (12) month period, \$5,000; for the second and subsequent violations in a rolling twelve (12) month period, \$ 10,000. Sanctions under EP 2.1 will not be greater than \$10,000 per violation except as provided in EP 2.5. If a quantity of energy cannot be objectively determined, then the financial sanctions specified above will apply. A Market Participant may incur Sanctions for more than one violation per day.

EP 2.2 Failure to Curtail Load

- (a) **Expected Conduct.** A UDC or MSS Operator shall promptly comply with any ISO operating order to curtail interruptible or firm load issued pursuant to the ISO's authority under Section 4.4.4 of the ISO Tariff.
- (b) **Sanctions.** The Sanction for non-compliance with an operating order to curtail load will be \$10,000 for each violation. A UDC or MSS Operator may incur Sanctions for more than one violation per day.

EP 2.3 Operations & Maintenance Practices

- (a) **Expected Conduct.** Market Participants shall undertake such operating and maintenance practices as necessary to avoid contributing to a major outage or prolonging response time as indicated by Section 2.3.2.9.3 of the ISO Tariff.

- (b) **Sanctions.** The Sanction for a violation of EP 2.3 will be \$10,000.

EP 2.4 Must-Offer Denials/Revocations

- (a) **Expected Conduct.** A Market Participant shall start a Generating Unit within 30 minutes of the time at which a must-offer waiver revocation becomes effective, or report the derate, outage or other event outside the control of the Market Participant that prevents the Generating Unit from being started by such time. A Market Participant that fails to perform in accordance with the expected conduct described in this EP 2.4(a) shall be subject to Sanction.
- (b) **Sanctions.** The Sanctions for a violation of EP 2.4 shall be as follows: for the first violation in a rolling twelve (12) month period, \$5,000; for the second and all subsequent violations in a rolling twelve (12) month period, \$10,000. A Market Participant is limited to one Sanction per Generating Unit per calendar day.

EP 2.5 Enhancements and Exceptions

Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of EP 2.1 through EP 2.4 if an ISO System Emergency exists at the time an operating order becomes effective or at any time during the Market Participant's non-performance. Notwithstanding the foregoing, violations of EP 2.1 through EP 2.4 that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.2.4.1.2 of the ISO Tariff may be assessed are subject to penalty under this rule only to the extent that the ISO has issued a separate and distinct non-automated Dispatch Instruction to the Market Participant.

EP 3 SUBMIT FEASIBLE ENERGY AND ANCILLARY SERVICE BIDS AND SCHEDULES

EP 3.1 Bidding Generally

- (a) **Expected Conduct.** Market Participants must bid and schedule Energy and Ancillary Services from resources that are reasonably expected to be available and capable of performing at the levels specified in the bid and/or schedule, and to remain available and capable of so performing based on all information that is known to the Market Participant or should have been known to the Market Participant at the time of bidding or scheduling.
- (b) **Consequence for Non-Performance.** A Market Participant that fails to perform in accordance with the expected conduct described in EP 3.1 (a) above shall be subject to having the payment rescinded for any portion of an Ancillary Service that is unavailable.

EP 3.2 Certification

- (a) **Self-Certification.** The ISO will provide each Scheduling Coordinator that schedules Ancillary Services from Generating Units, Curtailable Demand, System Units and System Resources a monthly listing of schedules including the hour, location and service type of all Ancillary Services that were not Dispatched by the ISO. The Scheduling Coordinator must identify and advise the ISO in a certification form of any Ancillary Service schedules in the monthly listing for which 10 percent or more of the scheduled service could not have been delivered, in accordance with the terms of the bid, for any reason. Any certification form that identifies Ancillary Service schedules that could not be performed within the 10 percent tolerance band must be returned within 30 days of the Scheduling Coordinator's receipt of the associated monthly listing. If all such schedules could have been performed within the 10 percent tolerance band, no certification form from the Scheduling Coordinator shall be required, and the undispached Ancillary Service schedules shall be deemed certified with no exceptions. If information indicating that one or more Ancillary Service schedules could not have been performed within the 10 percent tolerance band becomes available to the Scheduling Coordinator subsequent to the 30-day deadline, then a revised certification form must be promptly submitted.
- (b) **Sanctions.** If a self-certification indicates that all or a portion of the scheduled Ancillary Service was unavailable, then payment for the unavailable Ancillary Service shall be rescinded. Unless some other obligation under the ISO Tariff is violated, the only consequence for an unavailable Ancillary Service identified through a timely self-certification form shall be the rescission of payment in accordance with this EP 3.2(b). Failure to provide a timely self-certification shall be subject to EP 6 if such late-filed self-certification indicates that any undispached Ancillary Service schedules were not deliverable as provided above. If definitive information (e.g., copies of maintenance logs demonstrating that the Ancillary Service was not available are discovered) indicates that a self-certification form should have been submitted but was not (i.e., services were incorrectly deemed deliverable), or that a submitted self-certification form was incomplete, the result in either instance shall be the false declaration of an Ancillary Service as being available, and the provisions of EP 5 shall apply. No Sanction shall apply for failure to submit a self-certification where no exceptions are subsequently identified.
- (c) **Audits.** Market Monitoring Staff and FERC shall have the authority to request any relevant information in support of an audit of any Ancillary Service schedule that is self-certified as available by the Scheduling Coordinator to the extent that such information is required to be available by FERC's Market Behavior Rule for record retention as approved in Docket No.EL01-118. For System Resources, such information shall

include the identity of the physical resource(s) and documentation supporting the associated firm transmission service that was available to the Scheduling Coordinator to comply with any ISO Dispatch of the associated Ancillary Service schedule.

EP 3.3 Exceptions.

Violations of EP 3.1 and EP 3.2 that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.2.4.1.2 of the ISO Tariff may be assessed or for which payments have been eliminated under Section 2.5.26 of the ISO Tariff or EP 3.2(a) are not subject to Sanction under this section. The submission of a Schedule that causes, or that the ISO expects to cause Intra-Zonal Congestion shall not, by itself, constitute a violation of EP 3.1 unless the Market Participant fails to comply with an obligation under the ISO Tariff to modify Schedules as determined by the ISO to mitigate such congestion or such Schedules violate another element of this Rule.

EP 4 COMPLY WITH AVAILABILITY REPORTING REQUIREMENTS

EP 4.1 Reporting Availability

- (a) **Expected Conduct.** A Market Participant shall report to the ISO Control Center any Outage of a Generating Unit subject to Section 5 of the ISO Tariff within thirty (30) minutes after the Outage occurs, in accordance with Section 2.3.3.9.2 of the ISO Tariff.
- (b) **Sanctions.** The Sanctions for a violation of EP 4.1 shall be as follows: for the first violation in a rolling twelve (12) month period, a warning letter; for the second violation in a rolling twelve (12) month period, \$1,000; for the third violation in a rolling twelve (12) month period, \$2,000; for the fourth and subsequent violations in a rolling twelve (12) month period, \$5,000. A Market Participant shall not be subject to more than one Sanction per Generating Unit per calendar day for violating EP 4.1. A "violation" shall mean each failure to report an Outage as required.

EP 4.2 Scheduling and Final Approval of Outages

- (a) **Expected Conduct.** A Market Participant shall not undertake an Outage except as approved by the ISO Outage Coordination Office in accordance with Sections 2.3.3.2, OCP 4.2, and OCP 5.1 of the ISO Tariff. A Market Participant shall not commence any Outage without obtaining final approval from the ISO Control Center in accordance with Sections 2.3.3.8, OCP 4.3.6, OCP 4.3.8, OCP 5.7, OCP 5.8, and OCP 6 of the ISO Tariff.

- (b) **Sanctions.** The Sanctions for a violation of EP 4.2 shall be as follows: for the first violation within a rolling twelve (12) month period, \$5,000; for subsequent violations within a rolling twelve (12) month period, \$10,000. A "violation" shall mean each Outage undertaken for which all required approvals were not obtained.

EP 4.3 Explanation of Forced Outages

- (a) **Expected Conduct.** A Market Participant, within two working days of the commencement of a Forced Outage, must provide an explanation of the Forced Outage to the ISO that includes a description of the equipment failure or other cause and a description of all remedial actions taken by the Operator, in accordance with Section 2.3.3.9.5 of the ISO Tariff. An Operator must promptly provide information requested by the ISO to enable the ISO to review the explanation submitted by the Operator and to prepare a report on the Forced Outage.
- (b) **Sanctions.** The Sanction for failing to provide a timely explanation of Forced Outage shall be \$500 per day for each day the explanation is late. The Sanction for failing to provide a timely response to information requested shall be as specified in EP 6.1.

EP 4.4 Enhancements and Exceptions

Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of EP 4.1 through EP 4.3 that occurs during an ISO System Emergency. Violations of the above rules that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.2.4.1.2 of the ISO Tariff may be assessed shall not be subject to Sanction under this EP 4.

EP 5 PROVIDE FACTUALLY ACCURATE INFORMATION

EP 5.1 Accurate Information Generally

- (a) **Expected Conduct.** All applications, Schedules, reports, and other communications by a Market Participant or agent of a Market Participant to the ISO, including maintenance and outage data, bid data, transaction information, and load and resource information, must be submitted by a responsible company official who is knowledgeable of the facts submitted. All such information submitted must be true, complete, and consistent with the operational plans of the company to the best knowledge of the person submitting the information.
- (b) **Sanctions.** Any violation of this Rule of Conduct for which no Sanction is otherwise specified in this EP shall be subject to a Sanction of up to \$10,000 for each submittal of false information.

EP 5.2 Inaccurate Meter Data

- (a) **Expected Conduct.** Market Participants shall provide complete and accurate Settlement Quality Meter Data for each Trade hour and shall correct any errors in such data prior to the issuance of Final Settlement Statements. Failure to provide complete and accurate Settlement Quality Meter Data, as required by Section 10 of the ISO Tariff and that results in an error that is discovered after issuance of Final Settlement Statements, shall be a violation of this rule.
- (b) **Sanctions.** Violations under this EP 5.2 shall be subject to Sanction described in Appendix A to this EP.
- (c) **Disposition of Sanction Proceeds.** For purposes of redistributing collected penalties, any amounts collected under this provision shall be applied first to those parties affected by the conduct. Any excess amounts shall be disposed of as set forth in EP 9.4.

EP 5.3 Factually Accurate Self-Certifications

- (a) **Expected Conduct.** Self-certifications provided by Market Participants in accordance with EP 3.2 shall be factually accurate. A violation of this rule shall occur if a self-certification form is incomplete or inaccurate, or if a self-certification form should have been submitted but was not (i.e., services were incorrectly deemed deliverable by operation of EP 3.2).
- (b) **Sanctions.** The Sanction for a violation of this rule shall be \$10,000. A "violation" shall mean each monthly self-certification that is incomplete, inaccurate, or not appropriately filed.

EP 6 PROVIDE INFORMATION REQUIRED BY ISO TARIFF

EP 6.1 Required Information Generally

- (a) **Expected Conduct.** Except as provided below in EP 6.6 (Review by FERC), all information that is required to be submitted to the ISO under the ISO Tariff, ISO protocols, or jurisdictional contracts must be submitted in a complete, accurate, and timely manner. Market Participants must comply with requests for information or data by the ISO authorized under the ISO Tariff, including timelines specified in the ISO Tariff for submitting Schedules and other information.
- (b) **Sanctions.** Except as otherwise provided below, in EP 6.2 to EP 6.5, a violation of this rule is subject to a penalty of \$500 for each day that the required information is late.

EP 6.2 Late Schedules

- (a) **Expected Conduct.** Market Participants shall provide all Preferred Day-Ahead Schedules, Revised Day-Ahead Schedules and Hour-Ahead Schedules by the deadlines specified in the Scheduling Protocol.
- (b) **Sanctions.** No Sanction shall apply to the first 20 late Schedules in a calendar month. For all subsequent late Schedules in the calendar month, a sanction of \$100 per late Schedule shall apply.

EP 6.3 Investigation Information

- (a) **Expected Conduct.** Except as provided below in EP 6.6 (Review by FERC), Market Participants must submit timely information in response to a written request by the ISO for information reasonably necessary to conduct an investigation authorized by the ISO Tariff.
- (b) **Sanctions.** The Sanction for a violation of EP 6.3 shall be as follows: for the first violation in a rolling 12-month period, \$1000/day; for the second violation in a rolling 12-month period, \$2000/day; for the third and subsequent violations in a rolling 12-month period, \$5000/day. For purposes of this subsection, a violation shall be each failure to provide a full response to a written request and the Sanction shall be determined from the date that the response was due until a full response to the request is received. A deficiency in response to more than one question or item in a single written request shall be treated as one "violation."

EP 6.4 Audit Materials

- (a) **Expected Conduct.** Except as provided below in EP 6.6 (Review by FERC), Market Participants shall comply with the ISO's audit and/or test procedures, and further shall perform and timely submit an annual self-audit as required under the ISO Tariff.
- (b) **Sanctions.** For failure to submit an annual SC Self Audit report, the Sanction shall be \$1000/day until such report is received by the ISO. For all other violations of this rule the Sanctions shall be as follows: for the first violation in a rolling 12-month period, \$1000/day; for the second violation in a rolling 12-month period, \$2000/day; for the third and subsequent violations in a rolling 12-month period, \$5000/day. For purposes of this subsection, a "violation" shall be each failure to provide all information required under the audit or test, from the date that the information was due until all required information is received by the ISO. A deficiency of information with respect to several items or procedures in a single audit or test shall be treated as one "violation."

EP 6.5 Self-Certification Forms

- (a) **Expected Conduct.** Market Participants shall submit on a timely basis to the ISO those self-certification forms that are required to be submitted under EP 3.2 for feasible schedules.
- (b) **Sanctions.** For each self-certification form that is 15-29 days late, \$100/day; for each self-certification form that is 30 or more days late, \$500/day starting with day 30.

EP 6.6 Review by FERC

A Market Participant who objects to an information, audit or test obligation that is enforceable under EP 6.1, 6.3 or 6.4 above shall have the right immediately (and in all events, no later than the due date for the information) to seek review of the obligation with FERC. In the event that such review is sought, the time for submitting the response or other information to the ISO shall be tolled until FERC resolves the issue.

