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November 29, 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 October 28, 2004 order in the captioned docket concerning Amendment No. 55 to the ISO Tariff, 109 FERC ¶ 61,087 ("Amendment No. 55 Order"). Two additional copies of this filing are enclosed to be date-stamped and returned to our messenger.

The Commission directed the ISO to comply with the Amendment No. 55 Order as described below. (The underlined headings below correspond to the headings used in the Amendment No. 55 Order.)

Clarification of Enforcement Protocol Administration

Section 1.10 of the Enforcement Protocol ("EP") indicates that, pursuant to the Commission's order of February 20, 2004 in this proceeding, the Rules of Conduct shall continue to be enforced by the Commission until further order of the Commission. The ISO proposes to clarify that the October 28, 2004 order did not represent such a "further order," and that the Commission will continue to

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

enforce the Rules of Conduct.²

Penalty Charges Under EP 2

The Commission directed the ISO to state in the EP that violations under EP 2, *i.e.*, cumulative violations under the market rule itself or the subparts of EP 2, will not exceed \$10,000 per day. Amendment No. 55 Order at P 23. The ISO has modified EP 2 to comply with this directive.

The Commission also directed the ISO to revise EP 2 to state that an operating order will apply to a single set of instructions from the ISO to address a specific problem; the Commission noted that, as a consequence, "failure to obey an operating order containing multiple instructions to address a specific operating condition would result in a single violation." Amendment No. 55 Order at P 24. The ISO has modified EP 2 to comply with this directive.

Penalty Enhancements Under EP 2.5 (and EP 4.4)

The Commission directed the ISO to modify EP 2.5 to state that a Market Participant may appeal a trebled sanction under the EP with the Commission to demonstrate a mitigating circumstance not covered in EP 9.2, and that the sanction will be tolled until the Commission renders its decision. Amendment No. 55 Order at P 36. The ISO has modified EP 2.5 to comply with this directive. In addition, because the section of the Amendment No. 55 Order in which the Commission issued this directive concerns "penalty enhancements under EP 2.5 (*and EP 4.4*)" (emphasis added), the ISO believes the Commission intended for the ISO to include a similar modification concerning appeal rights in EP 4.4. The ISO has modified EP 4.4 accordingly. Conforming changes have also been made to EP 9.3(a) and EP 9.3(b).

Other Provisions Under EP 2

The Commission accepted the proposal, contained in the answer the ISO submitted on June 28, 2004, in the captioned proceeding ("Amendment No. 55 Answer"), to modify the beginning of EP 2.4(a) to state that "[a] Market Participant shall start a Generating Unit and have the Generating Unit operating

² This clarification was prompted by a question the ISO received from a Market Participant during a November 18, 2004 conference call to discuss the EP.

at minimum load within 30 minutes of the time" Amendment No. 55 Order at PP 42, 44. The ISO has modified EP 2.4(a) accordingly.

The Commission also accepted the ISO's proposal in the Amendment No. 55 Answer that EP 2.5 be modified to state that "Notwithstanding the foregoing, violations of EP 2.1 through EP 2.4 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." Amendment No. 55 Order at PP 41, 44. The ISO has modified EP 2.5 accordingly.

EP 3: Submit Feasible Energy and Ancillary Service Bids and Schedules

The Commission stated that it was deferring action on EP 3.2, concerning Scheduling Coordinators' self-certification of their Ancillary Service schedules, until after the technical conference that the Commission required regarding self-certification. Amendment No. 55 Order at P 52. The Commission also deferred action on EP 5.3 (requiring factually accurate self-certifications) and EP 6.5 (requiring the submittal of timely self-certification forms) until after the technical conference. Amendment No. 55 Order at footnotes 63, 72. Therefore, the ISO has deleted EP 3.2, EP 5.3, and EP 6.5. The ISO will in the future propose changes to the Enforcement Protocol based on the outcome of the technical conference.

EP 5: Provide Factually Accurate Information

The Commission directed the ISO to modify EP 5.1(b) "to include graduated penalties for objectively identifiable violations of EP 5.1(a) not to exceed \$10,000." Amendment No. 55 Order at P 69. The October 28 Order did not provide any further clarification regarding what was intended by this directive. The ISO interprets this direction as only requiring the ISO to specify graduated penalties, rather than to specify each potential obligation under the ISO Tariff that might give rise to a violation of EP 5.1(a).³ The ISO has modified EP 5.1(b) to comply with this directive.

³ In the Amendment No. 55 Order, the Commission stated that it "reiterate[d] [its] holding that the Expected Conduct proposed under EP 5.1(a) is reasonable." Amendment No. 55 Order at P 68. The types of Expected Conduct described in EP 5.1(a) constitute the obligations that Market Participants must meet in order to avoid Sanctions under EP 5.1(b).

EP 6: Provide Information Required by the ISO Tariff

The Commission directed the ISO to remove EP 6.2 in its entirety, and required the ISO to delete the last sentence of EP 6.3(b) and of EP 6.4(b).⁴ Amendment No. 55 Order at P 76. The ISO has removed these provisions as directed by the Commission.

