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April 19, 2006

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

Re: California Independent System Operator Corporation
Docket No. ER06-723-000

Dear Secretary Salas:

Enclosed for electronic filing in the above-referenced docket please find the California Independent System Operator Corporation's Motion for Leave to File Answer Out of Time and Answer to Motions to Intervene, Comments, and Protests.

Thank you for your assistance in this matter.

Respectfully submitted,

/s/ David Rubin

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	**)** **)**	**Docket No. ER06-723-000**

MOTION FOR LEAVE TO FILE ANSWER OUT OF TIME AND ANSWER TO MOTIONS TO INTERVENE, COMMENTS AND PROTESTS OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

I. INTRODUCTION AND SUMMARY.

On March 13, 2006, the California Independent System Operator Corporation ("CAISO") submitted for filing with the Federal Energy Regulatory Commission ("the Commission") the Interim Reliability Requirements Program ("IRRP") to implement the resource adequacy programs being established by State authorities, including the California Public Utilities Commission ("CPUC") and other Local Regulatory Authorities ("LRAs").[1] The IRRP is intended to remain effective until implementation of the Market Redesign and Technology Upgrade ("MRTU") program, scheduled for Fall 2007. In response to the CAISO's IRRP filing, a number of parties submitted motions to intervene, comments, and protests.[2]

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

[2] Motions to intervene, comments, and protests concerning the CAISO's March 13, 2006 Interim Reliability Requirements Program filing were submitted by the following entities: Arizona Electric Power Cooperative, Inc and Southwest Transmission Cooperative, Inc. (jointly, "AEPCO/SWTC"); Sempra Global ("Global"); Pacific Gas & Electric ("PG&E"); Citizens Energy Corporations ("Citizens"); Cogeneration Association of California and the Energy Producers and Users Coalition (collectively, "CAC/EPUC"); Western Area Power Administration ("Western"); Golden State Water Company ("GSW"); United States Department of Energy, Berkeley Site Office ("DOE/BSO"); Lassen Municipal Utility District ("Lassen"); City and County of San Francisco ("San Francisco"); Trinity Public Utilities District ("Trinity

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2005), the CAISO hereby requests leave to file this answer[3] to the comments, protests and motions to intervene submitted in the above-referenced docket. The CAISO does not oppose the intervention of any party that has sought leave to intervene in this proceeding.

As discussed in the CAISO's filing letter and explained further in this answer, the IRRP is an important transition away from the Commission's must-offer mitigation measure and towards a market structure in which resources secured under resource adequacy programs developed by the CPUC and other LRAs are made available to the CAISO to meet NERC/WECC reliability criteria and ISO Control Area operational requirements. The IRRP accomplishes this objective in a manner that respects both the authority of State and local authorities regarding long-term planning reserves (*i.e.*, resource adequacy determinations) and the CAISO's own responsibilities to maintain

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PUD"); Alliance for Retail Energy Markets ("AReM"); Modesto Irrigation District ("MID"); M-S-R Public Power Agency ("M-S-R") and the City of Redding, California ("Redding"); City of Santa Clara, California, doing business as Silicon Valley Power ("SVP"); Northern California Power Agency ("NCPA"); Southern California Edison Company ("SCE"); California Department of Water Resources ("CDWR") State Water Project ("SWP"); Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (collectively, "Constellation"); California Municipal Utilities Association ("CMUA"); Public Utilities Commission of the State of California ("CPUC"); California Electricity Oversight Board ("CEOB"); Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, "Six Cities"); Imperial Irrigation District ("IID"); Williams Power Company, Inc. ("Williams"), NRG Energy, Inc. ("NRG"), and Reliant Energy, Inc. ("Reliant"); Powerex Corp. ("Powerex"); Sacramento Municipal Utility District ("SMUD"); Metropolitan Water District of Southern California ("Metropolitan"); and City of Vernon, California ("Vernon").

[3] The CAISO requests waiver of Rules 213(a)(2) (18 C.F.R. § 385.213(a)(2)) and 213(d) (18 C.F.R. § 385.213(d)) to permit it to make an answer to the protests one day out of time from the 15 days generally permitted to file an Answer to a Motion. Good cause for these waivers exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case. *See, e.g.*, *Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002); *Duke Energy Corporation*, 100 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Company*, 93 FERC ¶ 61,098, at 61,259 (2000).

short-term reliability and to ensure reliable grid management. Accordingly, the Commission should approve the IRRP, with the additional clarifications and corrections as articulated in the CAISO's response to the comments from intervenors, as discussed below.

II. ANSWER

A. While Appropriately Reserving to State and Local Authorities Long-Term Resource Adequacy Planning, the IRRP Is Necessary In Order to Coordinate the Provision of the Resource Adequacy Resources with the CAISO's Responsibilities to Maintain Short Term Reliability and for Reliable Grid Management

Both the CPUC and the municipal entities question the scope of the IRRP. They contend that the CAISO has crossed a perceived line between resource adequacy and reliability. These protests do not withstand scrutiny. When the specifics of the IRRP program are considered, the Commission (and those who have submitted comments) should find appropriate deference to the roles of State and LRAs to ensure long-term supply sufficiency (*i.e.*, planning reserves), while at the same time meeting the CAISO's own requirements to maintain short-term reliability and to ensure that NERC/WECC reliability criteria (including short-term operating reserve criteria) are met.

As an initial matter, the CPUC understands and agrees that the CAISO has primary authority to ensure the reliability of the transmission system under its control, but that at some point the CAISO's purview over the need to procure to ensure system reliability can interfere with the CPUC's jurisdiction over LSE procurement of resources on behalf of retail ratepayers.[4] The CPUC recognizes that the IRRP, "is an important step in the progress towards a more reliable, economical energy market in California"

[4] CPUC at page 6.

and that it addresses the delivery of RAR resources to the CAISO beginning June 1, 2006, in a manner that is useful to the CAISO, and that is similar to how RAR resources will be used under MRTU" and that it "makes significant progress towards the CPUC's and the CAISO's common goals of a reliable, economical energy market."[5] The CPUC goes on to state, however, that "[r]ead broadly, [the IRRP] appears to require LSEs to comply with CAISO-imposed resource adequacy requirements" and proposes to strike Sections 40.1 through 40.4, retaining only certain nominal filing requirements.[6] CMUA is even more blunt and advises the Commission to stay out of resource adequacy and that this is "a legal, political, quagmire into which the Commission should be loathe to step."[7] CMUA accuses the CAISO of trying to "federalize resource adequacy."[8] According to San Francisco, there is no need for interim measures at this time; the fundamental elements of the ISO's operations can proceed without subjecting non-jurisdictional entities to the proposed pervasive, intrusive and onerous resource adequacy requirements.

In response to these comments, it is important first to recognize that, under ISO Principle 4 in Order No. 888, an ISO has primary responsibility for ensuring the short-term reliability of grid operations. The Commission has recognized that an ISO's role in carrying out this responsibility should comply with the applicable standards set by NERC and the applicable regional reliability council, which in the CAISO's case is the

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5 CPUC at page 2-3.

6 CPUC at pages 6-7.

7 CMUA at page 2.

8 CMUA at page 9.

Western Electricity Coordinating Council ("WECC").[9] Also, under A.B. 1890, the CAISO has responsibility for maintaining the reliable operation of the transmission grid consistent with the achievement of planning and operating reserve criteria no less stringent than those established by the WECC and NERC.[10] Indeed, A.B. 1890 directed the CAISO to make the necessary filings with the Commission "to give the [CAISO] the ability to secure generating and transmission resources necessary to guarantee achievement of planning and reserve criteria no less stringent than those established by the [WECC] and the [NERC]." The IRRP is consistent with these principles.

Second, under NERC/WECC criteria, ensuring reliability involves both maintaining the security of the transmission system *and* ensuring the adequacy of supply in the control area. *See* WECC Reliability Criteria (April 2005) at 26 (noting that overall reliability, *i.e.*, adequacy and security, is to be maintained by adherence to NERC Planning Standards and to each Region's Planning Criteria). It is fundamental that the use of reserve criteria (planning and operating) is crucial to maintaining reliability. In its power supply assessment for 2005, the WECC explained the use of reserve margins stating:

> Reserve Margin is a measure of resource capability in excess of demand requirement. The industry commonly refers to two kinds of reserve margin, namely, operating reserve margin for day-to-day operations, and planning reserve margin for short term or long term planning purposes. A planning reserve margin is generally higher than an operating reserve margin since it must account for all of the uncertainties. A planning reserve margin includes the margin for an operating reserve margin plus an additional margin for planning purposes.[11]

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9 *See Central Hudson Gas & Electric Corporation*, 83 FERC ¶ 61,352 at 62,410 (1998).

10 *See* Assembly Bill 1890, Chapter 2.3 Article 3, Sections 345-46.

11 WECC 2005 Power Supply Assessment (May 31, 2005) at page 42.

Ensuring short-term supply adequacy (*i.e.*, by complying with short-term planning reserve criteria) in advance of real time operations is crucial to maintaining short-term reliability (and to doing so in an efficient and cost-effective manner).