EP 7 NO MARKET MANIPULATION

EP 7.1 Market Manipulation Generally

- (a) **Expected Conduct.** Actions or transactions that are without a legitimate business purpose and that are intended to or foreseeably could manipulate market prices, market conditions, or market rules for electric energy or electricity products are prohibited. Actions or transactions by a Market Participant that are explicitly contemplated in the ISO Tariff or are undertaken at the direction of the ISO are not in violation of this Rule of Conduct.
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.2 Wash Trades

- (a) **Expected Conduct.** Market Participants shall not engage in pre-arranged offsetting trades of the same product among the same parties, which involve no economic risk and no net change in beneficial ownership (sometimes called "wash trades").
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.3 False Information

- (a) **Expected Conduct.** A Market Participant shall not engage in transactions predicated on submitting false information to transmission providers or other entities responsible for operation of the transmission grid (such as inaccurate load or generation data; or scheduling non-firm service or products sold as firm), unless the Market Participant exercised due diligence to prevent such occurrences.
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.4 Artificial Congestion

- (a) **Expected Conduct.** A Market Participant shall not engage in transactions in which it first creates artificial congestion and then purports to relieve such artificial congestion, or knowingly undertakes a transaction to nullify the congestion relief the ISO expects when a Dispatch instruction is issued (unless the Market Participant exercised due diligence to prevent such an occurrence).
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.5 Collusion

- (a) **Expected Conduct.** Market Participants shall not engage in collusion with another party for the purpose of manipulating market prices, market conditions, or market rules for electric energy or electricity products (e.g. to knowingly use ETC transmission service after the close of the Hour Ahead Market to reverse the effect of a Supplemental Energy from a System Resource that the ISO exercised to mitigate congestion).
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 8 PROCESS FOR INVESTIGATION AND ENFORCEMENT

Until further order of FERC (see EP 1.10 above, "Administration of the EP"), the Rules of Conduct specified herein shall be enforced by FERC, in accordance with the Commission's standard rules and procedures. The ISO and its Market Monitoring Staff will refer to FERC and its staff all matters in which it has formed a reasonable belief that a violation of these rules may have occurred.

EP 9 ADMINISTRATION OF SANCTIONS

EP 9.1 Assessment; Waivers and Adjustments

Penalty amounts for violation of these Rules of Conduct shall be calculated as specified in EP 2 through 7. FERC shall have the authority to waive, reduce or increase a Sanction specified in this EP when it determines that such adjustment is just and reasonable. An adjustment generally shall be deemed appropriate if the prescribed Sanction appears to be insufficient to deter the prohibited behavior, or if the circumstances suggest that the violation was inadvertent, unintentional, or some other mitigating circumstances exist.

EP 9.2 Excuse

The following circumstances shall excuse a violation of a Rule of Conduct under the terms of this Protocol:

- (a) **Uncontrollable Force.** No failure by a Market Participant to satisfy the Rules of Conduct shall be subject to penalty to the extent and for the period that the Market Participant's inability to satisfy the Rules of Conduct is caused by an event or condition of Uncontrollable Force affecting the Market Participant; provided that the Market Participant gives notice to the ISO of the event or condition of Uncontrollable Force as promptly as possible after it knows of the event or condition and makes all reasonable efforts to cure, mitigate, or remedy the effects of the event or condition.
- (b) **Safety, Licensing, or Other Requirements.** Failure by a Market Participant to perform its obligations shall not be subject to penalty if the Market Participant is able to demonstrate that it was acting in accordance with Section 2.3.1.2.1 of the ISO Tariff.
- (c) **Emergencies.** Failure by a Market Participant to perform its obligations may not be subject to penalty if the Market Participant is able to demonstrate that it was acting in good faith and consistent with Good Utility Practice to preserve System Reliability in a System Emergency, unless contrary to an ISO operating order.
- (d) **Conflicting Directives.** To the extent that any action or omission by a Market Participant is specifically required by a FERC Order or ISO operating order, the Market Participant may not be subject to penalty for that act or omission.

EP 9.3 Settlement

- (a) **Settlement Statements.** The ISO will administer any penalties issued under this Enforcement Protocol through Preliminary Settlement Statements, and Final Settlement Statements issued to the responsible Scheduling Coordinator by the ISO. Before invoicing a financial penalty through the Settlement process, the ISO will provide a description of the penalty to the responsible Scheduling Coordinator. The description shall include the identity of the Market Participant that committed the violation and the amount of the penalty. Where FERC has determined the Sanction, the ISO will provide such of the above information as is provided to it by FERC. The ISO also may publish this information under the ISO Home Page after Final Settlement Statements are issued.
- (b) **Payment.** Except as provided in EP 9.3(c) below, the Scheduling Coordinator shall be obligated to pay all penalty amounts reflected on the Preliminary and Final Settlement Statements to the ISO pursuant to the ISO's Settlement process, as set forth in Section 11 of the ISO Tariff.
- (c) **Other Responsible Party.** Where a party or parties other than the Scheduling Coordinator is responsible for the conduct giving rise to a penalty reflected on a Preliminary or Final Settlement Statement, and where the SC bears no responsibility for the conduct, such other party or parties ultimately shall be liable for the penalty. Under such circumstances, the Scheduling Coordinator shall use reasonable efforts to obtain payment of the penalty from the responsible party(ies) and to remit such payment to the ISO in the ordinary course of the settlement process. In the event that the responsible party(ies) wish to dispute the penalty, or the Scheduling Coordinator otherwise is unable to obtain payment from the responsible parties, the Scheduling Coordinator shall notify the ISO and dispute the Preliminary Settlement Statement. The ISO promptly shall notify FERC. The Scheduling Coordinator shall be obligated to pay the full amount of the Invoice, inclusive of the penalty, unless FERC specifically authorizes the Scheduling Coordinator to net its payment by the amount of the penalty in question. The ISO may refuse to offer further service to any responsible party that fails to pay a penalty, unless excused under the terms of the Tariff or this Enforcement Protocol, by providing notice of such refusal to the Scheduling Coordinator. Following such notice, the Scheduling Coordinator shall be liable for any subsequent penalties assessed on account of such responsible party.
- (d) **Dispute of FERC Sanctions.** The right that a Market Participant may otherwise have under the Tariff or this Enforcement Protocol to dispute a penalty that has been determined by FERC shall be limited to a claim that the ISO failed properly to implement the penalty or other Sanction ordered by FERC.

EP 9.4 Disposition of Proceeds

The ISO shall collect penalties assessed pursuant to this EP and deposit such amounts in an interest bearing trust account. After the end of each calendar year, the ISO shall distribute the penalty amounts together with interest earned through payments to Scheduling Coordinators as provided herein. For the purpose of this EP 9.4, "eligible Market Participants" shall be those Market Participants that were not assessed a financial penalty pursuant to this EP during the calendar year.

Each Scheduling Coordinator that paid GMC during the calendar year will identify, in a manner to be specified by the ISO, the amount of GMC paid by each Market Participant for whom that Scheduling Coordinator provided service during that calendar year. The total amount assigned to all Market Participants served by that Scheduling Coordinator in such calendar year (including the Scheduling Coordinator itself for services provided on its own behalf), shall equal the total GMC paid by that Scheduling Coordinator.

The ISO will calculate the payment due each Scheduling Coordinator based on the lesser of the GMC actually paid by all eligible Market Participants represented by that Scheduling Coordinator, or the product of a) the amount in the trust account, including interest, and b) the ratio of the GMC paid by each Scheduling Coordinator on behalf of eligible Market Participants, to the total of such amounts paid by all Scheduling Coordinators. Each Scheduling Coordinator is responsible for distributing payments to the eligible Market Participants it represented in proportion to GMC collected from each eligible Market Participant.

Prior to allocating the penalty proceeds, the ISO will obtain FERC's approval of its determination of eligible Market Participants and their respective shares of the trust account proceeds. If the total amount in the trust account to be so allocated exceeds the total GMC obligation of all eligible Market Participants, then such excess shall be treated in accordance with SABP 6.5.2(b).

EP 10 MISCELLANEOUS

EP 10.1 Time Limitation

An investigation of events potentially subject to Sanction under this Protocol must be commenced within 90 days of discovery of the events. Sanctions may be assessed under this Protocol up to one year after discovery of the events constituting the violation, but no later than three years after the date of the violation. Nothing in this section shall limit the rights or liabilities of any party under any other provision of applicable laws, regulations or tariff provisions.

EP 10.2 No Limitation on Other Rights

Nothing contained in this Protocol shall limit the ability of the ISO to collect information from Market Participants or to establish new provisions pursuant to Section 19 of the ISO Tariff.

EP 10.3 Amendments

Amendments to this protocol shall be made pursuant to the ISO Protocol amendment process set forth in Section 16 of the ISO Tariff.

APPENDIX A

1. Method for Calculating Inaccurate Meter Data Penalty

There is no Sanction for the submission of inaccurate meter data used for Preliminary Settlement Statements. However, an error in submitted meter data that is discovered after issuance of Final Settlement Statements constitutes a Rule of Conduct violation. The level of the Sanction depends on whether the Scheduling Coordinator or the ISO discovered the error. An increased penalty will apply for errors that are discovered by the ISO.

Table A1 below shows how the level of the Sanction depends on the following factors: whether or not the Scheduling Coordinator finds the error; whether or not the Scheduling Coordinator owes the market, and whether or not the ISO reruns settlement of the market. If the ISO reruns the market, then settlement to all Scheduling Coordinators is recalculated, and the impact of such reruns on charges assessed will be considered. A charge equal to 30% of the estimated value of the Energy error will apply if the Scheduling Coordinator discovers the error, or 75% of the estimated value of the Energy error if the ISO discovers the error. Penalty assessment and disposition of penalty proceeds will be administered as described in EP 9.1 and 9.4 respectively. A Sanction will not be imposed unless such Sanction is more than \$1,000 for at least one Trading Day during the period for which there was incomplete or inaccurate meter data.

Table A1 – Calculation of Inaccurate Meter Data Penalty When There Is A Market Rerun

Case	Does SC Owe Market?	
Case 1: SC Identifies Inaccurate Meter Data	Yes	Charge = (MWh x Hourly Ex Post Price ¹) x 0.30
Case 1: SC Identifies Inaccurate Meter Data	No	Charge = (MWh x Hourly Ex Post Price ¹) x 0.30
Case 2: ISO Identifies Inaccurate Meter Data	Yes	Charge = (MWh x Hourly Ex Post Price ¹) x 0.75
Case 2: ISO Identifies Inaccurate Meter Data	No	Charge = (MWh x Hourly Ex Post Price ¹) x 0.75

Notes to Table A1:

1 The applicable price will be the greater of the Hourly Ex Post Price or \$10/MWh. The Hourly Ex Post Price used will be the value posted under the ISO Home Page for each Trading Hour of the applicable Trading Day.

2. Method for Calculating Inaccurate Meter Data Penalty When The Market Is Not Re-Run

If the Market is not re-run, for cases of inaccurate meter data, Table A2 will be used to determine and allocate the penalty proceeds. This method approximates the financial impact on the market; however, it does not completely reflect all the settlement consequences of inaccurately submitted meter data. This will be considered a market adjustment. The approximated value of the inaccurate meter data in question will be calculated and returned to the Market based on the average of the pro rata share of Unaccounted For Energy (UFE) charged in the UDC territory during the period of the inaccurate meter data event. The 30% or 75% penalty will be distributed as discussed in EP 9.4. For cases where the market is not re-run and the SC does not owe the market, then no market adjustment will be performed.

TABLE A2- Calculation Of Inaccurate Meter Data Penalty When There Is No Market Re-Run

Case	Does SC Owe Market?	ISO does not perform a market settlement re-run
Case 1: SC Identifies Inaccurate Meter Data	Yes	Market Adjustment = (MWh x Hourly Ex Post Price ¹) Penalty = (MWh x Hourly Ex Post Price ¹) x 0.30
Case 1: SC Identifies Inaccurate Meter Data	No	No Market Adjustment will be made Penalty = (MWh x Hourly Ex Post Price ¹) x 0.30
Case 2: ISO Identifies Inaccurate Meter Data	Yes	Market Adjustment = (MWh x Hourly Ex Post Price ¹) Penalty = (MWh x Hourly Ex Post Price ¹) x 0.75
Case 2: ISO Identifies Inaccurate Meter Data	No	No Market Adjustment will be made Penalty = (MWh x Hourly Ex Post Price ¹) x 0.75

Notes to Table A2:

1 The applicable price will be the greater of the Hourly Ex Post Price or \$10/MWh. The Hourly Ex Post Price used will be the value posted under the ISO Home Page for each Trading Hour of the applicable Trading Day.

A Sanction will be imposed only if the Sanction is more than \$1,000 for at least one Trading Day during the period for which there was incomplete or inaccurate meter data.

If the error is to the detriment of the responsible Scheduling Coordinator (e.g., under-reported generation or over-reported load), and the ISO does not rerun the market, then no correction will be made, representing an implicit penalty of 100% of the value of the Energy. If the market is rerun after the error is corrected, then the Scheduling Coordinator will be given credit for the additional Energy through the normal Settlement process. If the Scheduling Coordinator is paid for an error due to a market rerun, then a Sanction will be assessed to assure that market reruns do not diminish the incentive to correct such errors. This Sanction would be 30% of the Energy value of the error if the Scheduling Coordinator discovers the error, or 75% estimated value of the error if the ISO discovers the error.

If the error is to the detriment of the market, then a charge equal to 30% or 75% of the estimated value of the error, as appropriate, will be added to the charge for the Energy. If there is no market rerun, then the cost of Energy supplied by the ISO (and inappropriately charged to the market as Unaccounted for Energy) must be recovered as well, and the charge will be equal to 130% or 175% of the estimated value of the error, as appropriate.

ATTACHMENT B

ISO Enforcement Protocol

ISO ENFORCEMENT PROTOCOL

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ISO ENFORCEMENT PROTOCOL (“EP”)

EP 1 OBJECTIVES, DEFINITIONS, AND SCOPE

EP 1.1 Purpose

This Protocol sets forth the guiding principles for participation in the rules pursuant to which the ISO will vigilantly monitor markets administered operated by the California Independent System Operator. ISO and vigorously enforce clearlyThe specified Rules of Conduct are intended to provide fair notice to Market Participants of the conduct expected of them, to provide an environment in which all parties may participate on a fair and equal basis, to redress instances of gaming and other instances of anticompetitive behavior, and thereby to foster confidence of Market Participants, ratepayers and the general public in the proper functioning of the ISO markets in order to (a) ensure to the extent possible reliable operation of the transmission grid, (b) promote dependable, effectively functioning, efficient, fair and competitive markets, (c) operate markets that produce just and reasonable prices for consumers, and (d) deter behavior by Market Participants that is inconsistent with these goals.

EP 1.2 Objectives

The objectives of this Protocol are to provide:

- (a) Provide cClear Rules of Conduct specifying the inappropriate behavior expected of Market Participants; and
- (b) Establish in advance the Sanctions and other potential consequences for violation of the specified A deterrent to Market Participants from engaging in Detrimental Practices, Market Manipulation, and other activities that are inappropriate and inconsistent with the Rules of Conduct;
- (c) A process for specifying by market notice or Formal Warning additional activities that violate certain Rules of Conduct;
- (d) Appropriate penalties for Rule of Conduct violations;
- (e) An appropriate process for the ISO to monitor and investigate activities that might violate the Rules of Conduct;
- (f) An appropriate process for referrals to Oversight and Enforcement Agencies; and
- (g) An appropriate process for levying applicable penalties for violations, including reasonable accommodation for circumstances or events beyond a Market Participant’s control.