EP 7: No Market Manipulation

The Commission accepted the ISO's proposals in the Amendment No. 55 Answer to remove from EP 7.4(a) the phrase "or knowingly undertakes a transaction to nullify the congestion relief the ISO expects when a Dispatch instruction is issued," and to remove the example provided in EP 7.5(a). Amendment No. 55 Order at PP 82-83. The ISO has modified EP 7.4(a) and EP 7.5(a) accordingly.

EP 9: Administration of Sanctions

The Commission accepted the ISO's proposal in the Amendment No. 55 Answer to modify EP 9.3(a) to provide that both the Scheduling Coordinator and all Market Participants it represents that are liable for a violation will be informed of a violation. Amendment No. 55 Order at PP 98, 103. The ISO has modified EP 9.3(a) accordingly.

The Commission also accepted the ISO proposal in the Amendment No. 55 Answer to modify EP 9.3(c) to state that "if the ISO finds that a Market Participant separate from the Scheduling Coordinator is solely responsible for a violation, the Scheduling Coordinator that is unable to obtain payment may net its payment by the amount of the penalty in question." Amendment No. 55 Order at PP 97, 101. The ISO has modified EP 9.3(c) accordingly.

Conformed Tariff

The Commission directed that the ISO Tariff be updated thirty days from the date of the Amendment No. 55 Order, "and, thereafter, as soon as practicable but not to exceed sixty days from the date that revisions to the ISO

⁴ The Commission stated that the ISO could propose to include the language deleted from EP 6.3(b) and EP 6.4(b) in a future filing under Section 205 of the Federal Power Act. Amendment No. 55 Order at P 76.

Tariff are accepted by the Commission.” Amendment No. 55 Order at P 109. From the time that the ISO posted its revised, conformed tariff on its website on June 24, 2004 (*see id.* at P 108), the ISO has updated its tariff at least as frequently and sometimes more frequently than it was required to do by the Amendment No. 55 Order. The ISO commits to continue to update its tariff as needed, on a timely basis, and in any event the ISO will update its tariff at least as frequently as required by the Amendment No. 55 Order.

The Commission also stated:

[U]nder Order No. 614, if a public utility revises or modifies its tariff, it must file with the Commission a complete revised tariff with a new designation. Thus, we also direct the CAISO to electronically file a revised tariff with the Commission, within thirty days of the date of this order, reflecting the modifications discussed above.

Amendment No. 55 Order at P 110 (citation omitted). It is impossible for the ISO to file a revised tariff electronically as directed by the Commission, because the Commission’s proposed program for permitting the electronic filing of tariffs, tariff revisions, and rate change applications (*i.e.*, the “eTariff” proposal) is still in the developmental stage. See Notice of Proposed Rulemaking, Prototype Testing, and Technical Conference, *Electronic Tariff Filings*, 69 Fed. Reg. 43929 (July 23, 2004), FERC Stats. & Regs. ¶ 32,575 (2004) (describing the eTariff proposal and stating that comments on the proposal are due October 4, 2004); <http://www.ferc.gov/docs-filing/etariff.asp> (Commission website providing description of the eTariff proposal and electronic links to documents related to the proposal, which website indicates that the proposal is still under development). Therefore, the ISO has no means of complying with the Commission’s directive to file a revised tariff electronically. Further, as explained in the request for rehearing and request for stay being submitted today by the ISO in the captioned docket, the ISO should not be required to file a complete revised tariff as directed in the Amendment No. 55 Order.

Scheduling on Zero-Rated Paths

The Commission directed the ISO to specifically state on the clean sheet containing Section 2.2.9 of the ISO Tariff that the effective date for the section is the date of implementation of the changes that the ISO commits to make to its

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scheduling system. Amendment No. 55 Order at P 114. The ISO now provides the required clean tariff sheet.

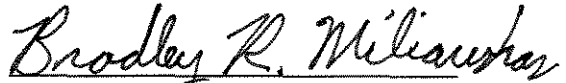
Materials Included in the Present Filing

Attachment A to the present filing contains clean ISO Tariff sheets reflecting the modifications to the tariff sections described above. Attachment B to this filing contains those modifications in black-line format. Attachment C to this filing contains a form notice of the filing, suitable for publication in the Federal Register, along with a computer diskette containing the notice.

The ISO is serving copies of the present filing on all parties on the official service list for the captioned docket. In addition, the ISO is posting this filing on the ISO Home Page. If there are questions concerning the 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]

ISO ENFORCEMENT PROTOCOL

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- (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 Orders dated February 20, 2004 and October 28, 2004 in Docket No. 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. A Market Participant's failure to obey an operating order containing multiple instructions to address a specific operating condition will result in a single violation of EP 2. 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 and will be subject to the limitation stated in EP 2.6 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.

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 and have that Generating Unit operating at minimum load 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 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. A Market Participant that is subject to an enhanced penalty amount under this EP 2.5 may appeal that penalty amount to FERC if the Market Participant believes a mitigating circumstance not covered in EP 9.2 exists. The duty of the Market Participant to pay the enhanced penalty amount will be tolled until FERC renders its decision on the appeal.