Indeed, the CAISO has an existing obligation under the current Tariff to meet the NERC/WECC reliability criteria for short-term supply adequacy purposes. See § 40.3.1 of the existing CAISO Tariff (with the proposed amendment Section 40.3.1 is to be renumbered as Section 42). Quite the opposite from being antithetical to the CAISO's responsibilities to maintain short term reliability, the resource adequacy programs of the CPUC and LRAs (including the proposed default, short-term planning reserve criteria) are welcome new mechanisms that allow the CAISO to better comply with ISO Principle No. 4 under Order No. 888 and its *existing responsibilities* under the CAISO Tariff regarding reserve criteria.

Section 40.3.1 of the Tariff is aimed at having the CAISO comply with WECC/NERC planning reserve criteria. *See* § 40.3.1 of the CAISO Tariff. Section 40.3.1 requires the CAISO to produce and publish a twelve-month forecast of generation capacity and demand so that the CAISO can meet WECC/NERC reliability criteria. *Id*. If WECC/NERC reliability criteria cannot be met, the CAISO is authorized (acting in accord with Good Utility Practice) to take other steps to ensure compliance. *See* § 40.3.1.5 of the CAISO Tariff.

In short, having sufficient short-term generation supply is crucial to fulfilling the CAISO's duty to ensure the short-term reliability of the electric system, and the resource adequacy programs of the CPUC and LRAs (and the CAISO's reliance on those

programs) will vastly improve the ability of the CAISO to ensure that short-term supply sufficiency needs are met well ahead of real time operations.

Furthermore, it is important to note that NERC requires each Region to conduct annual reliability assessments of the existing and planned Regional bulk electric system.[12] The information in the annual assessments must include, but is not limited to, one or more of the following types of information: (1) actual and projected electric demands and net energy for load, (2) *resource adequacy and supporting information* (*e.g.*, existing and planned resource data, resource availability, characteristics and fuel types), (3) demand side resources and their characteristics, and (4) Supply side resources and their characteristics.[13] In addition, under the WECC's Power Supply Assessment Policy, WECC members are to provide the following data: (1) Load Forecasts, (2) demand management programs, (3) resource information (including generator ratings and seasonal variations, availability information, and fuel type).[14] This is basic data; it does not amount to new "onerous" requirements. What makes such claims more unnecessary is that the vast majority of LSEs that submitted comments and/or protests in this proceeding are existing WECC members and, therefore, should already be adhering to the requirement in AB 380 that both CPUC LSEs and LRA LSEs comply with the most recent minimum planning reserve and reliability criteria approved by the Board of Trustees of the WECC.[15]

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[12] *See* WECC Reliability Criteria (April 2005) at 26 (Standard S1).

[13] *Id*. at 27-28 (emphasis added).

[14] WECC Power Supply Assessment Policy dated April 18, 2002 at page 2.

[15] Twenty four of the entities that submitted comments and or protests in this proceeding are members of the WECC: AEPCO&SWTC; Global subsidiaries (Sempra Energy Resources and Sempra Energy Trading Corp); PG&E; SCE; CPUC; CEOB; WAPA; MID; Redding; Santa Clara; San Francisco;

Clearly, there are limits as to what the CAISO can do to meet its Applicable Reliability Requirements and not impinge on state and local responsibilities for Resource Adequacy. This is not necessarily a bright line, but more akin to the old radios with the dial tuners where you go from one station that comes in clearly though a section where it starts to phase out, to a point of some overlap, before the next station is the only one heard. In respecting the determinations of the LRAs with respect to the key components of resource adequacy – determination of a Reserve Margin, preparation of load forecasts, determination of resource qualifications and enforcement while requiring basic information and that the resources secured under the state and local programs actually be available to serve demand, the CAISO has stayed well within its responsibilities and authority.

Also, it must be recognized that AB 380 requires that both CPUC-jurisdictional LSEs and municipal LSEs "meet the most recent minimum planning reserve and reliability criteria approved by the Board of Trustees of the Western Systems Coordinating Council or the Western Electricity Coordinating Council." *See* AB 380, §§ 380(d) and 9620(b), respectively. In determining what resources, if any, are available to the CAISO, or whether the CAISO must procure resources to fulfill its federal and state responsibilities, the CAISO must take into account the resources procured as a result of AB 380 requirements. The CAISO needs to have information about what those resources are and the degree to which they can fulfill the requirements imposed on the CAISO. It is fitting and appropriate that as a condition for taking service under the ISO

NCPA; CDWR; Constellation; Cities of Anaheim, Pasadena, Riverside, Roseville, California; IID; Williams; Reliant; Powerex; SMUD; and Metropolitan. *See* March 15, 2006 list of WECC Members attached to this pleading as Attachment A.

Tariff, the CAISO requires that Scheduling Coordinators submit such information. The IRRP accomplishes this objective.

Many of the comments seem to misconstrue the fundamental purpose of the IRRP. For example, Six Cities argue that the CAISO has not established that capacity resources independently procured by LSEs will not be adequate to meet Control Area requirements for the near term and contend that they "have taken responsibility for procuring sufficient capacity resources to meet the needs of their customers and the ISO has not demonstrated otherwise."[16] Similarly, San Francisco states there is no showing that the IRRP will provide any benefit to non-jurisdictional entities' planning and procurement practices for the time period requested in the filing.[17] But these statements miss the point of the IRRP. The CAISO hopes and expects that LSEs such as the Six Cities and San Francisco have *already* procured sufficient capacity to meet their respective demand. The hope is that the amendment will not change existing procurement practices. What the amendment does ask is that entities such as Six Cities should simply identify what resources they have secured and to make those resources available in a way or ways that are compatible with the CAISO's processes and systems to meet the system demand (including of course that imposed by the Six Cities). A primary purpose of the IRRP is to transition away from the FERC must-offer requirement, to reliance on resources secured by LSEs under the auspices of programs established by LRAs. This includes programs established by both the CPUC and the municipals.

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16 Six Cities at page 5.

17 San Francisco at pages 4-5.

Indeed, as demonstrated in the next section, the CAISO's proposed program in the IRRP is more deferential to State and local authorities than other programs accepted by the Commission. Clearly, if the Commission has jurisdiction to approve reserve and other capacity requirements in power pool and ISO/RTO tariffs, it necessarily must have the authority to approve resource reporting requirements for LSEs.

B. Applicability

1. Non-CPUC Jurisdictional Entities

Several parties argue that the CAISO is either attempting to "federalize" all Resource Adequacy requirements, "impose" upon municipal entities the CPUC resource adequacy program, or both.[18] They note that AB 380 intentionally distinguishes between CPUC jurisdictional and non-CPUC jurisdictional entities.[19] The crux of that protest is that the default planning reserve margin oversteps the CAISO's jurisdictional boundaries because AB 380 creates the appropriate mechanism to govern municipal resource procurement.

The CAISO hopes to be as clear as possible about the following point. The IRRP does nothing to interfere with AB 380 or the standards the legislature chose for municipal entities. The IRRP accommodates this legislative choice in its design, by deferring to the LRA to determine the appropriate reserve margin for each municipal utility. Nothing in the CAISO program would supplement, replace, or in anyway interfere with a reserve margin put in place by an LRA. All the CAISO asks is that each

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[18] *See, e.g.,* NCPA at pages 3-4; Imperial Irrigation District at pages 5-6.

[19] Modesto at ¶¶ 14-15 pages 6-7; Imperial Irrigation District at pages 6-8; CMUA at page 8.

municipal tell the CAISO, and in so doing the community of grid users at large, what program it has put in place to ensure adequate deliverable resources to meet its load. Only when an LRA fails to act does the IRRP's default margin apply. As explained further in Section C., the proposed default, short-term planning reserve margin of 15 percent is consistent with: (i) the WECC's recommended minimum levels of installed and planned generating reserves, (ii) the CAISO's existing responsibilities to meet NERC/WECC reliability criteria, and (iii) good utility practice.

Protesting the default reserve margin criteria is tantamount to an admission that an LRA may choose not to adopt any reserve margin at all. It is this circumstance that the CAISO finds unacceptable because the CAISO (and all of the other LSEs) will be responsible for making up the difference if a participant fails to meet its obligation. As noted above, the CAISO has an existing obligation to forecast on an annual basis that it can meet its reliability criteria. See Section 40.3. This can only be done if the users of the grid support the functioning of the grid by supplying the appropriate information. AB380 seeks to enhance communication in the area of resource planning not to detract from existing levels or to prevent the CAISO from being able to determine that the greater Control Area reliability requirements have been satisfied.