EP 1.3 Master Definitions Supplement

Unless the context otherwise requires, any word or expression defined in the Master Definitions Supplement to the ISO Tariff shall have the same meaning where used in this Protocol. References to a Section or Appendix are to a section of or an appendix to the ISO Tariff. References to EP are to this Protocol or to the stated section or paragraph of, or appendix to, this Protocol.

EP 1.4 Special Terms for This Protocol

In this Protocol, the following words and expressions shall have the meanings set opposite them:

- (a) ~~“Detrimental Practices” has the meaning set forth in EP 2.9(a).~~
- (ab) ~~“FERC” means the Federal Energy Regulatory Commission.~~
- (b) “Market Behavior Rules” mean those rules established by FERC under Docket No. EL01-118.
- (c) ~~“Final Market Notice” has the meaning set forth in EP 4.6.~~
- (d) ~~“Formal Warning” has the meaning set forth in EP 4.4.~~
- (e)(c) ~~“Market Manipulation” has the meaning set forth in EP 2.10(a)7.~~
- (f)(d) “Net Excess Load” has the meaning set forth in EP 2.7(c) “Market Monitoring Staff” means those employees at the ISO, generally within the Market Analysis and Compliance Departments, assigned responsibility in the first instance for the functions of a Market Monitoring Unit, as that term is used in Docket No. EL01-118.
- (g) ~~“New Behavior” has the meaning set forth in EP 4.2.~~
- (h) ~~“Oversight and Enforcement Agency” means any of the following: FERC, the United States Department of Justice or any of its subsidiaries, the California Department of Justice or any of its subsidiaries, the California Public Utilities Commission, or the California Electricity Oversight Board.~~
- (i) ~~“Participant Benefits” has the meaning set forth in Appendix A to this Protocol.~~
- (j) ~~“Preliminary Market Notice” has the meaning set forth in EP 4.3.~~
- (k)(e) ~~“Rules of Conduct” refers to the rules has the meaning set forth in EP 2 through EP 7.~~
- (f) “Sanction” is a consequence specified in this EP for the violation of a Rule of Conduct, which may include a) a warning letter notifying the Market Participant of the violation and future consequences specified under this EP if the behavior is not corrected, or b) financial penalties. Neither referral to FERC nor rescission of payment for service not provided shall constitute a Sanction.

EP 1.5 Rules of Interpretation

Unless the context otherwise requires, if the provisions of this Protocol and the ISO Tariff conflict, the ISO Tariff will prevail to the extent of the inconsistency. Provisions of the ISO Tariff have been summarized or repeated in this Protocol only to aid understanding.

A reference in this Protocol to a given agreement, ISO Protocol, or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented, or restated through the date as of which such reference is made. This EP does not modify the terms of any ISO agreements or the relationship of those agreements to the ISO Tariff.

The captions and headings in this EP are inserted solely to facilitate reference and shall have no bearing upon the interpretation of any of the terms and conditions of this Protocol.

~~This Protocol shall be effective as of the date specified by FERC.~~

EP 1.6 Scope

The EP ~~applies to~~ governs:

- (a) Scheduling Coordinators;
- (b) Utility Distribution Companies (UDCs);
- (c) Metered Subsystems (MSSs);
- (d) Participating Transmission Owners (PTOs);
- (e) Participating Generators;
- (f) Control Area Operators, to the extent the agreement between the Control Area Operator and the ISO so provides;
- (g) Operators;
- (ha) Other All Market Participants; and
- (ib) The ISO; and
- (j) FERC

EP 1.7 Liability of ISO

Any liability of the ISO arising out of or in relation to this Protocol shall be subject to Section 14 of the ISO Tariff as if references to the ISO Tariff were references to this Protocol.

EP 1.8 Application of Other Remedies

The activities and remedies authorized under this Protocol are in addition to any other actions or relief that may be available to the ISO elsewhere in the ISO Tariff or under law, regulation or order. Nothing in this Protocol limits or should be construed to limit the right

of the ISO to take action or seek relief otherwise available to it, and such action or relief may be pursued in lieu of or in addition to the action or relief specified in this Protocol.

EP 1.9 FERC Authority

In addition to any authority afforded Market Monitoring Staff in this Protocol, the ISO, FERC shall have the authority to assess the sanctions/penalties specified herein, and otherwise to enforce the rules as set forth and described in this Protocol, independently or by referral or complaint of another entity, and additionally shall have the authority to impose penalties equal to the market impact of a violation under this Protocol. In undertaking such action, FERC shall not be bound by the notice procedures and other processes set forth in EP 3 and EP 4. Specifically, FERC shall have authority to remedy a violation under this Protocol from the date of the violation. Nothing in this Protocol shall be deemed to be a limitation or condition on the authority of FERC or other entities under current law or regulation.

EP 1.10 Administration of the EP

Pursuant to the FERC Order dated February 20, 2004 in Docket ER03-1102, until a subsequent filing by the ISO and further order of FERC, the Rules of Conduct specified herein shall be enforced by FERC, and no Sanctions may be assessed by Market Monitoring Staff without prior FERC approval.

EP 2 COMPLY WITH OPERATING ORDERS RULES OF CONDUCT

EP 2.1 Purpose Compliance with Orders Generally

These Rules of Conduct are designed to serve as guiding principles as to the standard of behavior that is expected of Market Participants and to provide a summary of types of activities for which a Market Participant might be subject to enforcement action. The ISO will enforce these Rules of Conduct through the provisions specified in EP 2.2 through EP 2.10. Events that may constitute violations shall be treated according to the standards and evaluation factors set forth in EP 3 and EP 4.

- (a) **Expected Conduct.** Market Participants must comply with operating orders issued by the ISO as authorized under the ISO Tariff. For purposes of enforcement under this EP 2, an operating order shall be an order(s) from the ISO directing a Market Participant to undertake, a single, clearly specified action (e.g., the operation of a specific device, or change in status of a particular Generating Unit) that is feasible and intended to resolve a specific operating condition. If some limitation prevents the Market Participant from fulfilling the action requested by the ISO, then the Market Participant must promptly and directly communicate the nature of any such limitation to the ISO. Compliance with ISO operating orders requires a good faith effort to achieve full performance as soon as is reasonably practicable in accordance with Good Utility Practice.
- (b) **Sanctions.** The Sanction for a violation of this Section shall be the greater of the quantity of Energy non-performance multiplied by the applicable Hourly Ex Post Price or the following: for the first violation in a rolling twelve (12) month period, \$5,000; for the second and subsequent violations in a rolling twelve (12) month period, \$ 10,000. Sanctions under EP 2.1 will not be greater than \$10,000 per violation except as provided in EP 2.5. If a quantity of energy cannot be objectively determined, then the financial sanctions specified above will apply. A Market Participant may incur Sanctions for more than one violation per day.

Failure to Curtail Load Comply with Operating Orders

- (a) **Expected Conduct.** A UDC or MSS Operator shall promptly comply with any ISO operating order to curtail interruptible or firm load issued pursuant to the ISO's authority under Section 4.4.4 of the ISO Tariff. ~~General Rule. Market Participants must comply with operating orders issued by the ISO.~~
- (b) ~~**Standard Penalty.** Unless otherwise provided below, a violation of this rule is subject to a maximum penalty of \$10,000 per event and allocation of any WECC RMS penalty incurred by the ISO due to such event (pursuant to Section 2.5.26.5 of the ISO Tariff) and an amount equal to the Market Clearing Price multiplied by any quantity of energy called for in the operating order that was not provided.~~

~~Examples of events that may constitute a violation of the general rule and that are subject to the standard penalty include (but are not limited to) the following:~~

- ~~• Failure of a Market Participant to comply with any operating order issued by the ISO pursuant to Section 2.3.1.2.1 of the ISO Tariff, unless excused for reasons of public health or safety, or other reasons set forth in this Protocol (but see EP 2.2(d)).~~
- ~~• Failure of a Generating Unit, System Unit, or System Resource owned or controlled by a Participating Generator without a bid for available Generation to comply with an order to start up, increment, or decrement output pursuant to Section 5.6.1 of the ISO Tariff.~~
- ~~• Failure by a Must-Offer Generator to operate a Generating Unit on-line and at minimum load so that it is capable of providing all of its available capacity in compliance with the must-offer obligation, as set forth in Sections 5.11 et seq. of the ISO Tariff, unless such a unit has been granted a waiver or exception pursuant to Section 5.11.6 of the ISO Tariff.~~

- (b6) **Sanctionspecial Penalties.** The Sanction for non-compliance with an operating order to curtail load will be \$10,000 for each violation.
- (i) Failure of a UDC to implement an order issued by the ISO to curtail Load in order to manage a System Emergency, pursuant to Section 4.5.3 and Section 2.3.1.2.1 of the ISO Tariff, is subject to a maximum penalty of \$110,000 per event and an amount equal to \$1,000 per megawatt-hour of firm load not curtailed).
- (ii) A UDC or MSS Operator may incur Sanctions for more than one violation per dayny failure to comply with an operating order that contributes to or prolongs an outage as described in Section 2.3.2.9.3 of the ISO Tariff is subject to a maximum penalty of \$110,000 per event and allocation of any WECC RMS penalties incurred by the ISO due to such event (pursuant to Section 2.5.26.5 of the ISO Tariff).

EP 2.3 Operations & Maintenance Practices

- (a) **Expected Conduct.** Market Participants shall undertake such operating and maintenance practices as necessary to avoid contributing to a major outage or prolonging response time as indicated by Section 2.3.2.9.3 of the ISO Tariff.
- (b) **Sanctions.** The Sanction for a violation of EP 2.3 will be \$10,000.

EP 2.4 Must-Offer Denials/Revocations

- (a) **Expected Conduct.** A Market Participant shall start a Generating Unit within 30 minutes of the time at which a must-offer waiver revocation becomes effective, or report the derate, outage or other event outside the control of the Market Participant that prevents the Generating Unit from being started by such time. A Market Participant that fails to perform in accordance with the expected conduct described in this EP 2.4(a) shall be subject to Sanction.
- (b) **Sanctions.** The Sanctions for a violation of EP 2.4 shall be as follows: for the first violation in a rolling twelve (12) month period, \$5,000; for the second and all subsequent violations in a rolling twelve (12) month period, \$10,000. A Market Participant is limited to one Sanction per Generating Unit per calendar day.

EP 2.5 Enhancements and Exceptions

(d) — Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of EP 2.1 through EP 2.4 if an ISO System Emergency exists at the time an operating order becomes effective or at any time during the Market Participant's non-performance. Notwithstanding the foregoing, on- violations of this rule EP 2.1 through EP 2.4 that are subject to the result in circumstances in which an Uninstructed Deviation Penalty under Section 11.2.4.1.2 of the ISO Tariff may be assessed are subject to penalty under this rule only to the extent that the ISO has issued a separate and distinct non-automated Dispatch Instruction to the Market Participant.

EP 2.3 ~~Submit Feasible Energy and Ancillary Service Bids and Schedules~~ SUBMIT FEASIBLE ENERGY AND ANCILLARY SERVICE BIDS AND SCHEDULES

EP 3.1 Bidding Generally

- (a) **Expected Conduct**~~General Rule.~~ Market Participants must bid and schedule Energy and Ancillary Services from resources that are reasonably expected to be available and capable of performing at the levels specified in the bid and/or schedule, and to remain available and capable of so performing based on all information that is known to the Market Participant or should have been known to the Market Participant at the time of bidding or scheduling.
- (b) **Consequence for Non-Performance.** A Market Participant that fails to perform in accordance with the expected conduct described in EP 3.1 (a) above shall be subject to having the payment rescinded for any portion of an Ancillary Service that is unavailable. ~~**Standard Penalty.** Subject to the exceptions below, a violation of this rule is subject to a maximum penalty of \$10,000 per event.~~

EP 3.2**Certification**

- (a) **Self-Certification.** The ISO will provide each Scheduling Coordinator that schedules Ancillary Services from Generating Units, Curtailable Demand, System Units and System Resources a monthly listing of schedules including the hour, location and service type of all Ancillary Services that were not Dispatched by the ISO. The Scheduling Coordinator must identify and advise the ISO in a certification form of any Ancillary Service schedules in the monthly listing for which 10 percent or more of the scheduled service could not have been delivered, in accordance with the terms of the bid, for any reason. Any certification form that identifies Ancillary Service schedules that could not be performed within the 10 percent tolerance band must be returned within 30 days of the Scheduling Coordinator's receipt of the associated monthly listing. If all such schedules could have been performed within the 10 percent tolerance band, no certification form from the Scheduling Coordinator shall be required, and the undispached Ancillary Service schedules shall be deemed certified with no exceptions. If information indicating that one or more Ancillary Service schedules could not have been performed within the 10 percent tolerance band becomes available to the Scheduling Coordinator subsequent to the 30-day deadline, then a revised certification form must be promptly submitted.
- (b) **Sanctions.** If a self-certification indicates that all or a portion of the scheduled Ancillary Service was unavailable, then payment for the unavailable Ancillary Service shall be rescinded. Unless some other obligation under the ISO Tariff is violated, the only consequence for an unavailable Ancillary Service identified through a timely self-certification form shall be the rescission of payment in accordance with this EP 3.2(b). Failure to provide a timely self-certification shall be subject to EP 6 if such late-filed self-certification indicates that any undispached Ancillary Service schedules were not deliverable as provided above. If definitive information (e.g., copies of maintenance logs demonstrating that the Ancillary Service was not available are discovered) indicates that a self-certification form should have been submitted but was not (i.e., services were incorrectly deemed deliverable), or that a submitted self-certification form was incomplete, the result in either instance shall be the false declaration of an Ancillary Service as being available, and the provisions of EP 5 shall apply. No Sanction shall apply for failure to submit a self-certification where no exceptions are subsequently identified.
- (c) **Audits.** Market Monitoring Staff and FERC shall have the authority to request any relevant information in support of an audit of any Ancillary Service schedule that is self-certified as available by the Scheduling Coordinator to the extent that such information is required to be available by FERC's Market Behavior Rule for record retention as approved in Docket No.EL01-118. For System Resources, such information shall include the identity of the physical resource(s) and documentation supporting the associated firm transmission service that was available to the Scheduling Coordinator to comply with any ISO Dispatch of the associated Ancillary Service schedule.