EP 2.6 Per-Day Limitation on Amount of Sanctions

The amount of Sanctions that any Market Participant will incur for committing two or more violations of EP 2.1 through EP 2.4 on the same day will be no greater than \$10,000 per day except as provided in EP 2.5.

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 Exceptions.

Violations of EP 3.1 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 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. A Market Participant that is subject to an enhanced penalty amount under this EP 4.4 may appeal that penalty amount to FERC if the Market Participant believes a mitigating circumstance not covered in EP 9.2 exists. The duty of the Market Participant to pay the enhanced penalty amount will be tolled until FERC renders its decision on the appeal.

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.** The Sanctions for a violation of EP 5.1 shall be as follows:
for the first violation within a rolling twelve (12) month period, \$2,500; for
the second violation within a rolling twelve (12) month period), \$5,000;
subsequent violations within a rolling twelve (12) month period, \$10,000.

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 6 PROVIDE INFORMATION REQUIRED BY ISO TARIFF

EP 6.1 Required Information Generally

- (a) **Expected Conduct.** Except as provided below in EP 6.4 (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 and EP 6.3, a violation of this rule is subject to a penalty of \$500 for each day that the required information is late.

EP 6.2 Investigation Information

- (a) **Expected Conduct.** Except as provided below in EP 6.4 (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 6.2 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.

EP 6.3 Audit Materials

- (a) **Expected Conduct.** Except as provided below in EP 6.4 (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.

EP 6.4 Review by FERC

A Market Participant who objects to an information, audit or test obligation that is enforceable under EP 6.1, 6.2 or 6.3 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 (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.
- (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 9.3 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 and all Market Participants the Scheduling Coordinator represents that are liable for the penalty, when the ISO has sufficient objective information to identify and verify responsibility of such Market Participants. The ISO shall specify whether such penalty is enhanced pursuant to EP 2.5 or EP 4.4. 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 2.5, EP 4.4 or 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 Scheduling Coordinator 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. If the ISO finds that a Market Participant separate from the Scheduling Coordinator that is unable to obtain payment from the responsible party(ies) is solely responsible for a violation, the Scheduling Coordinator that is unable to obtain payment may net its payment of its Invoice amount 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, except as provided by EP 2.5 and EP 4.4.

ATTACHMENT B

ISO ENFORCEMENT PROTOCOL

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ISO ENFORCEMENT PROTOCOL ("EP")

EP 1.10 Administration of the EP

Pursuant to the FERC Orders dated February 20, 2004 and October 28, 2004 in Docket No. 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. A Market Participant's failure to obey an operating order containing multiple instructions to address a specific operating condition will result in a single violation of EP 2. 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 and will be subject to the limitation stated in EP 2.6 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 and have that Generating Unit operating at minimum load 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. A Market Participant that is subject to an enhanced penalty amount under this EP 2.5 may appeal that penalty amount to FERC if the Market Participant believes a mitigating circumstance not covered in EP 9.2 exists. The duty of the Market Participant to pay the enhanced penalty amount will be tolled until FERC renders its decision on the appeal.

The amount of Sanctions that any Market Participant will incur for committing two or more violations of EP 2.1 through EP 2.4 on the same day will be no greater than \$10,000 per day except as provided in EP 2.5.

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, and the undispached Ancillary Service Coordinator 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

EP 2.6 Per-Day Limitation on Amount of Sanctions

~~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 3.32

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 4.4

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. A Market Participant that is subject to an enhanced penalty amount under this EP 4.4 may appeal that penalty amount to FERC if the Market Participant believes a mitigating circumstance not covered in EP 9.2 exists. The duty of the Market Participant to~~

pay the enhanced penalty amount will be tolled until FERC renders its decision on the appeal.

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.** The Sanctions for a violation of EP 5.1 shall be as follows: for the first violation within a rolling twelve (12) month period, \$2,500; for the second violation within a rolling twelve (12) month period, \$5,000; subsequent violations within a rolling twelve (12) month period, \$10,000. 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 6.46 (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 ~~and~~ EP 6.35, 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 6.23 Investigation Information

- (a) **Expected Conduct.** Except as provided below in EP 6.46 (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 6.23 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 6.34

Audit Materials

- (a) **Expected Conduct.** Except as provided below in EP 6.46 (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 6.46

Review by FERC

A Market Participant who objects to an information, audit or test obligation that is enforceable under EP 6.1, 6.23 or 6.34 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 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 and all Market Participants the Scheduling Coordinator represents that are liable for the penalty, when the ISO has sufficient objective information to identify and verify responsibility of such Market Participants. The ISO shall specify whether such penalty is enhanced pursuant to EP 2.5 or EP 4.4. 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 2.5, EP 4.4 or 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 Scheduling Coordinator 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. If the ISO finds that a Market Participant separate from the Scheduling Coordinator that is unable to obtain payment from the responsible party(ies) is solely responsible for a violation, the Scheduling Coordinator that is unable to obtain payment may net its payment of its Invoice amount 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, except as provided by EP 2.5 and EP 4.4.

* * *

ATTACHMENT C

Comment Date: _____