The Commission clearly has the authority to approve a default reserve margin requirement. Going as far back as the mid-1970s, the Commission has found it appropriate to approve capacity obligations imposed on LSEs participating in power pools (and more recently ISOs and RTOs). *New England Power Pool Agreement*, 56 FPC 1562 (1976) (approving Capability Responsibility obligations on NEPOOL's electric utility participants based on each participant's system peak compared to the aggregate

peaks of all participants). In approving a capacity obligation for NEPOOL LSEs, the Commission stated that "[s]uccessful operation of NEPOOL requires that to the greatest extent possible each participant should develop sufficient capacity to meet its load." *Id.* Moreover, the Commission has approved capacity obligations for LSEs in each of the eastern ISOs. *PJM Interconnection LLC and Allegheny Power*, 96 FERC ¶ 61,060 at 61,212-14 (2001)("PJM West")(approving PJM West's ACAP requirement which imposes a daily capacity obligation on LSEs equal to 106 percent of the total day-ahead estimated load requirement coincident with the zone peak for that LSE); *ISO New England*, 91 FERC ¶ 61,311 at 62,080 (2000) (LSEs must acquire generation capacity equal to their peak load plus a reserve margin); *Pennsylvania-New Jersey-Maryland Interconnection, et al.*, 81 FERC ¶ 61,257 (1997), *order on clarification*, 82 FERC ¶ 61,008 (1998), *order on rehearing*, 92 FERC ¶ 61,282 (2000) (approving Reliability Assurance Agreement which requires each LSE to own or purchase capacity resources greater than or equal to the load that it serves, plus a reserve margin); *New York Independent System Operator, Inc*., 90 FERC ¶ 61,319 (2000), *amended*, 96 FERC ¶ 61,251 (2001)(approving an ICAP obligation on LSEs utilizing a UCAP methodology).[20]

[20] The CAISO also notes that the Commission accepted an agreement between the New York ISO and the New York State Reliability Council ("NYSRC") which, *inter alia,* gives the NYSRC the authority to establish state-wide installed capacity requirements consistent with NERC and NPCC requirements. *Central Hudson,* 83 FERC at 62,411-13. The agreement requires that any revisions to the installed capacity requirements be filed with the Commission. *New York State Reliability Council,* 90 FERC ¶ 61,313 (2000) ("NYSRC"). The Commission recognized that the New York ISO had primary responsibility for ensuring short-term reliability of transmission grid operations subject to its control and at that the agreement between the New York ISO and the NYSRC covered the short-term reliability matters that were the subject of ISO Principle No. 4. *Id.* Similarly, the default reserve requirement and resource reporting requirements proposed by the CAISO constitute short-term reliability matters that are subject to ISO Principle No. 4 and the Commission's jurisdiction.

The Commission has approved capacity obligations for LSEs as a measure to ensure that adequate capacity resources are planned and made available to provide reliable service to loads within a control area, to assist other parties during emergencies and to coordinate planning of capacity resources consistent with reliability principles and standards.[21] Like the other capacity-type obligations the Commission has approved, the CAISO's default reserve requirement (and resource reporting requirements) will support the reliable and efficient operation of an integrated, interstate transmission network and interstate wholesale market. As the case law discussed above clearly provides, the Commission has the jurisdiction and the authority to approve capacity obligations that further the reliability of an integrated interstate transmission grid. This is exactly what the IRRP proposal is designed to accomplish.[22]

Claims that the IRRP will federalize resource procurement, which traditionally constitutes a state function, are misplaced. In its order granting PJM RTO status, the Commission ruled that PJM, under the Reliability Assurance Agreement, has the authority to set region-wide capacity reserve requirements. *PJM Interconnection, LLC*, 96 FERC at 61,212(2001). The Commission expressly found that its ruling did not intrude upon the states' traditional role in setting generation reserve requirements for load serving entities (e.g. maintenance of specific reserve requirements). *Id*. at n.16.

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[21] *See PJM Interconnection, L.L.C.,* 95 FERC ¶61,330 at 62,174 (2001); *ISO New England, Inc.,*91 FERC ¶ 61,311 at 62,080 (2000).

[22] The ISO notes that the WSCC Reliability Management System (RMS) which requires participants to adhere to reliability criteria (including maintaining sufficient Operating Reserves) and contains sanctions for failures to comply with the criteria. The Commission found that the RMS significantly "affects or pertains to" rates and charges by public utilities subject to the Commission's regulations. *Western Systems Coordinating Council,.*87 FERC ¶ 61,060 (1999). If the Commission has jurisdiction over the WSCC's imposition of reserve requirements over the ISO, it must have similar authority to enable the ISO to ensure that entities using the ISO-controlled grid maintain sufficient resources.

Recently, the Commission found that ISO New England had the authority to propose, and the Commission had the authority to accept, installed capacity requirements and that such requirements did not impinge on a state's jurisdiction over setting generation resource adequacy. *ISO New England, Inc.* 111 FERC ¶ 61,185 at P 32 (2005).

The CAISO also notes that on several occasions the courts have upheld Commission decisions approving capacity or reserve obligations on LSEs (or deficiency charges for failure to maintain capacity obligations) in connection with integrated power network operations.. *See*, *e.g*. *Ohio Power Company et al. v. FERC*, 668 F.2d 880 (6th Cir. 1982); *Central Iowa Power Cooperative, et al. v. FERC*, 606 F.2d 1156 (D.C. Cir. 1979); *Municipalities of Groton, et al. v. FERC*, 587 F.2nd 1296 (D.C. Cir. 1978). Further, the Supreme Court has recognized that the Commission has the "responsibility to the public to assure **reliable**, efficient electric service." [23] *Gainesville Utilities Department*, *et al. v. Florida Power Corp.*, 402 U.S. 515 (1971) (emphasis added). Again, the IRRP proposal is consistent with such Commission responsibility.

In short, the CAISO's IRRP absolutely respects state and federal boundaries and comports with AB 380. It simply protects the reliability of the grid by accounting for the contingency that a municipal LRA may fail to adopt a basic resource reserve margin to meet its load. To do less would jeopardize the reliability of the grid and illustrate to the consumers of California that we have learned nothing from the crisis of 2000-2001. Further, given that the Commission has imposed capacity obligations on LSEs in other ISOs (and RTOs), there is no rational basis for parties to argue that the Commission

[23] The Supreme Court's decision regarding the appeal of Order No. 888 recognized that the Commission has broad authority over the interstate transmission of electricity. *New York, et al. v. FERC,* 122 S. Ct. 1012 (2002). This decision further supports the Commission's authority to approve the IRRP proposal.

lacks jurisdiction to impose a default reserve requirement or resource reporting requirements on LSEs in California. LSEs that voluntarily engage in transactions on the integrated CAISO transmission grid and/or which receive control area services from the CAISO must adhere to requirements that are both appropriate and necessary to maintain grid reliability.

One further note demonstrating the difference between the unfounded contentions of some of the protests and the reality of the tariff submission is NCPA's complaint that the CAISO,

> maintains the final say as to whether those criteria are adequate. So long as the CAISO can procure generation to address needs it believes will not otherwise be met, and can allocate the costs to market participants, both CPUC and LRA criteria are little more than minimum standards or guidelines, which CAISO is free to exceed. Like the early Model T, which you could get in any color you desired as long as it was black, the CPUC and LRAs are free to adopt any criteria they choose, so long as they choose the CAISO's. Unfortunately, this means that LSEs can comply with all criteria, and still not be assured of avoiding the allocation of additional CAISO RA costs. Indeed, Section 42.1.3 implies that the CAISO may apply more stringent reliability criteria than those imposed by the reliability council.[24]

What NCPA fails to note is that Section 42.1.3 is existing, *ISO Tariff* language, and that, other than a change of section number, was left undisturbed by the IRRP. That a provision that has existed for many years and only authorizes the CAISO to take action if its forecast "shows that applicable WECC/NERC Reliability Criteria cannot be met." NCPA offer no examples as to how the CAISO has abused this authority in the past and it has no basis to speculate on why it would be used any differently in the future.

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[24] NCPA at note 4.

2. The State Water Project

CDWR and MWD request that the CAISO correct Section 40.1 of the Interim Reliability Requirements Program to exclude CDWR from the definition of Load Serving Entity ("LSE") and require CDWR to develop, in cooperation with the CAISO, a program that ensures it will not unduly rely on the resource procurement practices of other LSEs.[25] The CAISO agrees to make this proposed change and to adjust Section 40.1 as follows:

> **40.1 Applicability.**
> This Section 40 applies to all Scheduling Coordinators representing Load Serving Entities serving retail Load within the ISO Control Area. For purposes of this Section 40 of the ISO Tariff, Load Serving Entity is defined as: … (2) all entities serving retail Load in the ISO Control Area not within the jurisdiction of the CPUC including: (i) a local publicly owned electric utility under section 9604 of the PUC; and (ii) any Federal entities, including but not limited to Federal Power Marketing Authorities, that serve retail Load (hereafter collectively "non-CPUC Load Serving Entities"). … **In addition, the State Water Resources Development System commonly known as the State Water Project of the California Department of Water Resources is excluded from the definition of Load Serving Entity, but shall be required to develop, in cooperation with the ISO, a program that ensures it will not unduly rely on the resource procurement practices of other Load Serving Entities.**

3. MSS

NCPA urges the Commission to reject the interim RA policy as unnecessary for load-following MSS entities, or in the alternative to suspend its effectiveness for the maximum five month period, in order to give such MSS entities time to actually

[25] CDWR at pages 4-5; MWD a page 9.

comply.[26] Vernon states that the Commission should make it clear that the provisions in the IRRP do not trump the MSS agreement.[27]

The CAISO has been working with MSS entities in an attempt to minimize any additional reporting burdens but still give the CAISO the information it needs to administer the overall IRRP. The CAISO would propose the following changes:

> **40.2.1 Annual Resource Adequacy Plan**
> Each Scheduling Coordinator for a Load Serving Entity serving Load within the ISO Control Area must provide the ISO with an annual Resource Adequacy Plan; **however, Scheduling Coordinators representing a Load Serving Entity with an MSS Agreement shall submit the information required by this section pursuant to the terms and format standards set forth in the MSS Agreement**. The annual Resource Adequacy Plan provided to the ISO by Scheduling Coordinators for the CPUC Load Serving Entity or Entities for whom they schedule Demand within the ISO Control Area shall be submitted on the schedule and in the form approved by the CPUC. The annual Resource Adequacy Plan provided to the ISO by Scheduling Coordinators for the non-CPUC Load Serving Entity or Entities for whom they schedule Demand within the ISO Control Area, **except Load Serving Entities with an MSS Agreement**, shall be submitted no later than September 30th of each year and in the form set forth on the ISO's Website. Other than for good cause, the form of the Resource Adequacy Plan and the date for submission for the CPUC Load Serving Entities and the Non-CPUC Load Serving Entities should be identical. The annual Resource Adequacy Resource Plan must identify the Resource Adequacy Resources that will be relied upon to satisfy the Planning Reserve Margin under Section 40.4, or portion thereof as established by the CPUC or applicable Local Regulatory Authority, and must apply the Net Qualifying Capacity requirements of Section 40.5.2.
>
> **40.2.2 Monthly Resource Adequacy Plan**
> Each Scheduling Coordinator for a Load Serving Entity serving Load within the ISO Control Area must provide the ISO with a monthly Resource Adequacy Plan; **however, Scheduling Coordinators representing a Load Serving Entity with an MSS Agreement shall submit the information required by this section pursuant to the terms and format standards set forth in the MSS Agreement**. The monthly

[26] NCPA at page 12; *See also*, SVP at page 4.