EP 3.3 (c) ~~Exceptions.~~ Violations of EP 3.1 and EP 3.2 this rule for that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.2.4.1.2 of the ISO Tariff has been may be assessed or for which payments have been eliminated under Section 2.5.26 of the ISO Tariff or EP 3.2(a) have been eliminated are not subject to ~~Sanction penalty~~ under this section. The submission of a Schedule that causes, or that the ISO expects to cause Intra-Zonal Congestion shall not, by itself, constitute a violation of EP 3.1 unless the Market Participant fails to comply with an obligation under the ISO Tariff to modify Schedules as determined by the ISO to mitigate such congestion or such Schedules violate another element of this Rule.

EP 2.4 ~~No Physical Withholding~~

- (a) ~~General Rule.~~ Market Participants may not engage in physical withholding of the output of a Generating Unit, in whole or in part. “Physical withholding” for purposes of this rule means a failure to offer to sell or to schedule into the ISO Market the output of or services of a Generating Unit capable of serving an ISO market, in a manner consistent with the ISO Tariff.
- (b) ~~Standard Penalty.~~ Subject to the exception below, a violation of this rule is subject to a maximum penalty of \$25,000 per event and an amount equal to twice the Participant Benefits received by the offending party as a result of such behavior.
- (c) ~~Exception.~~ Behavior otherwise falling within this rule that is the particular focus of another provision in the ISO Tariff specifically designed to address such behavior (e.g., Appendix A to the MMIP) is not subject to penalty under this section.

EP 2.5 ~~No Economic Withholding~~

- (a) ~~General Rule.~~ Market Participants may not engage in economic withholding of the output of a Generating Unit. “Economic withholding” for purposes of this rule means:
- submitting a bid for a Generating Unit that is not consistent with the bid caps or thresholds specified in the ISO Tariff or any applicable agreement; ~~or~~
 - submitting a bid for a Generating Unit that is unjustifiably high (relative to known operational characteristics and/or the known operating cost of the resource) and the Generating Unit is not or will not be dispatched or scheduled, or the bid (which is unjustifiably high) will set a Market Clearing Price.
- (b) ~~Standard Penalty.~~ Subject to the exception below, a violation of this rule is subject to a maximum penalty of \$25,000 per event and an amount equal to twice the Participant Benefits received by the offending party as a result of such behavior.
- (c) ~~Exception.~~ Behavior otherwise falling within this rule that is the particular focus of another provision in the ISO Tariff specifically designed to address such behavior (e.g., the Automated Mitigation Procedure set forth in Appendix A to the MMIP) is not subject to penalty under this section.

EP 2.64

Comply With Availability Reporting Requirements**COMPLY WITH AVAILABILITY REPORTING REQUIREMENTS**

(a) ~~General Rule.~~ Market Participants must comply with all reporting requirements governing the availability and maintenance of a Generating Unit or transmission facility, including proper Outage scheduling requirements. The responsible entity (Scheduling Coordinator or Participating Transmission Owner) must immediately notify the ISO when capacity changes or resource limitations occur that affect the availability of the unit or facility or the ability to comply with Dispatch Instructions.

(b) ~~Standard Penalty.~~ Subject to the exception below, a violation of this rule is subject to a maximum penalty of \$10,000 per event.

EP 4.1

Reporting Availability

(a) ~~Expected Conduct.~~ A Market Participant shall report to the ISO Control Center any Outage of a Generating Unit subject to Section 5 of the ISO Tariff within thirty (30) minutes after the Outage occurs, in accordance with Section 2.3.3.9.2 of the ISO Tariff.

(b) ~~Sanctions.~~ The Sanctions for a violation of EP 4.1 shall be as follows: for the first violation in a rolling twelve (12) month period, a warning letter; for the second violation in a rolling twelve (12) month period, \$1,000; for the third violation in a rolling twelve (12) month period, \$2,000; for the fourth and subsequent violations in a rolling twelve (12) month period, \$5,000. A Market Participant shall not be subject to more than one Sanction per Generating Unit per calendar day for violating EP 4.1. A "violation" shall mean each failure to report an Outage as required.

EP 4.2

Scheduling and Final Approval of Outages

(a) ~~Expected Conduct.~~ A Market Participant shall not undertake an Outage except as approved by the ISO Outage Coordination Office in accordance with Sections 2.3.3.2, OCP 4.2, and OCP 5.1 of the ISO Tariff. A Market Participant shall not commence any Outage without obtaining final approval from the ISO Control Center in accordance with Sections 2.3.3.8, OCP 4.3.6, OCP 4.3.8, OCP 5.7, OCP 5.8, and OCP 6 of the ISO Tariff.

(b) ~~Sanctions.~~ The Sanctions for a violation of EP 4.2 shall be as follows: for the first violation within a rolling twelve (12) month period, \$5,000; for subsequent violations within a rolling twelve (12) month period, \$10,000. A "violation" shall mean each Outage undertaken for which all required approvals were not obtained.

EP 4.3

Explanation of Forced Outages

(a) ~~Expected Conduct.~~ A Market Participant, within two working days of the commencement of a Forced Outage, must provide an explanation of the Forced Outage to the ISO that includes a description of the equipment failure or other cause and a description of all remedial actions taken by the Operator, in accordance with Section 2.3.3.9.5 of the ISO Tariff. An Operator must promptly provide information requested by the ISO to enable the ISO to review the explanation submitted by the Operator and to prepare a report on the Forced Outage.

- (b) Sanctions. The Sanction for failing to provide a timely explanation of Forced Outage shall be \$500 per day for each day the explanation is late. The Sanction for failing to provide a timely response to information requested shall be as specified in EP 6.1.

EP 4.4 Enhancements and Exceptions

Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of EP 4.1 through EP 4.3 that occurs during an ISO System Emergency. (e)

~~Exception.~~ Violations of the above rules for that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.2.4.1.2 of the ISO Tariff has may been assessed shall are not be subject to Sanction penalty under this EP 4 section.

EP 2.75 Provide Factually Accurate Information PROVIDE FACTUALLY ACCURATE INFORMATION

EP 5.1 Accurate Information Generally

- (a) Expected Conduct~~General Rule.~~ All applications, Schedules, reports, and other communications by a Market Participant or agent of a Market Participant to the ISO, including maintenance and outage data, bid data, transaction information, and load and resource information, must be submitted by a responsible company official who is knowledgeable of the facts submitted. All such information submitted must be true, complete, and consistent with the operational plans of the company to the best knowledge of the person submitting the information.
- (b) ~~Sanction~~standard Penalty. ~~Unless otherwise provided below, a~~ Any violation of this Rule of Conduct for which no Sanction is otherwise specified in this EP shall ~~be is~~ subject to a Sanction of up to a maximum penalty of \$10,000 for each submittal of false information per event.
- (c) ~~Special Penalties.~~
- (i) ~~Submitting Load Schedules that are substantially in excess of metered Load served by a Scheduling Coordinator is subject to a maximum penalty equal to the Net Excess Load multiplied by the applicable Market Clearing Price. For purposes of this section, Net Excess Load means the amount by which scheduled Load exceeds actual load plus a reasonable tolerance band established by the ISO from time to time and posted under the ISO Home Page.~~

EP 5.2 Inaccurate Meter Data

- (a) Expected Conduct. Market Participants shall provide complete and accurate Settlement Quality Meter Data for each Trade hour and shall correct any errors in such data prior to the issuance of Final Settlement Statements. (ii) ~~Failing Failure~~ to provide complete and accurate Settlement Quality Meter Data, as ~~required by~~ provided in Section 10 of the ISO Tariff and ~~Section 4.1 of the Meter Service Agreement, and that results in an error that is discovered after issuance of Final Settlement Statements, is shall be a violation of this rule, subject to penalties described in Appendix A to the EP.~~
- (b) Sanctions. Violations under this EP 5.2 shall be subject to Sanction described in Appendix A to this EP.

(c) **Disposition of Sanction Proceeds.** For purposes of redistributing collected penalties, any amounts collected under this provision shall be applied first to those parties affected by the conduct. Any excess amounts shall be disposed of as set forth in EP 9.4.

(iii) Engaging in a Circular Schedule is subject to the rescission of the Usage Charge in accordance with Section 7.3.1.5.3 of the ISO Tariff and an additional maximum penalty equal to the value of the Usage Charge so rescinded.

EP 5.3 Factually Accurate Self-Certifications

(a) **Expected Conduct.** Self-certifications provided by Market Participants in accordance with EP 3.2 shall be factually accurate. A violation of this rule shall occur if a self-certification form is incomplete or inaccurate, or if a self-certification form should have been submitted but was not (i.e., services were incorrectly deemed deliverable by operation of EP 3.2).

(b) **Sanctions.** The Sanction for a violation of this rule shall be \$10,000. A "violation" shall mean each monthly self-certification that is incomplete, inaccurate, or not appropriately filed.

EP 2.86 Provide Information Required by ISO TARIFF PROVIDE INFORMATION REQUIRED BY ISO TARIFF

EP 6.1 Required Information Generally

(a) **General RuleExpected Conduct.** Except as provided below in EP 6.6 (Review by FERC), ~~a~~All information that is required to be submitted to the ISO under the ISO Tariff, ~~its~~ISO protocols, or jurisdictional contracts must be submitted in a complete, accurate, and timely manner. Market Participants must comply with requests for information or data by the ISO authorized under that are consistent with the ISO Tariff, including timelines specified in the ISO Tariff for submitting Schedules and other information.

(b) **Sanctionstandard Penalty.** Except as otherwise provided below, ~~in EP 6.2 to EP 6.5,~~ a violation of this rule is subject to a penalty of \$500 for each day that the required information is late.

(c) **Special Penalties.** Failure to provide timely information in response to written requests by the ISO for information reasonably necessary to conduct an investigation, or in response to an audit authorized by the ISO Tariff, subject to a maximum special penalty of \$1,000 per day that the requested information is late (first violation); \$2,500 per day (second violation by the same Market Participant within a rolling three-year period); \$5,000 per day (subsequent violations by the same Market Participant within a rolling three-year period).

EP 2.9 No Detrimental Practices

(a) **General Rule.** Market Participants shall not engage in Detrimental Practices as defined in this rule. "Detrimental Practices" for purposes of this rule shall mean behavior that meets both of the following requirements:

- Such behavior takes unfair advantage of the rules and procedures set forth in or pursuant to the ISO Tariff to the detriment of System

Reliability, other Market Participants, or the efficiency of the ISO Market; **and**

- Such behavior or behavior substantially similar to it has been proscribed in a Final Market Notice in accordance with the procedures outlined in EP 4.6.

(b) **Standard Penalty.** A violation of this rule is subject to a maximum penalty of \$25,000 per event **and** an amount equal to twice the Participant Benefits received by the offending party as a result of such behavior.

(c) **Limitation.** No penalty may be assessed by the ISO under this rule until such behavior or behavior substantially similar to it has been proscribed in a Final Market Notice in accordance with the procedures outlined in EP 4.6.

EP 2.10 No Market Manipulation

(a) **General Rule.** Market Participants shall not engage in Market Manipulation, which is behavior that meets both of the following requirements:

- Such behavior is fraudulent, deceptive, or manipulative and is intended to create artificial or distorted market prices or outcomes, including prices or outcomes that do not reflect or are not consistent with supply and demand conditions; **and**
- Such behavior or behavior substantially similar to it has been proscribed in a Final Market Notice in accordance with the procedures outlined in EP 4.6.

(b) **Standard Penalty.** A violation of this rule is subject to a maximum penalty of \$25,000 per event **and** an amount equal to twice the Participant Benefits received by the offending party as a result of such behavior.

(c) **Limitation.** No penalty may be assessed by the ISO under this rule until such behavior or behavior substantially similar to it has been proscribed in a Final Market Notice in accordance with the procedures outlined in EP 4.6.

EP 6.2 Late Schedules

(a) **Expected Conduct.** Market Participants shall provide all Preferred Day-Ahead Schedules, Revised Day-Ahead Schedules and Hour-Ahead Schedules by the deadlines specified in the Scheduling Protocol.

(b) **Sanctions.** No Sanction shall apply to the first 20 late Schedules in a calendar month. For all subsequent late Schedules in the calendar month, a sanction of \$100 per late Schedule shall apply.

EP 6.3 **Investigation Information**

- (a) **Expected Conduct.** Except as provided below in EP 6.6 (Review by FERC), Market Participants must submit timely information in response to a written request by the ISO for information reasonably necessary to conduct an investigation authorized by the ISO Tariff.

- (b) **Sanctions.** The Sanction for a violation of EP 6.3 shall be as follows: for the first violation in a rolling 12-month period, \$1000/day; for the second violation in a rolling 12-month period, \$2000/day; for the third and subsequent violations in a rolling 12-month period, \$5000/day. For purposes of this subsection, a violation shall be each failure to provide a full response to a written request and the Sanction shall be determined from the date that the response was due until a full response to the request is received. A deficiency in response to more than one question or item in a single written request shall be treated as one "violation."

EP 6.4 **Audit Materials**

- (a) **Expected Conduct.** Except as provided below in EP 6.6 (Review by FERC), Market Participants shall comply with the ISO's audit and/or test procedures, and further shall perform and timely submit an annual self-audit as required under the ISO Tariff.

- (b) **Sanctions.** For failure to submit an annual SC Self Audit report, the Sanction shall be \$1000/day until such report is received by the ISO. For all other violations of this rule the Sanctions shall be as follows: for the first violation in a rolling 12-month period, \$1000/day; for the second violation in a rolling 12-month period, \$2000/day; for the third and subsequent violations in a rolling 12-month period, \$5000/day. For purposes of this subsection, a "violation" shall be each failure to provide all information required under the audit or test, from the date that the information was due until all required information is received by the ISO. A deficiency of information with respect to several items or procedures in a single audit or test shall be treated as one "violation."

EP 6.5 **Self-Certification Forms**

- (a) **Expected Conduct.** Market Participants shall submit on a timely basis to the ISO those self-certification forms that are required to be submitted under EP 3.2 for feasible schedules.

- (b) **Sanctions.** For each self-certification form that is 15-29 days late, \$100/day; for each self-certification form that is 30 or more days late, \$500/day starting with day 30.

EP 6.6 **Review by FERC**

A Market Participant who objects to an information, audit or test obligation that is enforceable under EP 6.1, 6.3 or 6.4 above shall have the right immediately (and in all events, no later than the due date for the information) to seek review of the obligation with FERC. In the event that such review is sought, the time for submitting the response or other information to the ISO shall be tolled until FERC resolves the issue.