[27] Vernon at page 2.

Resource Adequacy Plan provided to the ISO by Scheduling Coordinators for the CPUC Load Serving Entity or Entities for whom they schedule Demand within the ISO Control Area shall be submitted on the schedule and in the form approved by the CPUC. The monthly Resource Adequacy Plan provided to the ISO by Scheduling Coordinators for the non-CPUC Load Serving Entity or Entities for whom they schedule Demand within the ISO Control Area, **except for Load Serving Entities with an MSS Agreement**, shall be submitted no later than on the last business day of the second month prior to the compliance month (e.g., March 31 for May) and in the form set forth on the ISO's Website. Other than for good cause, the form of the Resource Adequacy Plan and the date for submission for the CPUC Load Serving Entities and the Non-CPUC Load Serving Entities should be identical. The monthly Resource Adequacy Resource Plan must identify the Resource Adequacy Resources that will be relied upon to satisfy the Planning Reserve Margin under Section 40.4 for the relevant reporting month and must apply the Net Qualifying Capacity requirements of Section 40.5.2.

40.6 Submission of Supply Plans

Scheduling Coordinators representing Resource Adequacy Resources supplying Resource Adequacy Capacity shall provide the ISO with annual and monthly Supply Plans, **however, Scheduling Coordinators for resources listed on Schedule 14 of an MSS Agreement need not submit a Supply Plan, unless any capacity from such Schedule 14 resources has been sold to any Load Serving Entity other than the MSS Operator that owns or controls the resource.** The annual Supply Plan shall be provided by September 30th of each year. The monthly Supply Plan shall be provided on the last business day of the second month prior to the compliance month (e.g., March 31 for May). Both the annual and monthly Supply Plans shall be provided in the form set forth on the ISO's Website, listing their commitments to provide Resource Adequacy Capacity to any Load Serving Entity or Entities for the reporting period. Such plans will be accorded protection in accordance with the confidentiality provisions of this ISO Tariff.

The CAISO hopes that these additional changes forge a balance between the respective needs of the parties.

4. Smaller Load Serving Entities Regulated By the CPUC

The GSW has a Bear Valley Electric Service Division that is an investor-owned utility serving about 23,000 customers in San Bernardino County, California. It is regulated by the CPUC, but the CPUC has not promulgated requirements for such

smaller entities at this time. GSW requests that it be exempted from the IRRP until the CPUC acts.[28] AEPCO/SWTC go even further stating it is "unjust and unreasonable to the extent it imposes an undue burden on small entities such as Anza, whose load seldom, if ever, exceeds 10 MW."[29]

The CAISO recognizes that the CPUC is in the process of determining the resource adequacy requirements for the smaller LSEs under its jurisdiction.[30] The CAISO agrees with GSW that it will be the CPUC that determines the requirements for smaller and multi-jurisdictional investor-owned utilities in the pending proceeding and therefore agrees that such entities should be exempt from the IRRP until the CPUC has rendered its decision.

5. WESTERN

Western contends that the CAISO should exempt the Federal Central Valley Project to the same extent it exempts the State Water Project.[31] Western claims it is inappropriate to subject Western to regulatory oversight of a state-chartered entity.[32] It is important to note, however, that CDWR is not "exempt." As discussed above, CDWR will be "required to develop, in cooperation with the ISO, a program that ensures it will not unduly rely on the resource procurement practices of other Load Serving Entities." Western is not being subjected to "regulatory oversight," but rather non-discriminatory requirements necessary for the CAISO to meet its own reliability requirements due to

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28 GSW at page 15.

29 AEPCO/SWTC at 4.

30 *Order Instituting Rulemaking to Consider Refinements to and Further Development of the Commission Resource Adequacy Requirements Program*, R.05-12-013 (Dec. 20, 2005) at pp. 5-6.

31 Western at 5-8.

32 Western at 9.

the fact that Western serves retail load in the ISO Control Area. If Western did not provide resources to meet its demand, the demand would need to be met by the CAISO calling on resources from other entities to maintain system reliability.

6. Williams On-Site Tank Farm

Williams states that it currently schedules an incidental quantity of tank farm load for another entity and argues that it should not be considered an LSE because of this obligation.[33] If the tank farm is not part of on-site generation exempt under the Section 40.1 (which is consistent with AB 380), it may be considered an entity serving retail Load in the ISO Control Area subject to the IRRP.

C. The Inclusion of a Default Reserve Margin Is Reasonable

In its comments, CMUA does not object to the concept of a reserve margin, but contests the CAISO's ability to enforce one; CMUA believes that: (i) the CAISO's proposal will require LRAs to develop entirely new resource adequacy programs and processes, and (ii) LRAs will not possess sufficient time to comply, which will trigger application of the default reserve margin standard in Section 40.4(c).[34] CMUA asks that section 40.4(c) be deleted in its entirety.[35]

It is first important to reiterate that the CAISO agrees that State regulators and the LRAs have primary responsibility for resource adequacy. As evidenced by the proposed tariff language, the CAISO also intends to rely on the resource adequacy programs of State regulators and LRAs to ensure that short term supply requirements are met via short-term planning criteria. However, even though State regulators and the

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[33] Williams at page 13.

[34] CMUA at pages 13-14.

[35] *Id*. at page 14; *see also* comments of IID at page 7.

LRAs have primary responsibility for resource adequacy and even though the CAISO intends to rely on the resource adequacy programs of State regulators and LRAs, it is reasonable, prudent and consistent with the CAISO's responsibility to maintain or enhance the short-term reliability of the electric system that there be a *default* planning reserve standard in the CAISO Tariff. The CAISO must ensure compliance with NERC/WECC generation planning criteria in order to fulfill its responsibility to maintain short-term reliability and the default short-term planning reserve criteria is to be used only in the absence of an LSE being subject to either the CPUC's or an LRA's resource adequacy programs.

Second, as cited above, the Commission has found it has the authority to include provisions establishing reserve margins in jurisdictional tariffs. The CAISO notes that it is not in this filing imposing even *minimum* criteria similar to those that have been approved elsewhere but only a *default* criteria in the event of inaction by a LRA.

Third, the default, planning reserve margin of 15 percent is consistent with the WECC's recommended minimum levels of installed and planned generating reserves. In performing its Annual Power Supply Assessment, the WECC uses recommended minimum levels of installed and planned generating reserves.[36] The WECC provides for three alternative minimum recommended criteria.[37] The criteria of "Monthly Reserve Capacity After Deducting Scheduled Maintenance" has a minimum standard of either the greater of a reserve amount or the largest risk plus 5 percent of load responsibility. The reserve amount is calculated using a 15 percent criterion for all monthly non-hydro

[36] *See* Attachment 2 to the WECC 2005 Power Supply Assessment (Power Supply Design Criteria).

[37] *Id*. at pages 3-5.

generating capability after deducting scheduled maintenance.[38] While individual systems or areas in the WECC can adopt minimum criteria that differ from the WECC's recommended minimum criteria, any such alternative criteria, if adopted by the CPUC or an LRA, would meet the standards for LSEs proposed by the CAISO in §§ 40.4(a) and (b) of the Tariff. In other words, if the CPUC or an LRA adopts minimum planning reserve criteria that is different from the proposed default criteria of 15 percent, the alternative criteria will apply to the respective LSE. However, in the absence of having minimum short-term planning reserve criteria apply to an LSE, the CAISO's proposed default, short-term planning reserve margin of 15 percent is consistent with: (i) the WECC's recommended minimum levels of installed and planned generating reserves, (ii) the CAISO's existing responsibilities to meet NERC/WECC reliability criteria, and (iii) good utility practice. The CAISO respectfully requests that the Commission reject the requests to remove the proposed default, short-term planning reserve margin of 15 percent.

Fourth, as PG&E notes in its comments, in its April 28, 2003 White Paper on Wholesale Power Market Platform, at page 5, the Commission expressly noted that it had no intention to "change state authority" over resource adequacy and related matters, and went on to state that an "RTO or ISO may implement a resource adequacy program only where a state (or states) asks it to do so, *or where a state does not act*." (emphasis added).[39]

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38 *Id*. at page 5.

39 PG&E at page 4.

For CMUA, the CAISO's deference is "illusory" when it allows no time to complete the process of developing a resource adequacy program.[40] Given the long operating history of the CMUA membership, not to mention the requirements of AB 380, it is very questionable that they do not have existing resource adequacy programs with established reserve margins. Nevertheless, to avoid any unnecessary use of the default criteria, the CAISO would propose to accept the Resource Adequacy program of a municipal or federal entity that is proposed to its governing authority, even if it has not expressly been approved by that entity's governing authority.

D. Qualification of Resources

1. The CAISO Determination of Net Qualifying Capacity Does Not Create Uncertainty But Rather Helps Ensure Resources will Actually Be Available

Since the CPUC or the applicable LRA determines the Qualifying Capacity, Williams questions whether it is appropriate for the CAISO to reduce those amounts.[41] For Williams, the CAISO's proposal to adjust Qualifying Capacity creates uncertainty with no clear benefit and should be rejected.[42] To the extent the Commission refuses to reject the CAISO's proposal, Williams argues that the Commission: (1) direct the CAISO to develop a transparent process for the determination of Net Qualifying Capacity; and (2) direct that the CAISO may only adjust Qualifying Capacity in a manner that affects future, not current, delivery periods.[43]

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40 CMUA at page 12.

41 Williams at page 14.

42 *Id* at page 15.

43 *Id.* at page 16.

SCE proposes that capacity determinations be made on an annual basis and should comply with the timelines established by the CPUC and that there be no reductions for 2007.[44] AReM also requests that Qualifying Capacity should be fixed for the resource adequacy compliance year and that any changes to Qualifying Capacity should be made no later than July 1 for application in the summer of the following year (May-September).[45]

The Commission should reject those arguments that Qualifying Capacity should remain immutable regardless of actual resource characteristics. Under the IRRP, Net Qualifying Capacity is Qualifying Capacity, as determined by the CPUC or LRA, reduced based on (1) testing and (2) deliverability, as appropriate. The justification for converting Qualifying Capacity to Net Qualifying Capacity is axiomatic – capacity that a resource is physically incapable of producing or that is undeliverable is illusory and useless in meeting the fundamental objectives of the state's resource adequacy programs. The CPUC has repeatedly emphasized that its resource adequacy program is intended to assure "that capacity is available when and where it is needed" so that "reliability actually occurs." *Opinion on Resource Adequacy Requirements,* D.05-10-035 (Oct. 31, 2005) at p.7. Similarly, the California Legislature compelled in AB 380 that each local publicly owned electric utility "procure resources that are adequate to meet its planning reserve margin and peak demand and operating reserves, sufficient to provide reliable electric service to its customers." CALIFORNIA PUB. UTIL. CODE § 9620(a). The IRRP's provisions regarding Net Qualifying Capacity ensure the existence

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44 SCE at pages 4-5.

45 AReM at page 13.

of “real” capacity and therefore are critical to realization of the goals underlying resource adequacy.

The CAISO is in the best position to make Net Qualifying Capacity determinations on a comprehensive basis. Indeed, the CPUC itself has assigned this role to the CAISO. In D.05-10-042, the CPUC approved, in principle, that a generator must be available for testing to determine qualifying capacity and acknowledged that such generator obligations “are within the province of the CAISO.”[46] Similarly, in D.04-10-035, the CPUC adopted resource-counting conventions based on a Workshop Report specifying that “Qualifying Capacity is the maximum capacity eligible to be counted for meeting the resource adequacy requirement, prior to assessing deliverability of the resource.”[47] The deliverability assessment itself is performed by the CAISO.[48] Moreover, this Commission has accepted similar deliverability tariff language in the context of the CAISO’s Large Generator Interconnection Procedures with the expectation that the CAISO, as an independent entity, would conduct the deliverability assessment in a transparent and non-discriminatory manner. *California Independent System Operator Corporation,* 112 FERC ¶ 61,009 at P 52 (2005). A similar rational supports adoption of the proposed IRRP Tariff language.

Nevertheless, the CAISO recognizes that the determination of Net Qualifying Capacity must be transparent and implemented in a manner that does not obstruct

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[46] California Pub. Util. Comm’n, *Opinion on Resource Adequacy Requirements*, D.05-10-042 (Oct. 31, 2005) at 17.

[47] California Pub. Util. Comm’n, *Interim Opinion Regarding Resource Adequacy,* D.04-10-035 (Oct. 28, 2004) at p.22, citing *Workshop Report on Resource Adequacy Issues,* R.04-04-003 (June 15, 2004) at p. 18.

[48] *Id.* at p. 31.

efficient commercial resource adequacy transactions.[49] As further discussed below, the CAISO agrees that the deliverability analysis under the IRRP should be conducted annually in a timeframe that is consistent with procurement obligations. Accordingly, the CAISO concurs that any deliverability assessment will only impact the Net Qualifying Capacity during the subsequent compliance year following the deliverability study. Moreover, the CAISO emphasizes its intention to utilize the deliverability analysis embodied in its interconnection procedures to ensure that new generation does not degrade the deliverability of existing resources as a mechanism to promote the stability of Net Qualifying Capacity. Thus, the IRRP is wholly consistent with the proposals of parties to maintain Net Qualifying Capacity values on an annual basis subject only to the testing provisions discussed further below.

2. Testing

SCE asks that the CAISO be directed to conduct a stakeholder process regarding the testing and verification program and file the details with the Commission.[50] The CAISO recognizes the benefit of conducting a stakeholder meeting (or possibly more than one meeting) to review implementation of the IRRP; however, the CAISO does not believe that any further tariff filings regarding the testing details need to be made. Under the IRRP, the CAISO does not contemplate that testing will be performed on a regular schedule or uniform basis. In order to ensure implementation of the IRRP in a timeframe consistent with the CPUC's resource adequacy program, the

[49] In recognition of the planning that has been done for 2006, the CAISO would agree that there should be no reductions for 2006.

[50] SCE at page 5.

CAISO has accepted Qualifying Capacity values submitted by Scheduling Coordinators for owners of resources. As such, the CAISO envisions using its testing authority to prevent and deter materially inaccurate claims of Qualifying Capacity. The CAISO recognizes that such standard inherently entails some degree of discretion. However, there is no chance of abuse of this discretion given that any disputes can be resolved under the existing alternative dispute resolution provisions of the ISO Tariff.

3. Liquidated Damage Contracts

Western seeks confirmation it can rely on liquidated damage contracts and contends that if the Commission permits the CAISO to eliminate liquidated damage contracts, it would be "a step backward."[51] The CAISO agrees with the CPUC that liquidated damage contracts are "fundamentally incompatible with the objectives of a physical capacity-based RAR program" because the failure to identify a specific resource that backs a capacity obligation could undermine the integrity of the RAR program.[52]

While the CPUC has proposed to phase out the use of liquidated damage contracts, Western, as discussed below, is its own LRA and thus able to establish its own criteria. Accordingly, nothing in the IRRP would prevent Western from utilizing liquidated damage contracts if it chooses to continue to do so.

4. Other Issues

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51 Western at pages 12 and 17

52 California Pub. Util. Comm'n, Decision 05-10-042 (October 27, 2005).

PG&E contends that Section 40.5 is potentially inconsistent with CPUC requirements, which provide for further adjustment based on scheduled outages.[53] The CAISO does not believe any further clarification is necessary as the issue would be addressed in the Qualifying Capacity formulas established by the CPUC.

Western asks the CAISO to clarify what is meant by "respective Qualifying capacity formulas applicable for each Load Serving Entity" in Section 40.5.1.[54] The purpose of this language was to ensure that each LSE would have its Qualify Capacity determined by its respective LRA.

E. Joint Ownership/Partial RA Unit

Several parties protest the CAISO's filing for failing to adequately take into account the fact that a Resource Adequacy Resource may be jointly owned or under contract.[55] Nothing in the IRRP precludes the possibility that a resource may be partially contracted for a portion of its capacity. However, with the FERC must-offer obligation remaining, any balance of uncontracted capacity is still subject to that obligation. If a resource is a partial Resource Adequacy Resource, then the CAISO has appropriately assumed that the partial Resource Adequacy resource will no longer be eligible for the MLCC "double-payment." In addition, the CAISO must assume that a physical resource that is contracted under a Resource Adequacy obligation in a month is available for the entire month and not just certain hours, except for the use-limited resources.

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53 PG&E at page 6.

54 Western at pages 16-17.

55 Imperial at pages 10-11; AReM at page 14; Constellation at page 8.

F. The Deliverability Analysis

Several parties raise issues regarding the CAISO's deliverability analysis. SCE states that existing generators should be deemed deliverable due to CAISO's 2005 test.[56] Constellation requests that the Commission direct the CAISO to include language as to when it will conduct its deliverability assessments.[57] Western requests clarification as to how the CAISO intends to treat Western's ETCs and resources within the Control Area and asks that the CAISO be required to share its deliverability procedures.[58] PG&E contends that Section 40.5.2.1 appears to impose an inappropriate and infeasible mandatory, unconditional duty upon the CAISO to "prevent degradation of deliverability of an existing Generation Unit" and recommends that it be modified to refer to Section 25.[59]

The CAISO agrees with SCE that the CAISO's baseline deliverability analysis of 2006 conditions concluded that all existing generation would be considered deliverable to the extent certain upgrades were completed by June 1, 2006. However, if the upgrades are not completed, the CPUC agreed that generator de-rates would be appropriate. The CPUC noted if de-rating generation was necessary, the CPUC supported a "first-come, first-served" approach. Under this approach, capacity would first be allowed to generators that paid for firm transmission upgrades to make them deliverable. However, under the CAISO's prior interconnection procedures, generators

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56 SCE at page 5.