EP 7 **NO MARKET MANIPULATION**

EP 7.1 **Market Manipulation Generally**

- (a) **Expected Conduct.** Actions or transactions that are without a legitimate business purpose and that are intended to or foreseeably could manipulate market prices, market conditions, or market rules for electric energy or electricity products are prohibited. Actions or transactions by a Market Participant that are explicitly contemplated in the ISO Tariff or are undertaken at the direction of the ISO are not in violation of this Rule of Conduct.
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.2 **Wash Trades**

- (a) **Expected Conduct.** Market Participants shall not engage in pre-arranged offsetting trades of the same product among the same parties, which involve no economic risk and no net change in beneficial ownership (sometimes called "wash trades").
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.3 **False Information**

- (a) **Expected Conduct.** A Market Participant shall not engage in transactions predicated on submitting false information to transmission providers or other entities responsible for operation of the transmission grid (such as inaccurate load or generation data; or scheduling non-firm service or products sold as firm), unless the Market Participant exercised due diligence to prevent such occurrences.
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.4 **Artificial Congestion**

- (a) **Expected Conduct.** A Market Participant shall not engage in transactions in which it first creates artificial congestion and then purports to relieve such artificial congestion, or knowingly undertakes a transaction to nullify the congestion relief the ISO expects when a Dispatch instruction is issued (unless the Market Participant exercised due diligence to prevent such an occurrence).
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.5 Collusion

- (a) **Expected Conduct.** Market Participants shall not engage in collusion with another party for the purpose of manipulating market prices, market conditions, or market rules for electric energy or electricity products (e.g. to knowingly use ETC transmission service after the close of the Hour Ahead Market to reverse the effect of a Supplemental Energy from a System Resource that the ISO exercised to mitigate congestion).
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 38 PROCESS FOR INVESTIGATION AND ENFORCEMENT-GENERALLY

Until further order of FERC (see EP 1.10 above, "Administration of the EP"), the Rules of Conduct specified herein shall be enforced by FERC, in accordance with the Commission's standard rules and procedures. The ISO and its Market Monitoring Staff will refer to FERC and its staff all matters in which it has formed a reasonable belief that a violation of these rules may have occurred.

EP 3.1 Purpose; Scope

~~The provisions of this EP 3 set forth the procedures by which the ISO will formally investigate potential violations of the Rules of Conduct set forth in EP 2, and by which it will conclude its investigations. Except as hereinafter provided, the provisions of this section apply to all of the Rules of Conduct set forth above (EP 2.2 through EP 2.10), and apply to action undertaken by the ISO only. The ISO may adopt alternate or additional procedures for undertaking preliminary or initial review of potential violations of Rules of Conduct. However, the ISO shall comply with the provisions of this section before seeking to assess penalties against a Market Participant for a violation or potential violation of the Rules of Conduct set forth in EP 2. Notwithstanding the foregoing, the provisions of this EP 3 will not apply to violations for which the ISO has developed automated algorithms to detect such violations and to assess monetary consequences, provided that such violations are subject to review under the ISO's current Settlement and dispute resolution processes.~~

EP 3.2 Investigation

~~The ISO will conduct a reasonable investigation seeking available facts, data, and other information relevant to the suspected violation.~~

EP 3.3 Notice

~~The ISO will provide notice of the investigation to the Market Participant(s) that are the subject(s) of the investigation in sufficient detail to allow for a meaningful response.~~

EP 3.4 Opportunity to Present Evidence

~~The ISO will provide an opportunity to the Market Participant(s) that are the subject(s) of the investigation to present data, information, and/or written comment relevant to the event or behavior being investigated. The ISO will consider all such information or data presented.~~

EP 3.5 — Results of Investigation

The ISO will notify the Market Participant(s) that are the subject(s) of the investigation of the results of the investigation.

EP 3.6 — Statement of Findings and Conclusions

Where the investigation results in a penalty or sanction, the ISO will state its findings and conclusions in writing, and will make such writing available to the Market Participant(s) that are the subject(s) of the investigation.

EP 3.7 — Referral to Oversight and Enforcement Agencies

The ISO may refer any matter under investigation to an Oversight and Enforcement Agency. Where the ISO makes such a referral, it will notify the Market Participant(s) that are the subject(s) of the investigation of the referral and will make available to such Market Participants the data and other information provided to the Oversight and Enforcement Agency. The foregoing is subject to the limitations set forth in Section 20.3 of the ISO Tariff.

EP 3.8 — Officer Representative

Where an investigation results in a penalty or other sanction by the ISO, or a referral requesting action of another authority, the ISO shall direct its notice of such result to a responsible representative of the Market Participant that is the subject of the investigation at the officer level.

EP 3.9 — Record of Investigation

Where an investigation results in a sanction or referral, the ISO will maintain a record of the investigation until its decision has been finally reviewed, if review is sought, or until the period for seeking review has expired.

EP 3.10 — Review of Determination

A Market Participant that is the subject of an investigation may obtain review of a determination resulting in the assessment of a penalty by the ISO, using the dispute resolution procedures outlined in Section 13 of the ISO Tariff.

EP 4 — PROCESS FOR PROHIBITING DETRIMENTAL PRACTICES AND MARKET MANIPULATION

EP 4.1 — Scope

The provisions of this EP 4 set forth the procedures by which the ISO will provide additional notice to Market Participants of behavior potentially subject to penalties or other action under EP 2.9 and EP 2.10. The provisions of this section apply only to EP 2.9 and EP 2.10, and further apply only to action undertaken by the ISO. The ISO shall comply with the provisions of this section, in addition to the provisions of EP 3 above, before assessing penalties or taking other action against a Market Participant for a violation or potential violation of EP 2.9 and EP 2.10.

EP 4.2 — General Process

The process by which the ISO will identify specific behavior that is subject to the provisions of EP 2.9 and EP 2.10, prior to assessing penalties or taking other adverse action against a Market Participant for a violation of those provisions, generally will consist of the following steps:

- (a) — On determining that a New Behavior may warrant action under EP 2.9 and/or EP 2.10, the ISO will issue a Preliminary Market Notice to all Market Participants and file such notice with FERC, on the terms specified in EP 4.3, unless such a general market notice potentially will cause harm to the ISO Market, in which case the ISO will issue a Formal Warning to the affected Market Participant(s) and file such warning with FERC, on the terms specified in EP 4.4. For purposes of this section, New Behavior means conduct that is neither the subject of a prior market notice under this section, nor substantially similar to conduct addressed in a prior market notice under this section.
- (b) — The Preliminary Market Notice or Formal Warning may direct Market Participant(s) to cease and desist from engaging in the behavior at issue, on terms specified in EP 4.5, pending conclusion of an investigation.
- (c) — Following the issuance of a Preliminary Market Notice or Formal Warning, the ISO will undertake an investigation to determine whether the behavior at issue warrants prescription under EP 2.9 or EP 2.10. In conducting its investigation, the ISO will comply with the provisions of EP 3 above, and will consider the factors set forth in EP 4.7.
- (d) — At the conclusion of the investigation, the ISO will issue a Final Market Notice to all Market Participants and to FERC, on the terms specified in EP 4.6.

EP 4.3 — Preliminary Market Notice

A Preliminary Market Notice issued under this section shall specify the New Behavior under investigation, provide an example of the behavior, and identify the Rules of Conduct potentially violated by the behavior (EP 2.9 and/or EP 2.10). A Preliminary Market Notice also may contain a directive to Market Participants to cease and desist from engaging in the suspected behavior, on the terms specified in EP 4.5. A Preliminary Market Notice shall be posted under the ISO Home Page and further shall be e-mailed to all Market Participants included on the ISO's e-mail distribution list. The notice shall be effective as of the time that it is posted under the ISO Home Page. Additionally, the Preliminary Market Notice shall be filed with FERC within forty-eight (48) hours after issuance (or, if the FERC office is not open for business at that time, by 10:00 EST on the next business day thereafter).

EP 4.4 — Formal Warning

A Formal Warning issued under this section shall specify the New Behavior under investigation, provide an example of the behavior, and identify the Rules of Conduct potentially violated by the behavior (EP 2.9 and/or EP 2.10). A Formal Warning also may contain a directive to Market Participants to cease and desist from engaging in the suspected behavior, on the terms specified in EP 4.5. A Formal Warning shall be transmitted to the affected Market Participant(s) by e-mail at the address listed in the ISO's e-mail distribution list, and also by overnight mail. The warning shall become effective for a Market Participant as of the time the e-mail is transmitted to that Market Participant. Additionally, the Formal Warning shall be filed with FERC within forty-eight

(48) hours after issuance (or, if the FERC office is not open for business at that time, by 10:00 EST on the next business day thereafter). A Formal Warning may be filed with FERC under seal.

EP 4.5 — Cease and Desist Directive

~~A Preliminary Market Notice or Formal Warning may contain a directive to Market Participant(s) to cease and desist from engaging in the suspected behavior, pending conclusion of an investigation. In the event that a Market Participant does not comply with the directive, and the suspected behavior subsequently is prohibited, the ISO may refer such noncompliance to FERC or other authority for corrective action. The ISO shall not be authorized directly to assess penalties for such noncompliance except as provided in EP 4.6.~~

EP 4.6 — Final Market Notice

~~All suspected violations of EP 2.9 and/or EP 2.10, for which a Preliminary Market Notice or Formal Warning has been issued, will be concluded with the issuance of a Final Market Notice. The Final Market Notice shall specify the suspected behavior that was investigated, provide an example of the behavior, and identify the Rules of Conduct potentially violated by the behavior EP 2.9 and/or EP 2.10). The Final Market Notice further shall contain a concise statement of the ISO's findings and conclusions, including a statement concerning whether the suspected behavior thereafter will be deemed to be a violation of EP 2.9 and/or EP 2.10. Where the behavior is found to violate a Rule of Conduct, the Final Market Notice will state the possible consequences of such violation, including applicable penalties. A Final Market Notice may not be issued until at least forty-eight (48) hours after issuance of a Preliminary Market Notice or Formal Warning. The Final Market Notice shall be posted under the ISO Home Page and further shall be e-mailed to all Market Participants included on the ISO's e-mail distribution list. The notice shall be effective as of the time that it is posted under the ISO Home Page. A Final Market Notice prohibiting the suspected conduct shall be deemed to cover the behavior described therein, and conduct substantially similar to such behavior. The Final Market Notice shall be filed with FERC within twenty four (24) hours after issuance (or, if the FERC office is not open for business at that time, by 10:00 EST on the next business day thereafter).~~

EP 4.7 — Criteria for Making Determination

~~The ISO shall consider the following factors, among others, in determining whether a behavior should be deemed a violation of EP 2.9 and/or EP 2.10:~~

- ~~(a) — Whether the specific behavior meets the definition of Detrimental Practices and/or Market Manipulation stated in EP 2.9 and/or EP 2.10.~~
- ~~(b) — The impact of the specific type of behavior on market efficiency.~~
- ~~(c) — Whether the specific type of behavior adversely impacts market prices in ways that are inconsistent with market supply and demand conditions.~~
- ~~(d) — Whether the specific type of behavior tends to make prices in comparable markets converge, as in the case of most forms of arbitrage, or tends to make prices diverge from levels consistent with supply and demand in different markets.~~

- (e) ~~Whether the specific type of behavior is sustainable, and the extent to which other Market Participants can replicate the behavior.~~
- (f) ~~Whether other Market Participants are able to protect themselves from the specific type of behavior.~~
- (g) ~~Whether the specific type of behavior negatively impacts System Reliability, considering the transparency of the specific type of behavior to the system operator, the impact of the specific type of behavior on prediction of real-time system performance, and the impact of the specific type of behavior on transmission availability.~~
- (h) ~~Whether the specific type of behavior conflicts with legal or regulatory requirements.~~

EP 4.8 Penalties; Other Actions

~~The ISO shall not be authorized to assess penalties under EP 2.9 and/or EP 2.10 for New Behavior until twenty-four (24) hours after filing a Final Market Notice meeting the requirements of EP 4.6 with FERC. Thereafter, the ISO may assess penalties for violations occurring from the time of the issuance of the Final Market Notice, going forward. Nothing in this section, however, shall preclude the ISO from referring earlier behavior to FERC or other authority for action.~~

EP 59 ADMINISTRATION OF SANCTIONS PENALTIES

EP 59.1 Assessment; Waivers and Adjustments Factors to be Considered

~~The ISO will determine the pPenalty amounts for a violation of these Rules of Conduct shall be calculated as specified in by first calculating the EP 2 through 7. FERC shall have the authority to waive, reduce or increase a Sanction specified in this EP when it determines that such adjustment is just and reasonable. An adjustment generally shall be deemed appropriate if the prescribed Sanction appears to be insufficient to deter the prohibited behavior, or if the circumstances suggest that maximum amount of the penalty as set forth in EP 2.2 through 2.10, as may be enhanced by EP 5.3. The ISO will then determine the specific penalty amount to be assessed, up to the maximum amount, by considering the following factors:~~

- (a) ~~The degree to which the violation may have affected System Reliability or market integrity;~~
- (b) ~~Whether the violation occurred during a System Emergency, warning, or alert;~~
- (c) ~~The degree to which the Market Participant benefited from the violation;~~
- (d) ~~The degree to which the violation affected overall market prices for Energy, Ancillary Services, and/or Congestion, or otherwise affected the integrity of the markets for Energy, Ancillary Services, and/or Congestion;~~
- (e) ~~Whether other entities were harmed and the extent of this harm;~~
- (f) ~~Whether the violation was inadvertent, and unintentional, or some other mitigating circumstances exist willful, or grossly negligent;~~

- (g) — The frequency of the violation;
- (h) — The duration of the violation;
- (i) — Whether the Market Participant was acting alone or in concert with others;
- (j) — The Market Participant's attempts to self-identify and promptly correct the violation or provide restitution;
- (k) — The Market Participant's history of prior misconduct;
- (l) — The appropriateness of the penalty to the magnitude of the Market Participant's business;
- (m) — The deterrent effect the penalty is likely to have on similar conduct by other Market Participants;
- (n) — Any cumulative effect of multiple penalties applying to a single event;
- (o) — The extent to which the Market Participant failed to act on opportunities or information allowing the Market Participant to make efforts to rectify or ameliorate the violation;
- (p) — For penalties imposed based on inaccurate meter data, the ISO will consider whether or not the errors have a root cause, scope, duration, and magnitude consistent with Good Utility Practice, and for ISO polled meter data, the ISO will consider its own contribution, if any, to the magnitude of the inaccuracy of the meter data based on the activities the ISO performs under the Metering Protocol;
- (q) — Resource performance and availability are subject to, among other factors, climatic variations and emissions, license, and other limitations. A Market Participant that has made a good faith effort to describe in a bid or schedule the technical abilities of equipment in expected operating conditions as a result of variations in actual operating conditions or capabilities may have an applicable penalty mitigated, so long as all obligations to report relevant de-rates or outages that affect the ability of the Market Participant to meet its scheduled or bid performance characteristics are fulfilled;
- (r) — A penalty imposed on a Market Participant for failure to deliver accurate information may be mitigated if the Market Participant has made a good faith effort to supply accurate, responsive information. Inadvertent errors or omissions may be considered as mitigating factors; and
- (s) — In assessing a failure to schedule load accurately in accordance with EP 2.7(c)(i), the ISO will specifically consider reasonable sources of load forecast error.