57 Constellation at page 8.

58 Western at pages 13-14.

59 PG&E at page 7.

were not obligated to fund “delivery” upgrades. Thus, the CAISO favors a pro rata de-rate in the unlikely event of that de-rating existing generation is necessary during the term of the IRRP. As noted above, the CAISO intends on using its current interconnection procedures, including its deliverability assessment, to preclude degradation on deliverability resulting from the interconnection of new generation. Thus, the CAISO agrees with SCE that once a generation unit’s Qualified Capacity has been determined to be deliverable and all generation projects with earlier interconnection queue positions have been considered, then the deliverability of this unit’s previously tested Qualifying Capacity should be maintained. In other words, if the deliverability of this unit is degraded, then this finding should be a trigger within the interconnection process or the annual transmission expansion planning process to expand the transmission system as permitted.

As requested by Western, the CAISO has already made its deliverability analysis available. The proposed section requires the CASIO to coordinate with the CPUC and other Local Regulatory Authorities so that the deliverability analysis can be utilized in the development of Resource Adequacy Plans. Finally, the CAISO agrees with PG&E that the interconnection process should be controlled by Section 25 and that the provision can be modified, as suggested by PG&E, or the final sentence can simply be deleted

In addition, Powerex asks that proposed tariff section 40.13.12.2 be modified as follows:

40.13.12.2 Non-Dynamically Scheduled System Resources

> For Non-Dynamically Scheduled System Resources, the Scheduling Coordinator must demonstrate that the Load Serving Entity upon which the Scheduling Coordinator is scheduling Demand has an allocation of

> import allocation at the import Scheduling Point under Section 40.5.2.2 of the [CA]ISO Tariff that is not less than the Resource Adequacy Capacity from the Non-Dynamically Scheduled System Resource ~~and cannot be curtailed for economic reasons~~. Eligibility as Resource Adequacy Capacity would be contingent upon a showing **by the Scheduling Coordinator of the System Resource that it has secured transmission through any intervening Control Areas for the operating hours that cannot be curtailed for economic reasons or bumped by higher priority transmission** ~~of securing in any intervening Control Areas transmission for the operating hours making use of highest priority transmission offered by the intervening Transmission Operator that cannot be curtailed for economic reasons.~~ With respect to Non-Dynamically Scheduled System Resources, any intertemporal constraints such as multi-hour run blocks, must be explicitly identified in the monthly Resource Adequacy plan, and no constraints may be imposed beyond those explicitly stated in the plan.[60]

The CAISO can accept the proposed language.

G. Allocation of Import Capacity

Several parties commented on the methodology to allocate, for Resource Adequacy planning purposes, import capacity to LSEs serving load in the CAISO control area. The CAISO proposed that import capacity associated with (i) Existing Transmission Contracts ("ETCs") and (ii) Encumbrances and Transmission Ownership Rights ("TORs") be reserved for holders of such commitments as part of the deliverability study and not be subject to allocation.[61] For the purpose of accounting for resource adequacy capacity that is imported (*i.e.*, resource adequacy capacity imported by an LSE other than by using ETCs/TORs), the CAISO proposed to allocate import capability by branch group to: (1) non-CPUC Load Serving Entities individually, and (2)

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60 Powerex at page 8.

61 Section 40.5.2.2.

the CPUC Load Serving Entities as an aggregated allocation (subject to the allocation rules of the CPUC).[62]

PG&E supports the proposed tariff provisions as reasonable given time constraints to allow for implementation for 2006 and 2007.[63] PG&E also agrees with the CAISO that this matter should be "comprehensively" reevaluated for purposes of MRTU implementation.[64] In the event that MRTU is delayed beyond its proposed November 2007 implementation, however, the CAISO must take steps to reevaluate this compromise for application for 2008, in the absence of an improved mechanism intended for incorporation into MRTU.[65] The CPUC comments that the tiered allocation needlessly discriminates among entities that are within and beyond the CPUC's jurisdiction, potentially creating inequities in the application of the RAR and that LSEs that get "first choice" of import capacity are necessarily in a better position to choose the most economical imports prior to those who must select from the "left-overs."[66]

SCE notes that for the resource adequacy showing for 2006, "the CAISO has already allocated RA import capacity based on a methodology developed through CPUC RA workshops and discussions between the CAISO and non-CPUC LSEs."[67] SCE states that although it does not believe the import allocation methodology for 2006 treated CPUC and non-CPUC LSEs comparably, it is unnecessary for FERC to

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62 *Id*.

63 PG&E at page 5.

64 *Id*.

65 *Id*.

66 CPUC at page 7.

67 SCE at page 6.

"approve" the CAISO's proposed methodology for 2006 because the allocation is already completed.[68] SCE indicates that the CPUC LSEs have already made their year-ahead Resource Adequacy showing for 2006 based on their Resource Adequacy import allocation and that non-CPUC jurisdictional LSEs have already been allocated import capacity for 2006 based upon existing resource agreements as of October 27, 2005.[69] AReM also recommends that the tariff provisions relating to the 2006 be deleted as they "serve no purpose."[70]

Similar to the CPUC, SCE and NCPA recommend that CPUC and non-CPUC LSEs be treated comparably, *i.e.*, both CPUC and non-CPUC LSEs should be permitted for 2007 to receive Resource Adequacy import allocation for their existing resource agreements (as of March 10, 2006) and the remaining import capacity should be allocated to CPUC/non-CPUC LSEs based on the LSE's load share to the CAISO control area peak load for 2005.[71]

Six Cities and CMUA appear to agree in part with SCE, the CPUC and NCPA. That is, they both recommend that in a tiered approach to accounting for import capability for resource adequacy purposes, the tiers should be ordered as follows: (1) allocation to ETC and TOR rights holders commensurate with their firm import transmission entitlements; (2) allocation to all LSEs (CPUC and non-CPUC) of import capacity based on existing capacity resource commitments; (3) allocation to new PTOs

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68 *Id*.

69 *Id*.

70 AREM at page 12.

71 *See* SCE at page 6, NCPA at page 10.

commensurate with their FTR rights less amounts already allocated in connection with existing resource commitments; and (4) allocation of remaining import capacity not allocated in the first three tiers to all LSEs on a load ratio basis.[72] Other than the recommended third tier applicable to new PTOs with FTRs, the comments of Southern Cities, CMUA, and Vernon are similar to the comments of CPUC, SCE, and NCPA.

In response to the comments of the CPUC, SCE, NCPA, Southern Cities, CMUA and Vernon, the CAISO would agree to revise the accounting or allocation of import capability for 2007 so that both CPUC and non-CPUC LSEs are permitted to receive Resource Adequacy import allocation for their existing resource agreements as of March 10, 2006 (with any remaining import capacity allocated to both CPUC and non-CPUC LSEs based on an LSE's load share to the CAISO control area peak load).

1. New Participating Transmission Owner Rights

As noted earlier, Six Cities, CMUA, and Vernon believe import capability should also be allocated to new PTOs based on their FTR rights. Six Cities assert that the "allocation method effectively would deny non-CPUC LSEs access to any import transmission capacity beyond historic uses" and that the five Cities (that have become PTOs and have turned over to the ISO operational control over their transmission rights) will be limited solely to their existing import resources and will be deprived of a significant element of the Firm Transmission Rights ("FTRs") that were granted to them when they became PTOs.[73]

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[72] Southern Cities at page 8, CMUA at page 18-19; *see also* Vernon at page 3.

[73] Southern Cities at page 6; *see also* CMUA at page 18, Vernon at page 3.

The CAISO disagrees that the allocation proposal reduces or deprives new PTOs of the value of the FTRs granted when they joined the CAISO. First, the allocation procedures do not alter the operation of any FTR that applies to an interface with other control areas; nor do the allocation procedures reduce the effectiveness of an FTR as a hedge against congestions costs. Second, the proposed allocation procedures are based on the existing resource commitments of an LSE, without a resource commitment there is nothing to allocate for resource adequacy purposes.

2. 2006 Allocations

As to SCE and AReMs suggestion regarding the removal of tariff language regarding 2006 allocations, the CAISO does not object to this suggestion.

For 2008 and beyond, AReM states that the CAISO and the Commission must establish an upfront, equitable approach for dividing intertie capacity between the two jurisdictions and suggests that an equitable allocation could be made either based on the share of the embedded transmission costs paid by each jurisdiction or based on load share.[74] The CAISO appreciates the proposals and agrees that a methodology, for 2008 and beyond, that the CAISO and the Commission must establish an upfront, equitable approach for dividing intertie capacity between the two jurisdictions. However, CAISO maintains that the better forum in which to consider the long-term issue of allocation of import capacity for resource planning purposes is the MRTU Docket.