EP 59.2

Excuse

The following circumstances ~~shall~~ may excuse a violation of a Rule of Conduct under the terms of this Protocol:

- (a) **Uncontrollable Force.** ~~The ISO will consider Uncontrollable Force, as provided in Section 15 of the ISO Tariff, in determining whether a Rule of Conduct violation should be penalized. No failure by a Market Participant to satisfy the Rules of Conduct shall be subject to penalty to the extent and for the period that the Market Participant's inability to satisfy the Rules of Conduct is caused by an event or condition of Uncontrollable Force affecting the Market Participant; provided that the Market Participant gives notice to the ISO of the event or condition of Uncontrollable Force as promptly as possible after it knows of the event or condition and makes all reasonable efforts to cure, mitigate, or remedy the effects of the event or condition.~~
- (b) **Safety, Licensing, or Other Requirements.** Failure by a Market Participant to perform its obligations ~~shall~~ may not be subject to penalty if the Market Participant is able to demonstrate that it was acting in accordance with Section 2.3.1.2.1 of the ISO Tariff.
- (c) **Emergencies.** Failure by a Market Participant to perform its obligations may not be subject to penalty if the Market Participant is able to demonstrate that it was acting in good faith and consistent with Good Utility Practice to preserve System Reliability in a System Emergency, unless contrary to an ISO operating order.
- (d) **Conflicting Directives.** To the extent that any action or omission by a Market Participant is specifically required by a FERC Order or ISO operating order, the Market Participant may not be subject to penalty for that act or omission.

EP 5.3

Enhancement

~~The ISO may triple the maximum amount of any fixed penalty stated for a violation of EP 2.2 to EP 2.10 in the following circumstances:~~

- ~~(a) If the violation occurred during a System Emergency; or~~
- ~~(b) If the ISO determines that the violation is part of a continuing pattern of the same violation for which one or more monetary penalties have previously been imposed upon the Market Participant.~~

~~Penalties under EP 2.2(c) shall not be subject to such enhancement.~~

EP 9.35.4

Settlement

~~(a) **Settlement Statements.** The ISO will administer any Ppenalties assessed under this Protocol will be administered-issued under this Enforcement Protocol through Preliminary Settlement Statements, and Final Settlement Statements issued to the responsible Scheduling Coordinator by the ISO. Before invoicing a financial penalty through the Settlement process, Except for penalties assessed through automated algorithms, the ISO will provide a description of the penalty to the responsible Scheduling Coordinator before invoicing the amount of that penalty through the Settlement process. The description shallwill include the identity of the Market Participant that committed the violation, and a description of the violation, the amount of the penalty and a description of~~

~~the violation, the amount of the penalty and a description of any application of mitigating factors. Where FERC has determined the Sanction, the ISO will provide such of the above information as is provided to it by FERC. The ISO also may publish this information under the ISO Home Page after Final Settlement Statements are issued.~~

- (b) **Payment.** ~~Except as provided in EP 9.3(c) below, t~~The Scheduling Coordinator shall be obligated to pay the amount of the all penalty amounts reflected on the Preliminary and Final Settlement Statements to the ISO pursuant to the ISO's Settlement process, as set forth in Section 11 of the ISO Tariff. In all cases, a Market Participant may dispute the ISO's imposition of a penalty through its Scheduling Coordinator as set forth in the ISO Tariff.
- (c) **Other Responsible Party.** Where a party or parties other than the Scheduling Coordinator is responsible for the conduct giving rise to a penalty reflected on a Preliminary or Final Settlement Statement, and where the SC bears no responsibility for the conduct, such other party or parties ultimately shall be liable for the penalty. Under such circumstances, the Scheduling Coordinator shall use reasonable efforts to obtain payment of the penalty from the responsible party(ies) and to remit such payment to the ISO in the ordinary course of the settlement process. In the event that the responsible party(ies) wish to dispute the penalty, or the Scheduling Coordinator otherwise is unable to obtain payment from the responsible parties, the Scheduling Coordinator shall notify the ISO and dispute the Preliminary Settlement Statement. The ISO promptly shall notify FERC. The Scheduling Coordinator shall be obligated to pay the full amount of the Invoice, inclusive of the penalty, unless FERC specifically authorizes the Scheduling Coordinator to net its payment by the amount of the penalty in question. The ISO may refuse to offer further service to any responsible party that fails to pay a penalty, unless excused under the terms of the Tariff or this Enforcement Protocol, by providing notice of such refusal to the Scheduling Coordinator. Following such notice, the Scheduling Coordinator shall be liable for any subsequent penalties assessed on account of such responsible party.
- (d) **Dispute of FERC Sanctions.** The right that a Market Participant may otherwise have under the Tariff or this Enforcement Protocol to dispute a penalty that has been determined by FERC shall be limited to a claim that the ISO failed properly to implement the penalty or other Sanction ordered by FERC.

EP 5.59.4

Disposition of Proceeds

The ISO shall collect penalties assessed pursuant to this EP and deposit such amounts in an interest bearing trust account. After the end of each calendar year, the ISO shall distribute the penalty amounts together with interest earned through payments to Scheduling Coordinators as provided herein. For the purpose of this EP 9.4, "eligible Market Participants" shall be those Market Participants that were not assessed a financial penalty pursuant to this EP during the calendar year.

Each Scheduling Coordinator that paid GMC during the calendar year will identify, in a manner to be specified by the ISO, the amount of GMC paid by each Market Participant for whom that Scheduling Coordinator provided service during that calendar year. The total amount assigned to all Market Participants served by that Scheduling Coordinator in such calendar year (including the Scheduling Coordinator itself for services provided on its own behalf), shall equal the total GMC paid by that Scheduling Coordinator.

The ISO will calculate the payment due each Scheduling Coordinator based on the lesser of the GMC actually paid by all eligible Market Participants represented by that Scheduling Coordinator, or the product of a) the amount in the trust account, including interest, and b) the ratio of the GMC paid by each Scheduling Coordinator on behalf of eligible Market Participants, to the total of such amounts paid by all Scheduling Coordinators. Each Scheduling Coordinator is responsible for distributing payments to the eligible Market Participants it represented in proportion to GMC collected from each eligible Market Participant.

Prior to allocating the penalty proceeds, the ISO will obtain FERC's approval of its determination of eligible Market Participants and their respective shares of the trust account proceeds. If the total amount in the trust account to be so allocated exceeds the total GMC obligation of all eligible Market Participants, then such excess shall be treated in accordance with SABP 6.5.2(b).

~~Penalty proceeds received by the ISO shall be allocated as described in SABP 3.1.2.~~

EP 10 MISCELLANEOUS

EP 5.610.1 Time Limitation

An investigation of events potentially subject to Sanction under this Protocol must be commenced within 90 days of discovery of the events. Sanctions ~~No penalties~~ may be assessed by the ISO under this Protocol up to one year after discovery of the events constituting the violation, but no later ~~more~~ than three years after discovery by the ISO of date of the underlying violation. Nothing in this section shall limit the rights or liabilities of any party under any other provision of applicable laws, regulations or tariff provisions.

EP 5.7 Other Sanctions

~~In addition to imposing penalties under this Protocol, the ISO may also refer the actions of a Market Participant to the Oversight and Enforcement Agencies, and recommend that those agencies impose additional sanctions upon the Market Participant on a going forward basis. The ISO may recommend sanctions including but not limited to conditioning of the Market Participant's market-based rate authority by placing specific limitation and/or affirmative requirements on the Market Participant's future market behavior. The ISO shall recommend sanctions specifically designed to deter the behavior of the individual Market Participant(s) and/or mitigate the detrimental impacts of their behavior on System Reliability, market efficiency, and other Market Participants, while avoiding the necessity of placing additional restrictions on all Market Participants.~~

EP 610.2 No Limitation on Other RightsNO LIMITATIONS ON OTHER RIGHTS OF THE ISO

Nothing contained in this Protocol shall limit the ability of the ISO to collect information from Market Participants or to establish ~~institute~~ new provisions pursuant to Section 19 of the ISO Tariff.

EP 710.3 AmendmentsMENDMENTS

~~Amendments to this protocol shall be made pursuant to If the ISO determines that an amendment to this Protocol is needed, the ISO will follow the ISO Protocol amendment process set forth in Section 16 of the ISO Tariff.~~

APPENDIX A

1. Method for Calculating Inaccurate Meter Data Penalty (EP 2.7(c)(ii))

There is no penalty for inaccuracies in data used for Preliminary Settlement Statements. However, an error in submitted meter data that is discovered after issuance of Final Settlement Statements is constitutes a Rule of Conduct violation. The level of the Sanction Penalties are sized depending on whether the Scheduling Coordinator or the ISO discovered identified the error. An increased penalty will apply for errors that are discovered by the ISO.

Table A1 below shows how the size-level of the charge-Sanction depends on the following factors: whether or not the Scheduling Coordinator finds the error, whether or not the Scheduling Coordinator owes the market, and whether or not the ISO reruns settlement of the market. If the ISO reruns the market, then settlement to all Scheduling Coordinators is recalculated, and the impact of such reruns on charges assessed will be considered. A charge equal to 30% of the estimated value of the Energy error will apply if the Scheduling Coordinator discovers the error, or 75% of the estimated value of the Energy error if the ISO discovers the error. Penalty assessment and disposition of penalty proceeds will be administered as described in EP 9.1 and 9.4 respectively. The ISOA Sanction will not issue a penalty unless it is greater such Sanction is more than \$1,000 for at least one Trading Day during the period the for which there was incomplete or inaccurate meter data event existed.

Table A1 – Calculation of Inaccurate Meter Data Penalty When There Is A Market Rerun

Case	Does SC Owe Market?	Does ISO Re-Run Settlement of the Market?
Case 1: SC Identifies Inaccurate Meter Data	Yes	No: Charge = (MW x Hourly Ex Post Price ¹) x 1.30 Yes: Charge = (MWh x Hourly Ex Post Price ¹) x 0.30
Case 1: SC Identifies Inaccurate Meter Data	No	No: Charge = Market Settlement x 1.00 ² Yes: Charge = (MWh x Hourly Ex Post Price ¹) x 0.30
Case 2: ISO Identifies Inaccurate Meter Data	Yes	No: Charge = (MW x Hourly Ex Post Price ¹) x 1.75 Yes: Charge = (MWh x Hourly Ex Post Price ¹) x 0.75
Case 2: ISO Identifies Inaccurate Meter Data	No	No: Charge = Market Settlement x 1.00 ² Yes: Charge = (MWh x Hourly Ex Post Price ¹) x 0.75

Notes to Table A1:

1 The ISO applicable price will use the greater of the Hourly Ex Post Price or \$10/MWh. The Hourly Ex Post Price used will be the value posted under the ISO Home Page for each Trading Hour of the applicable Trading Day.

2. Method for Calculating Inaccurate Meter Data Penalty When The Market Is Not Re-Run

If the Market is not re-run, for cases of inaccurate meter data, Table A2 will be used to determine and allocate the penalty proceeds. This method approximates the financial impact on the market; however, it does not completely reflect all the settlement consequences of inaccurately submitted meter data. This will be considered a market adjustment. The approximated value of the inaccurate meter data in question will be calculated and returned to the Market based on the average of the pro rata share of Unaccounted For Energy (UFE) charged in the UDC territory during the period of the inaccurate meter data event. The 30% or 75% penalty will be distributed as discussed in EP 9.4. For cases where the market is not re-run and the SC does not owe the market, then no market adjustment will be performed.

TABLE A2- Calculation Of Inaccurate Meter Data Penalty When There Is No Market Re-Run

<u>Case</u>	<u>Does SC Owe Market?</u>	<u>ISO does not perform a market settlement re-run</u>
<u>Case 1: SC Identifies Inaccurate Meter Data</u>	<u>Yes</u>	<u>Market Adjustment = (MWh x Hourly Ex Post Price¹)</u> <u>Penalty = (MWh x Hourly Ex Post Price¹) x 0.30</u>
<u>Case 1: SC Identifies Inaccurate Meter Data</u>	<u>No</u>	<u>No Market Adjustment will be made</u> <u>Penalty = (MWh x Hourly Ex Post Price¹) x 0.30</u>
<u>Case 2: ISO Identifies Inaccurate Meter Data</u>	<u>Yes</u>	<u>Market Adjustment = (MWh x Hourly Ex Post Price¹)</u> <u>Penalty = (MWh x Hourly Ex Post Price¹) x 0.75</u>
<u>Case 2: ISO Identifies Inaccurate Meter Data</u>	<u>No</u>	<u>No Market Adjustment will be made</u> <u>Penalty = (MWh x Hourly Ex Post Price¹) x 0.75</u>

Notes to Table A2:

1 The applicable price will be the greater of the Hourly Ex Post Price or \$10/MWh. The Hourly Ex Post Price used will be the value posted under the ISO Home Page for each Trading Hour of the applicable Trading Day.

2 If the market owes the Scheduling Coordinator but the amount is too small to justify re-running the market, the ISO will not take steps to adjust the implicit charge.

~~The ISOA Sanction will be imposed only issue a penalty that is greater if the Sanction is more than \$1,000 for at least one Trading Day during the period the for which there was incomplete or inaccurate meter data event existed.~~

If the error is to the detriment of the responsible Scheduling Coordinator (e.g., under-reported generation or over-reported load), and the ISO does not rerun the market, then no correction will be made, representing an implicit penalty of 100% of the value of the Energy. If the market is rerun after the error is corrected, then the Scheduling Coordinator will be given credit for the additional Energy through the normal Settlement process. If the Scheduling Coordinator is paid for an error due to a market rerun, then ~~the ISO will impose a Sanction~~ charge will be assessed to assure that market reruns do not diminish the incentive to correct such errors. This ~~charge~~ Sanction would be 30% of the Energy value of the error if the Scheduling Coordinator discovers the error, or 75% estimated value of the error if the ISO discovers the error.

If the error is to the detriment of the market, then a charge equal to 30% or 75% of the estimated value of the error, as appropriate, will be added to the charge for the Energy. If there is no market rerun, then the cost of Energy supplied by the ISO (and inappropriately charged to the market as Unaccounted for Energy) must be recovered as well, and the charge will be equal to 130% or 175% of the estimated value of the error, as appropriate.