3. Discrimination

Depending on whether one is looking at the first tier or the third tier, the CAISO is accused or either favoring one entity or another. The CPUC complains that entities

[74] AReM at page 2.

under its jurisdiction are subject to "left overs."[75] For NCPA, there is no inherent reason why the CPUC-jurisdictional entities should have the benefit of all import capacity in excess of that already represented by LSE resource commitments and that once capacity has been allocated for all LSE resource commitments, any remainder should be allocated among all control area LSEs in a fair and equitable manner such as according to their load ratio share.[76]

The CAISO has tried to develop a program that attempts to balance existing commitments with new procurements activities while recognizing the short-term duration of the IRRP. As noted below, the CAISO agrees that this should not necessarily be precedent for determination of the issue under MRTU. The CAISO has tried to recognize and give priority to existing supply arrangements. As to the allocation of any remaining capacity, allocated to new Non-CPUC entities and the remainder is provided for the CPUC entities.

4. Wheeling Transactions

Modesto complains that the CAISO proposal to allocate intertie capacity only to "Existing Transmission Contracts, Transmission Ownership Rights and to CPUC jurisdictional entities within CAISO control area" and not to load serving entities outside the ISO control area is discriminatory against those entities outside the ISO control area.[77] The concern is misplaced. Modesto confuses the allocation of import capacity for Resource Adequacy planning purposes with the availability of transmission capacity

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75 CPUC at page 7.

76 NCPA at page 10.

77 Modesto ¶16, page 7.

for service. Entities that do not have load in the ISO Control Area are not subject to the IRRP. They will establish and meet their own resource planning requirements. The IRRP does not modify how entities in external Control Areas will arrange for as available short term transmission across or out of the ISO Controlled Grid. However, the CAISO acknowledges the potential to offer long-term transmission service may allow entities such as MID to acquire import capacity for their external needs.

H. Reporting: Annual and/or Monthly Plans

1. Need for Plans

a. Plans from Scheduling Coordinators for Load Serving Entities Are Necessary and Do Not Impinge on the Authority of LRAs

CMUA requests that the Commission order the removal of Sections 40.2.1 and 40.2.2, requiring the submission of annual and monthly Resource Adequacy Plans.[78] For CMUA, the reporting requirements are a purported attempt to "bootstrap" the municipals into compliance with the CPUC program for the sake of the CAISO's administrative convenience, and the timing and form requirements are actually substantive and constrain the planning choices of municipals and their LRAs.[79]

These statements are misplaced. To begin, the CAISO's proposed IRRP expresses a preference for uniformity in reporting, but does not compel it. The IRRP acknowledges that the reporting template for non-CPUC LSEs may differ from that approved by the CPUC for good cause. This language simply, and appropriately, recognizes that some responsibility must be placed on the municipal community to

78 CMUA at pages 9-12.

79 CMUA at pages 10-11.

demonstrate why variations are necessary to accommodate their business models given the generic nature of the CPUC approved template. In this regard, the CAISO remains willing to work with the municipal community to develop an acceptable reporting template. The proposed Tariff language is sufficient to achieve this outcome.

Second, it must again be emphasized that the CAISO's concern for consistency in data reporting does not affect the substance of any LRA's resource adequacy program. It does not constrain the Reserve Margin of any LRA, the demand forecasts of any LRA, the qualifying criteria for resources of any LRA or the enforcement program of any LRA. For example, the CPUC has directed that its jurisdictional LSEs procure for the summer months 90 percent of their demand, plus planning reserve margin in the year-ahead timeframe. LRAs for non-CPUC jurisdictional LSEs are under no such compulsion. In fact, an LRA could elect to have a minimal or de minimis annual obligation and that would be permitted under the IRRP's proposed language. The IRRP notes that the "annual Resource Adequacy Plan must identify the Resource Adequacy Resources that will be relied upon to satisfy the Planning Reserve Margin under Section 40.4, *or portion thereof as established by the CPUC or applicable Local Regulatory Authority,* and must apply the Net Qualifying Capacity requirements of Section 40.5.2." Thus, contrary to CMUA's allegations, the annual showing does not constrain the planning choices of municipals.

Section 40.2.2 of the IRRP, regarding monthly Resource Adequacy Plans, does call for identification of those resources that will be relied upon satisfy the applicable planning reserve margin for the relevant reporting month. This does suggest full procurement of "capacity" by the month-ahead timeframe. The CAISO has prudently

established this provision to achieve its own planning responsibilities and permit the internal system inputs necessary to implement the market effects, i.e., changes in must-offer preferences and settlement changes, that result from designation as a Resource Adequacy Resource.

b. Supply Plans from Scheduling Coordinators for Generators Serve an Important Purpose

According to Williams, the CAISO has not justified the need for both Resource Adequacy Plans and Supply Plans and [t]here is simply no business purpose or valid reliability objective achieved by requiring the duplicative submission of plans.[80] The CAISO strongly disagrees. The CAISO interfaces with Scheduling Coordinators. There is no assurance that a Scheduling Coordinator for an LSE is the same Scheduling Coordinator for the resource under contract with the LSE. Yet, the designation of a resource as a Resource Adequacy Resource has direct financial implications in the form of its settlement treatment and must-offer waiver denial priority. The CAISO believes, and so should resource owners, that the implications of being a Resource Adequacy Resource must be verified directly by the agent for the resource. Accordingly, for this minimal reporting burden on suppliers, the CAISO obtains greater assurance that the commitments reported by Scheduling Coordinators for LSEs will, in fact, be available to meet ISO Controlled Grid reliability requirements. Further, the CAISO will use the supplier's Supply Plans to also verify the Resource Adequacy Plans it receives both in terms of the reported commitments of a single Scheduling Coordinator and to ensure

[80] Williams at page 16.

that resources are not over-committed across the portfolios of multiple Scheduling Coordinators.

2. Timing of Plan Submission

Several Parties raise issues concerning the timing for the submission of the Resource Adequacy Plans. With respect to the CPUC-jurisdictional entities, SCE states that the CAISO should clarify that the first annual report is due September 30, 2006 for 2007 and that the first monthly report is due June 30, 2006 for August.[81] As noted by AReM, the CAISO had access to the first annual showing in February 2006.[82] The CAISO recognizes that for the CPUC-jurisdictional entities it has received the initial annual plans. However, the clarification requested by SCE is unnecessary, and unwarranted, because the IRRP provides that the submissions for CPUC jurisdictional LSEs are due according to the schedule established by the CPUC. Any additional language in the CAISO Tariff could improperly limit the CPUC's ability to modify the schedule under its resource adequacy program.

According to CMUA, the municipal entities "still require some modicum of time to actually prepare their plans."[83] Western requests the Commission set reasonable deadlines for implementation, which Western considers to be a two-year phase-in period.[84] While the CAISO recognizes it will take some time for the municipal entities to prepare plans, the two-year phase in suggested by Western is excessive.

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81 SCE at page 3.

82 AReM at page 7.

83 CMUA at page 13; *See also*, SVP at 6.

84 Western at page 21.

CMUA states that its "members already prudently plan to meet their service obligations."[85] The CAISO is not trying to suggest that the municipals and Western have not been exercising Good Utility Practice in planning to meet their supply obligations. To the contrary, it is because of the high level of planning that the CAISO understands these entities have undertaken that the reporting obligations should be manageable either under the timeframe set forth in the IRRP or, with respect to the Resource Adequacy Plan only, following a brief deferral to allow for LRA approval. As noted earlier, the CAISO requires Supply Plans to verify the appropriate treatment of resources under the IRRP and therefore does not support any delay in their submission. In fact, AB 380, which was effective on January 1, 2006, has placed an obligation on municipal utilities to prudently plan and procure resources. As such, the protesters appear to be internally inconsistent – claiming that the IRRP will not influence purchasing decisions for 2006 because they have already taken place and then saying it is impossible to submit reports identifying the resources they have secured for 2006.

3. Section 40.2.1 Properly Integrates the CPUC Planning Requirements

PG&E states that Section 40.2.1 does not clearly recognize the limits of the annual Resource Adequacy Plan required of CPUC jurisdictional entities, which addresses only the months May to September (for 2006- June to September) and currently require demonstrations of only 90 percent of that system requirement. For

[85] CMUA at page 13.

AReM, the proposed tariff language would establish confusing dual obligations – forcing the CPUC-jurisdictional LSEs into an impossible situation – serving two masters.[86]

Under Section 40.2.1, Scheduling Coordinators for CPUC Load Serving Entities are to submit annual plans "on the schedule and in the form approved by the CPUC" and are to identify the Resource Adequacy Resources that will be relied upon to satisfy the Planning Reserve Margin "under Section 40.4, or a portion thereof as established by the CPUC." Nothing in the proposed Section conflicts with or seeks to modify or override the CPUC's planning requirements. The CAISO has deferred to the timing, form and content of the plans established by the CPUC.

4. The CAISO Can Work With Non-CPUC Jurisdictional Entities On the Format of a Resource Adequacy Plan

Six Cities propose that the forms for Resource Adequacy Plans (40.2.1 and 40.2.2.) for non-CPUC LSEs should be adopted by LRAs in consultation with the CAISO so as to reflect the determinations left to the decision of the LRA.[87] The CAISO agrees with this approach. The CAISO's primary concern is that it not have to review numerous different types of forms as it attempts to collect and collate the data. That having been said, as noted above, if there are aspects of the CPUC report format that is inapposite for the municipal entities, the CAISO remains willing to consult with the non-CPUC jurisdictional entities on the development of a separate form.

For example, CMUA states that it is possible, even likely that rules established by LRAs applicable to CMUA members will reflect a bottom up approach in which the

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86 AReM at page 5.