~~2~~ **Method for Calculating Participant Benefits (EP 2.4, 2.5, 2.9, and 2.10)**

~~The ISO will calculate the base (or minimum) penalty for physical withholding, economic withholding, Detrimental Practices, or Market Manipulation based on one of the two alternative general equations described below, depending on the circumstances of the violation:~~

~~a) Option 1~~

~~In circumstances other than those in which Option 2 is employed as described below, the following equation will be used to quantify Participant Benefits:~~

~~Quantity x (Price - Marginal Cost)~~

~~Where:~~

~~Quantity represents the volume of Energy, capacity, or other transaction type by the Market Participant that is involved in or affected by the Rule of Conduct violation.~~

~~Price represents the price received by the Market Participant for these transactions.~~

~~Marginal Cost represents the approximate short-term marginal costs, if any, incurred to provide the Energy for the transaction involved in the Rule of Conduct violation. For Energy transactions associated with thermal Generating Units, marginal costs shall be based on incremental heat rates previously filed with the ISO, monthly spot market gas prices, and a rate of \$6/MWh for other variable costs.~~

~~For non-thermal Generating Units, imports or transactions based on resource portfolios (rather than specific thermal Generating Units), marginal costs shall be based on a proxy gas-fired Generating Unit with a heat rate 9,000 MBtu/MWh and monthly spot market gas prices.~~

~~Marginal costs shall be calculated only for the hours in which the Rule of Conduct violation occurred, and shall not include start-up or other costs incurred during other hours.~~

~~For transactions for capacity, Congestion relief, or other non-Energy transactions, no direct or indirect opportunity costs shall be included in the calculation.~~

b) ~~Option 2~~

~~In cases where the conduct of a Market Participant is likely to have had a significant impact on market prices, the following equation may be used to quantify Participant Benefits:~~

~~Quantity x (Price — Estimated Price without Conduct)~~

~~Where:~~

~~Quantity represents the volume of Energy, capacity, or other transaction type by the Market Participant that is involved in or affected by the Rules of Conduct violation.~~

~~Price represents the price received by the Market Participant for these transactions.~~

~~Estimated Price without Conduct represents the estimated price that would have been received by the Market Participant for these transactions if the conduct had not occurred. These prices may be estimated by the ISO based on re-calculation of the approximate prices that would result if the conduct had not occurred.~~

Non-EP Changes Concerning Settlement:

11.16.1 Pro Rata Reduction to Payments.

If it is not possible to clear the ISO Clearing Account on a Payment Date because of an insufficiency of funds available in the ISO Reserve Account or by enforcing any guarantee, letter of credit or other credit support provided by a defaulting Scheduling Coordinator, the ISO shall reduce payments to all ISO Creditors proportionately to the net amounts payable to them on the relevant Payment Date to the extent necessary to clear the ISO Clearing Account. The ISO shall account for such reduction in the ISO ledger accounts as amounts due and owing by the non-paying ISO Debtor to each ISO Creditor whose payment was so reduced. The provisions of this section shall not apply to non-payment of any penalty amount that a Scheduling Coordinator has disputed and FERC has specifically authorized the Scheduling Coordinator to net its payment to the ISO by the amount of the penalty in question in accordance with EP 9.3, in which case the non-payment amount will be allocated exclusively to the ISO penalty trust account and not allocated to ISO Creditors.

* * *

Non-EP Changes Concerning Disposition of Proceeds:

SABP 3.1.1 Additional Charges and Payments

The ISO shall be authorized to levy additional charges or payments as special adjustments in regard to:

- (a) amounts required to round up any invoice amount expressed in dollars and cents to the nearest whole dollar amount in order to clear the ISO Clearing Account. These charges will be allocated amongst Scheduling Coordinators over an interval determined by the ISO and pro rata based on metered Demand (including exports) during that interval;
- (b) amounts in respect of penalties or sanctions which may be levied by the ISO in accordance with the ISO Tariff or ISO Protocols. These charges will be levied on the Market Participants liable for payment of the penalty or sanction; ~~and, if applicable, distributed as payments to Scheduling Coordinators entitled to receive them.~~
- (c) amounts required to reach an accounting trial balance of zero in the course of the Settlement process in the event that the charges calculated as due from ISO Debtors are lower than payments calculated as due to the ISO Creditors for the same Trading Day. These charges will be allocated amongst the Scheduling Coordinators who traded on that Trading Day pro rata to their metered Demand (including exports) in MWh of Energy for that Trading Day. In the event that the charges due from ISO Debtors are higher than the payments due to ISO Creditors, the ISO shall allocate a payment to the Scheduling Coordinators who traded on that Trading Day pro rata to their metered Demand (including exports) in MWh of Energy for that Trading Day.
- (d) amounts required with respect to payment adjustments for regulating Energy as calculated in accordance with Section 2.5.27.1 of the ISO Tariff. These charges will be allocated amongst the Scheduling Coordinators who traded on that Trading Day pro rata to their metered Demand (including exports) in MWh for that Trading Day.

~~SABP 3.1.2 Treatment of Amounts Received Through Payments of Penalties~~

~~Unless a different allocation method is specified in another section of the ISO Tariff and protocols, the ISO shall hold penalty amounts collected by the ISO, as described in the sections of the ISO Tariff and protocols providing for the payment of penalties, in a trust account until the end of the calendar year, at which time the ISO shall allocate the penalty amounts, and any accrued interest held in the trust account, amongst Scheduling Coordinators in proportion to their metered Demand (including Exports) over the calendar year. The total amount of penalty collections to be allocated shall be determined after first subtracting reasonable costs incurred by the ISO over the calendar year for payments to vendors for equipment or services that are used to investigate violations of Rules of Conduct and administer penalties described in the ISO Enforcement Protocol.~~

* * *

SABP 6.5.2 Other Funds Used in the ISO Surplus Account.

- (a) Any amounts paid to the ISO in respect of penalties or sanctions referred to in SABP 3.1.1, ~~that are not allocated amongst Scheduling Coordinators in~~

~~proportion to their metered Demand (including Exports), shall be credited to the Surplus Account, subject, however, to SABP 6.5.2(b).~~

- (b) The funds referred to in SABP 6.5.2(a) pertaining to Penalties or sanctions as provided in SABP 3.1.1 shall first be applied towards any expenses, loss or costs incurred by the ISO except for that portion of those amounts collected pursuant to the Enforcement Protocol that are credited to Market Participants pursuant to EP 9.4. Any excess after such application will be credited to the Surplus Account pursuant to SABP 6.5.2(a).

* * *

Changes Concerning Cut Counter-Flow Schedules:

7.3.1.5.2 If a Scheduling Coordinator fails to provide the scheduled flows in a counter direction, it must reimburse the ISO for the ISO's costs of buying or selling Imbalance Energy in each of the Zones affected by the non-provided scheduled flows in a counter direction, at the ISO's Zonal Imbalance Energy prices. That is, for any Scheduling Coordinator that does not produce, in real time, the amount of Energy scheduled in the Day-Ahead Market or Hour-Ahead Market will be deemed to have purchased/sold the amount of Energy under/over produced in the real time imbalance market at the real time price. ~~In addition, to the extent that any Scheduling Coordinator would receive a Usage Charge payment for Energy that was scheduled in a counter direction over an inter-tie in the Day-Ahead or Hour-Ahead Market but was not delivered in real time, that Usage Charge payment will be eliminated, pro rata, based on the difference between the scheduled counter flow in the Hour-Ahead Market, and the final real-time Schedule in the counter direction.~~

~~For purposes of any adjustments to Usage Charges under this provision, scheduled flows in the counter direction and any related Usage Charges shall be determined relative to the direction of the final Hour-Ahead flow on the inter-tie. If Congestion reverses direction in the Hour-Ahead relative to Day-Ahead, the Day-Ahead Usage Charge deemed to have been paid to the Scheduling Coordinator in the counter direction is \$0/MWh (not the negative of the Day-Ahead Usage Charge).~~

* * *

Changes Concerning Schedules and Bids Being Binding Obligations:

2.3.1.2.1 Comply with Operating Orders Issued. With respect to this Section 2.3.1.2, all Market Participants within the ISO Control Area and all System Resources shall comply fully and promptly with the ISO's operating orders, unless such operation would impair public health or safety. A Market Participant is not required to comply with an ISO operating order if it is physically impossible for the Market Participant to perform in compliance with that operating order. The Market Participant shall immediately notify the ISO of its inability to perform in compliance with the operating order. ~~In this regard, Final Hour Ahead Schedules for Energy for Generating Units, System Resources, System Units, and Curtailable Demand are deemed to be operating orders. As such, these Schedules are binding obligations and must be fulfilled unless otherwise directed by the ISO. Any Hour Ahead Ancillary Services Schedule or Supplementary Energy Bid is a binding obligation, and a resource so scheduled or bid cannot be made unavailable or otherwise fail to respond to ISO operating orders except for conditions beyond the control of the resource owner. Any Day Ahead commitment of a resource, either self-scheduled or committed in the Day Ahead Market, is a binding obligation, and such resource cannot be de-committed or otherwise be made unavailable except for conditions beyond the control of the resource owner or as approved by the ISO. The ISO will honor the terms of Existing Contracts, except during a System Emergency and circumstances in which the ISO considers that a System Emergency is imminent or threatened. In a System Emergency and circumstances in which the ISO considers that a System Emergency is imminent or threatened, Existing Rights Holders must follow ISO operating orders even if those operating orders conflict with the terms of Existing Contracts. For this purpose ISO operating orders to shed Load shall not be considered as an impairment to public health or safety. This section does not prohibit a Scheduling Coordinator from modifying its Schedule or re-purchasing Energy in the Hour-Ahead Market.~~

* * *

Hour-Ahead Ancillary Services Buy-Back:

2.5.21 Scheduling of Units to Provide Ancillary Services.

The ISO shall prepare supplier schedules for Ancillary Services (both self provided and purchased by the ISO) for the Day-Ahead and the Hour-Ahead Markets. The ISO shall notify each Scheduling Coordinator no later than 1:00 p.m. of the day prior to the Trading Day of their Ancillary Services schedules for the Day-Ahead and no later than one hour prior to the operating hour of their Ancillary Services schedules for the Hour-Ahead. The ISO Protocols set forth the information, which will be included in these schedules. Where long-term contracts are involved, the information may be treated as standing information for the duration of the contract.

If, at any time after the issuance of Final Day-Ahead Schedules for the Trading Day and before the close of the Hour-Ahead Market for the first Settlement Period of the Trading Day, the ISO determines that it requires Ancillary Services in addition to those included in the Final Day-Ahead Schedule (in the appropriate zone if procuring zonally), the ISO may procure such additional Ancillary Services by providing Scheduling Coordinators with amended supplier schedules for the Day-Ahead Markets that include Ancillary Services for which previously submitted (but not selected) bids remain available and have not previously been withdrawn. The ISO shall select such Ancillary Services in price merit order (and in the relevant zone if the ISO is procuring Ancillary Services on a zonal basis). Such amended supplier schedules shall be provided to the Scheduling Coordinators no later than the close of the Hour-Ahead Market for the first Settlement Period of the Trading Day.

Once the ISO has given Scheduling Coordinators notice of the Day-Ahead and Hour-Ahead schedules, these schedules represent binding commitments made in the markets between the ISO and the Scheduling Coordinators concerned, subject to any amendments issued as described above. Any minimum energy input and output associated with Regulation and Spinning Reserve services shall be the responsibility of the Scheduling Coordinator, as the ISO's auction does not compensate the Scheduling Coordinator for the minimum energy output of Generating Units bidding to provide these services. Accordingly the Scheduling Coordinators shall adjust their schedules to accommodate the minimum outputs required by the Generating Units included on the Schedules.

Notwithstanding the foregoing, a Scheduling Coordinator who has sold or self-provided Regulation, Spinning Reserve, Non-Spinning Reserve or Replacement Reserve capacity to the ISO in the Day-Ahead Market shall be required to replace that capacity in whole or in part from the ISO if the scheduled self-provision is decreased between the Day-Ahead and Hour-Ahead Markets, or if the Ancillary Service associated with a Generating Unit, Curtailable Demand, or System Resource successfully bid in a Day-Ahead Ancillary Service Market is reduced in the Hour-Ahead Market, for any reason (other than the negligence or willful misconduct of the ISO, or a Scheduling Coordinator's involuntary decrease in such sold capacity or scheduled self-provision on the instruction of the ISO). The price for such replaced Ancillary Service shall be the ~~greater of the~~ Market Clearing Price in the Hour-Ahead Market ~~or the Market Clearing Price in the Day-Ahead Market~~ for the Ancillary Service for the Settlement Period concerned for the Zone in which the Generating Units or other resources are located. The ISO will purchase the Ancillary Service concerned from another Scheduling Coordinator in the Hour-Ahead Market in accordance with the provisions of the ISO Tariff.

* * *

Schedules and Bids Protocol:

SBP 5.3 Buy Back of Ancillary Services

A Scheduling Coordinator who has sold or self-provided Regulation, Spinning Reserve, Non-Spinning Reserve or Replacement Reserve capacity to the ISO in the Day-Ahead Market shall be required to replace such capacity to the extent scheduled self-provision is decreased between the Day-Ahead and Hour-Ahead Markets, or to the extent the Ancillary Service associated with a Generating Unit, Curtailable Demand, or System Resource successfully bid in a Day-Ahead Ancillary Service Market is reduced in the Hour-Ahead Market, for any reason (other than the negligence or willful misconduct of the ISO, or a Scheduling Coordinator's involuntary decrease in such sold capacity or scheduled self-provision on the instruction of the ISO). The price for such replaced Ancillary Service shall be ~~the greater of the~~ Market Clearing Price in the Hour-Ahead Market ~~or the Market Clearing Price in the Day-Ahead Market~~ for the same Settlement Period for the Ancillary Service capacity concerned.

* * *

Scheduling Protocol:

SP 9.1 Bid Evaluation and Scheduling Principles

The ISO will evaluate Ancillary Services bids based on the following principles:

- (a) the ISO will not differentiate between bidders other than through reserve (Regulation and Operating Reserves) price and capability to provide the reserve service, and the required locational mix of services;
- (b) to minimize the costs to users of the ISO Controlled Grid, the ISO will select the bidders with lowest bids for reserve which meet its technical requirements, including location and operating capability;
- (c) the ISO will (to the extent available) procure sufficient Ancillary Services to meet its technical requirements as defined in the ASRP;
- (d) the ISO will evaluate and price only those Ancillary Services bids received in accordance with the SBP;
- (e) the ISO will require SCs to honor their Day-Ahead Ancillary Services schedules and/or bids when submitting their Hour-Ahead Ancillary Services schedules and/or bids. A Scheduling Coordinator who has sold or self-provided Regulation, Spinning Reserve, Non-Spinning Reserve or Replacement Reserve capacity to the ISO in the Day-Ahead Market shall be required to replace such capacity to the extent scheduled self-provision is decreased between the Day-Ahead and Hour-Ahead Markets, or to the extent the Ancillary Service associated with a Generating Unit, Curtailable Demand, or System Resource successfully bid in a Day-Ahead Ancillary Service Market is reduced in the Hour-Ahead Market, for any reason (other than the negligence or willful misconduct of the ISO, or a Scheduling Coordinator's involuntary decrease in such sold capacity or scheduled self-provision on the instruction of the ISO). The price for such replaced Ancillary Service shall be at the greater of the Market Clearing Price in the Day-Ahead Market or the Market Clearing Price in the Hour-Ahead Market for the same Settlement Period for the Ancillary Service capacity concerned. Increases in each Scheduling Coordinator's self-provided Ancillary Services between the Day-Ahead and Hour-Ahead Markets shall be limited to the estimated incremental Ancillary Service requirement associated with the increase between the Day-Ahead and Hour-Ahead Markets in that Scheduling Coordinator's scheduled Zonal Load. Notwithstanding this limit on increases in Hour-Ahead self-provision, a Scheduling Coordinator may buy or sell Ancillary Services through Inter-Scheduling Coordinator Ancillary Service Trades in the Hour-Ahead Market;
- (f) due to the design of the ISO's scheduling software, the ISO will not take into account Usage Charges in the evaluation of Ancillary Services bids or in price determination and, in the event of Congestion in the Day-Ahead Market or Hour-Ahead Market, Ancillary Services will be procured and priced on a Zonal basis; and
- (g) due to the design of the ISO's scheduling system, any specific resource can bid to supply a specific Ancillary Service or can self-provide such Ancillary Service but cannot do both in the same Settlement Period.

* * *

SP 9.3

Scheduling Ancillary Services Resources

- (a) SCs are allowed to self-provide all or a portion of the following Ancillary Services to satisfy their obligations to the ISO:
 - (i) Regulation;

- (ii) Spinning Reserve;
 - (iii) Non-Spinning Reserve; and
 - (iv) Replacement Reserve.
- (b) The ISO will reduce the quantity of Ancillary Services it competitively procures by the corresponding amount of the Ancillary Services that SCs self-provide.
- (c) The ISO shall prepare supplier schedules for Ancillary Services (both self-provided and purchased by the ISO) for the Day-Ahead Market and the Hour-Ahead Market.
- (d) The Ancillary Services schedules shall contain the information set out in the SBP for each Settlement Period of the following Trading Day in the case of the Day-Ahead schedules or for a specific Settlement Period in the case of Hour-Ahead schedules.
- (e) Once the ISO has given SCs notice of the Day-Ahead and Hour-Ahead schedules, these schedules represent binding commitments made in the reserve markets between the ISO and the SCs concerned. A Scheduling Coordinator who has sold or self-provided Regulation, Spinning Reserve, Non-Spinning Reserve or Replacement Reserve capacity to the ISO in the Day-Ahead Market shall be required to replace such capacity to the extent scheduled self-provision is decreased between the Day-Ahead and Hour-Ahead Markets, or to the extent the Ancillary Service associated with a Generating Unit, Curtailable Demand, or System Resource successfully bid in a Day-Ahead Ancillary Service Market is reduced in the Hour-Ahead Market, for any reason (other than the negligence or willful misconduct of the ISO, or a Scheduling Coordinator's involuntary decrease in such sold capacity or scheduled self-provision on the instruction of the ISO). The price for such replacement shall be at the ~~greater of the Market Clearing Price in the Hour-Ahead Market or the Market Clearing Price in the Day-Ahead Market~~ for the Ancillary Service for the Settlement Period concerned for the Zone in which the Generating Unit or other resources on behalf of which the Scheduling Coordinator buys back the capacity, are located. The ISO will purchase the Ancillary Service concerned from another Scheduling Coordinator in the Hour-Ahead Market in accordance with the provisions of the ISO Tariff.
- (f) Any minimum Energy output associated with Regulation and Spinning Reserve services shall be the responsibility of the SC, as the ISO's auction does not compensate the SC for the minimum Energy output of its Generating Units or System Unit, if any, bidding to provide these services. Accordingly, the SCs shall adjust their Balanced Schedules to accommodate the minimum Energy outputs required by the Generating Units or System Units, if any, included in the Ancillary Services schedules.
- (g) SCs providing one or more of the Ancillary Services cannot change the identification of the Generating Units System Units or external imports of System Resources, if any, or Curtailable Demands offered in the Day-Ahead Market, in the Hour-Ahead Market, or in the Real Time Market (except with respect to System Units, if any, in which case SCs are required to identify and disclose the resource specific information for all Generating Units and Curtailable Demands constituting the System Unit scheduled or bid into the ISO's Day-Ahead Market and Hour-Ahead Market as required in SP 3.3.2(e)).

* * *

Sharing Confidential Information with Oversight and Enforcement Agencies:

~~20.3.5 Disclosure to Oversight and Enforcement Agencies~~

~~Notwithstanding anything in this Section 20.3 to the contrary, the ISO may disclose information otherwise required to be maintained in confidence under the ISO Tariff to an Oversight and Enforcement Agency, on the terms and conditions hereinafter described.~~

~~(a) The ISO may disclose to an Oversight and Enforcement Agency individual bids, schedules, outage plans, and other information routinely collected by the ISO for purposes of monitoring the ISO markets and analyzing market performance, subject to the limitations stated below. The ISO may make such disclosures to an Oversight and Enforcement Agency on a routine or periodic basis, with or without advance notice to Market Participants, if all of the following requirements have been met:~~

- ~~(1) The ISO has identified each category of information that it intends to disclose to an Oversight and Enforcement Agency under this Section 20.3.5 in a market notice issued at least thirty (30) days in advance of the disclosure;~~
- ~~(2) Each category of information that the ISO proposes to disclose is of a type wherein each Market Participant has access to that portion of the information pertaining to it (e.g., an Energy Bid) contemporaneous with the disclosure, through each Market Participant's systems or records;~~
- ~~(3) The proposed disclosure relates to the ISO markets as a whole and is comprised of information on all Market Participants for which such information is available to the ISO, rather than comprised of a subset of available information focusing on a particular Market Participant or Market Participants; and~~
- ~~(4) Each of the Oversight and Enforcement Agencies to which the ISO makes such disclosure is bound legally, by virtue of applicable law, regulation, protective order, contract, or other means, to treat the information as confidential under terms no less protective than the requirements stated in subsection (c) below.~~

- ~~(b) The ISO may disclose any information required to be maintained in confidence under the ISO Tariff to any of the Oversight and Enforcement Agencies, without meeting the requirements stated in subsection (a) above, if all of the following requirements have been met:~~
- ~~(1) The ISO has a reasonable belief that the Market Participant or Market Participants to which the disclosure pertains may have violated an applicable market rule, tariff provision, protocol, regulation, or law;~~
 - ~~(2) Each of the Oversight and Enforcement Agencies to which the information is to be disclosed has oversight or enforcement authority over the potential violation;~~
 - ~~(3) The ISO has a reasonable belief that the information to be disclosed would be relevant to an investigation of the potential violation;~~
 - ~~(4) The ISO provides notice to the Market Participant or Market Participants that is or are the subject of the disclosure five (5) business days in advance of the proposed disclosure, unless affording such notice could jeopardize a pending or anticipated investigation by the ISO or by the Oversight and Enforcement Agency to whom the disclosure is to be made, in which case, no notice will be required; and~~
 - ~~(5) Each of the Oversight and Enforcement Agencies to which the ISO makes such disclosure is bound legally, by virtue of applicable law, regulation, protective order, contract or other means, to treat the information as confidential under terms no less protective than the requirements stated in subsection (c) below.~~
- ~~(c) Each of the Oversight and Enforcement Agencies to which information is disclosed under this section must be bound, at a minimum, to a legal obligation that sets forth in writing the terms applicable to the treatment of confidential and/or commercially sensitive information, and that obligates the agency not to disclose to any third party information provided under this section without providing written notice to the ISO and the Market Participant that is the subject of the disclosure at least five (5) business days in advance of the intended date of release. The Market Participant may, at its sole discretion and own cost, direct any challenge to or defense against the proposed disclosure and the ISO shall cooperate as provided in Section 20.3.4(b).~~

(d) ~~Nothing in this section shall limit the ability of an Oversight and Enforcement Agency to seek information in accordance with the provisions of Section 20.3.4(b), nor limit the ability of the ISO to disclose information in accordance with that section.~~

* * *

APPENDIX A

Master Definitions Supplement:

Oversight and Enforcement Agency	Any of the following: FERC, the United States Department of Justice or any of its subdivisions, the California Department of Justice or any of its subdivisions, the California Public Utilities Commission, or the California Electricity Oversight Board.
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Draft Proposed New Tariff Section Addressing Circular Schedules:

~~7.3.1.5.3 Scheduling Coordinators shall not receive a Usage Charge payment for scheduled flows in a counter direction if such scheduled flow is the result of a Circular Schedule.~~

* * *

APPENDIX A

Master Definitions Supplement:

Circular Schedule	A Schedule or set of Schedules that creates a closed loop of Energy Schedules between the ISO Controlled Grid and one or more other Control Areas that do not have a source and sink in separate Control Areas, which includes Energy scheduled in a counter direction over a Congested Inter-Zonal Interface through two or more Scheduling Points. A closed loop of Energy Schedules that includes a transmission segment on the Pacific DC Intertie shall not be a Circular Schedule because such a Schedule directly changes power flows on the network and can mitigate Congestion between SP15 and NP15. <u>This definition of a Circular Schedule does not apply to the circumstance in which a Scheduling Coordinator submits a Schedule that is an amalgam of different Market Participants' separate but simultaneously submitted Schedules.</u>
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ISO MARKET MONITORING AND INFORMATION PROTOCOL

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MMIP 2.1.1 Anomalous Market Behavior

Anomalous market behavior, which is defined as behavior that departs significantly from the normal behavior in competitive markets that do not require continuing regulation or as behavior leading to unusual or unexplained market outcomes. Evidence of such behavior may be derived from a number of circumstances, including:

MMIP 2.1.1.1 withholding of Generation capacity under circumstances in which it would normally be offered in a competitive market;

MMIP 2.1.1.2 unexplained or unusual redeclarations of availability by Generators;

MMIP 2.1.1.3 unusual trades or transactions;

MMIP 2.1.1.4 pricing and bidding patterns that are inconsistent with prevailing supply and demand conditions, e.g., prices and bids that appear consistently excessive for or otherwise inconsistent with such conditions; and

MMIP 2.1.1.5 unusual activity or circumstances relating to imports from or exports to other markets or exchanges.

The Department of Market Analysis shall evaluate, on an ongoing basis, whether the continued or persistent presence of such circumstances indicates the presence of behavior that is designed to or has the potential to distort the operation and efficient functioning of a competitive market, e.g., the strategic withholding and redeclaring of capacity, and whether it indicates the presence and exercise of market power or of other unacceptable practices.

MMIP 2.1.12 Abuse of Reliability Must-Run Unit Status

Where Generating Units are determined by the ISO to be Reliability Must-Run Units, circumstances that indicate that such Generating Units are being operated in a manner that will adversely affect the competitive nature and efficient workings of the ISO Markets.

MMIP 2.1.3 Gaming

"Gaming", or taking unfair advantage of the rules and procedures set forth in the ISO Tariff, Protocols or Rules of Conduct, or of transmission constraints in periods in which exist substantial Congestion, to the detriment of the efficiency of, and of consumers in, the ISO Markets. "Gaming" may also include taking undue advantage of other conditions that may affect the availability of transmission and generation capacity, such as loop flow, facility outages, level of hydropower output or seasonal limits on energy imports from out-of-state, or actions or behaviors that may otherwise render the system and the ISO Markets vulnerable to price manipulation to the detriment of their efficiency.

MMIP 2.1.24 ISO and Other Market Design Flaws

Design flaws and inefficiencies in the ISO Tariff, ISO Protocols and operational rules and procedures of the ISO, including the potential for problems between the ISO and other independent power markets or exchanges insofar as they affect the ISO Markets, which may be evident from anomalous market behavior monitored under MMIP 2.1.1 above, from evidence of gaming monitored under MMIP 2.1.3 above, or from other activities.

MMIP 2.1.35 Market Structure Flaws

With respect to flaws in the overall structure of the California energy markets that may reveal undue concentrations of market power in Generation or other structural flaws, the Department of Market Analysis shall provide such information or evidence of such flaws and such analysis as it may conduct to the ISO CEO and/or to the ISO Governing Board,

subject to due protections of confidential or commercially sensitive information. After due internal consultation, if instructed by any of such ISO institutions or persons, the Department of Market Analysis shall also provide such information or evidence to the Market Surveillance Committee, the appropriate regulatory and antitrust enforcement agency or agencies, subject to due protections of confidential or commercially sensitive information. The Department of Market Analysis shall, at the direction of the ISO CEO and/or the ISO Governing Board, or their designee, provide such other evidence, views, analyses or testimony as may be appropriate or required and as it is reasonably capable of providing to assist the investigations of such agencies.

* * *

MMIP 2.3.3 — Response to Gaming Behavior

~~If evidence of "gaming" or taking undue advantage exists, as described in MMIP 2.1.4, the Department of Market Analysis shall review the "gaming" behavior and/or the relationship between system conditions and market behavior and pricing in order to assess the potential for and impact of such gaming behavior, with a view to taking appropriate action, if necessary, either with respect to structural changes, or to changes to the ISO Tariff, Protocols or Rules of Conduct, or to proscribe specific behavior by Market Participants, as provided for in the Enforcement Protocol. In carrying out such activities the Department of Market Analysis shall in appropriate circumstances seek the advice of the MSC on the merits of such actions.~~

MMIP 2.3.34 Adverse Effects of Transition Mechanisms

Should the monitoring and analysis conducted under MMIP 2.2.3 reveal significant adverse effects of transition mechanisms on competition in or the efficient operation of the ISO Markets, the Department of Market Analysis shall examine and fully assess the efficacy of all possible measures that may be taken by the ISO, in order to prevent or to mitigate such adverse effects. The Department of Market Analysis shall make such recommendations to the CEO of the ISO and to the ISO Governing Board as it considers appropriate, for action by the ISO and/or for referral to regulatory or law enforcement agencies. Such proposed measures may include, but shall not be limited to the following:

MMIP 2.3.34.1 the use of direct bid caps as a mechanism to prevent or mitigate artificially high Market Clearing Prices caused by abuses of market power;

MMIP 2.3.34.2 the use of contracts for differences for eliminating the incentive for Generators to bid ISO prices to artificially high levels enabled by the presence of market power;

MMIP 2.3.34.3 calling upon Reliability Must-Run Units to operate; and to modify Reliability Must-Run Contracts;

MMIP 2.3.34.4 bid floors to prevent or mitigate the possible exercise of below-cost bidding or predatory pricing.

In the event that the ISO Governing Board adopts, and where necessary obtains regulatory approval for, any measure proposed pursuant to MMIP 2.3.34, the Department of Market Analysis shall monitor the implementation and effect of such measure on the state of the ISO Markets and shall periodically report on them to the CEO and the ISO Governing Board.

ATTACHMENT C

385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

Comment Date: _____