87 Six Cities at page 9.

relevant power purchase contracts will be shaped to the requirements of the system.[88] Under the "bottom up" approach, resources are procured to meet a load curve, attempting to maintain the reserve margin for all hours of the day. This is in contrast to the "top down" approach approved by the CPUC that focuses on meeting the demand for the monthly peak.

The CAISO recognizes that as LRAs the municipals are free to establish resource adequacy programs based on a bottom up approach. If they choose to do so, the CAISO would expect that the annual and monthly plans reflect this choice. Nothing in Sections 40.2.1 or 40.2.2 can or should be read as dictating an LRAs substantive choices regarding their resource adequacy programs.

5. Other Issues

Six Cities states that Section 40.2.3 should require the CAISO to notify an LSE if there is a mismatch between its Resource Adequacy Plan and a Supply Plan within five business bays after the plans have been submitted.[89] Section 40.2.3 already requires the CAISO to notify the Scheduling Coordinators submitting either the Resource Adequacy Plan or the Supply Plan in the event of a mismatch. As to the suggestion that this communication take place within five days, the CAISO does not believe this level of detail is necessary in the Tariff. The CAISO has stated that all discrepancies or deficiencies be remedied prior to the 10th day before the effective month. This date was explicitly included in the Tariff because of its substantive effect. The CAISO will adopt implementation policies to ensure that this substantive date has meaning in that

88 CMUA at page 11.

89 Six Cities at pages 10-11.

information necessary to resolve any discrepancy or deficiency is communicated in a timely manner.

I. Demand Forecast

SCE, PG&E, and AReM protest the requirement in the proposed Section 40.3 that "Scheduling Coordinators for the CPUC Load Serving Entities must provide data and/or supporting information, as requested by the ISO, for the Demand Forecasts required by this Section for each represented CPUC Load Serving Entity."[90] Their concern is that the language is too open-ended and gives the CAISO the right to request additional information than is already being provided to the CPUC. SCE suggests the following revisions to 40.3 "a":

> For CPUC Load Serving Entities, the Demand Forecast shall be the Demand Forecast required by the CPUC. **To the extent the ISO has not received a CPUC Load Serving Entity's load forecast through the CPUC's Resource Adequacy process, the** Scheduling Coordinators of the CPUC Load Serving Entities must provide **to the ISO a copy of the Demand Forecast that they provided to the CPUC and CEC, subject to the confidentiality terms established by the CPUC in its proceeding** ~~data and/or supporting information, as requested by the ISO, for the Demand Forecasts required by this Section for each represented CPUC Load Serving Entity~~.[91]

The CAISO's desire was not to go on an unnecessary fishing expedition, but simply to understand the assumptions being utilized in the preparation of the load forecasts, such as the treatment of loads covered by demand-side management programs. Given the interim nature of the IRRP, and the fact that the guidelines for CPUC load forecasts are understood, the CAISO can accept the proposed modification.

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90 AReM at page 8; PG&E at page 6; SCE at page 4.

91 SCE at page 4.

In addition, the CAISO agrees with PG&E that Section 40.3 incorrectly limits itself to the monthly resource adequacy plans and should include annual plans as well.[92]

J. Sections 40.6A.2 and 40.6A.4 When Understood With the Definition of Resource Adequacy Capacity Address the Concerns of Six Cities

The Six Cities argue that the availability procedures (40.6A.2 and 40.6A.4) should be left to the determination of the LRA.[93] They state that Section 40.6A.4 appears to impose an inflexible MOO requirement on all Resource Adequacy Resources and that LRAs should be permitted to develop availability procedures that reflect the policy determinations and eligibility criteria they choose to adopt, including use of annual and monthly Resource Adequacy Plans that would show resource duration curves in comparison to forecast demand curves and would establish an LSE's plan for meeting its loads plus operating reserves on an ongoing basis.[94]

There is a distinction between establishing the appropriate planning criteria and making the resources available to the CAISO. The CAISO recognizes that it is appropriate for the LRA to approve the planning criteria – including the potential use of load duration curves. Once resources are identified in the plans, however, there should be consistency in how those resources are made available to the CAISO to manage grid operations. The CAISO must have confidence that resources procured in accordance with the Resource Adequacy Plans will be available for dispatch and will respond to the CAISO's operating instructions.

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92 PG&E at page 6.

93 Six Cities at page 9.

94 *Id.* at pages 9-10.

The availability requirement in Sections 40.6A.2 and 40.6A.4 is based on "Resource Adequacy Capacity," which is defined as "[t]he capacity of a Resource Adequacy Resource listed on a Resource Adequacy Plan." If the Six Cities utilize a plan that shows on a load duration curve basis the resources that will meet the Resource Adequacy requirements established by the Six Cities, those are the resources that must make their Available Capacity available to the CAISO under the IRRP. At other times the resources would be subject to the FERC must offer obligation, as currently applicable under provisions of a Participating Generator Agreement. The CAISO intends to fully recognize use-limitations of resources and that MSS entities do not have any new must-offer obligations as a result of the IRRP.

1. Bidding of Resource Adequacy Resources

SCE proposes the following change to 40.6A.5 to put the obligation on the Scheduling Coordinator for the Resource Adequacy Resource:

> For each Operating Hour, **the Scheduling Coordinator for the** Resource Adequacy Resource shall submit Supplemental Energy bids for all of the Available Generation to the ISO in accordance with Section 34.2
>
> And
>
> **If a Scheduling Coordinator for the** Resource Adequacy Resource fails to …[95]

The CAISO can agree with the proposed change as only Scheduling Coordinators can submit bids.

2. Powerex's Clarification Regarding System Resources Is Useful

[95] SCE at pages 7-8.

SCE maintains that the IRRP improperly incorporates all System Resources into the must-offer obligation (unless the LRA has exempted them) instead of just System Resources in California.[96] For PG&E, the proposed tariff amendment does not adequately impose meaningful obligations on import resources.[97] SMUD suggests the IRRP will likely have the unintended effect of discouraging System Resources from entering into Resource Adequacy contracts.[98] Powerex offers a modification to modify the provision to address SMUD's concern. So as to avoid any confusion regarding the nature of and requirements applicable to System Resources, Powerex proposes the following amendment:

> For the purposes of Section 40.6A, a Resource Adequacy Resources' "Available Generation" shall be: (a) the Resource Adequacy Capacity of a Generating Unit, other than a Hydroelectric facility or a QF that is still under a power purchase agreement with a host utility, System Unit that has contracted to supply Resource Adequacy Capacity to a non-MSS Load Serving Entity serving Load with the [CA]ISO Control Area ~~or System Resource only to the extent the CPUC or other Local Regulatory Authority has imposed an obligation that System Resources relied upon by Load Serving Entities within their jurisdiction to meet Resource Adequacy requirements must be available to the ISO~~, adjusted for any outages or reductions in capacity reported to the [CA]ISO in accordance with this [CA]ISO Tariff, (b) minus the unit's scheduled operating level as identified in the [CA]ISO's Final Hour-Ahead Schedule, (c) minus the unit's capacity committed to provide Ancillary Services to the [CA]ISO either through the [CA]ISO's Ancillary Services market or through self-provision by a Scheduling Coordinator, and (d) minus the capacity of the unit committed to deliver Energy or provide Operating Reserve to the Resource Adequacy Resources' Generator's Native Load.
>
> **In the case where the Resource Adequacy Resource is a System Resource, and to the extent the CPUC or other Local Regulatory Authority has imposed an obligation that System Resources relied**

[96] SCE at page 7.

[97] PG&E at page 8.

[98] SMUD at page 4.

upon by Load Serving Entities within their jurisdiction to meet Resource Adequacy requirements must be available to the [CA]ISO, the "Available Generation" of the System Resource shall be the Resource Adequacy Capacity of the System Resource adjusted for any outages or reductions in capacity reported to the [CA]ISO in accordance with this [CA]ISO Tariff, (b) minus the total amount of the System Resource's actual energy scheduled on the specific intertie of the import Resource Adequacy Capacity as identified in the [CA]ISO's Final Hour-Ahead Schedules, and (c) minus the amount of the System Resource's commitments on the specific intertie of the import Resource Adequacy Capacity to provide Ancillary Services to the [CA]ISO either through the [CA]ISO's Ancillary Services market or through self-provision by a Scheduling Coordinator. The "Available Generation" of the System Resource shall never be less than zero.[99]

The CAISO believes the revision proposed by Powerex adds additional clarity and reflects the CAISO's intent. SCE's comment is inconsistent with the CPUC's orders which allow out-of-state System Resources to supply Resource Adequacy Capacity. The CAISO disagrees with PG&E. The provision should allow meaningful participation by System Resources and expand the scope of entities eligible to supply Resource Adequacy Capacity in accordance with the requirements set by the CPUC or other LRAs.

4. The CAISO Cannot Develop a Contingency Flag For Energy Limited Resources for the IRRP But IS Doing So in MRTU

CMUA proposes that thermal energy-limited resources should be exempted from Section 40.6A or there should be a contingency flag mechanism, so that the unit could be dispatched in a system emergency, but not as part of economic optimization.[100]

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99 Powerex at 5-6.

100 CMUA at page 15.

According to CMUA, current bid caps and a must-offer requirement may result in lower than compensatory prices for thermal, energy limited resources.[101]

The CAISO intends to utilize for the IRRP the same criteria developed under the existing FERC Must-Offer process to determine the need for committing additional resources and the selection of resources to commit. To the knowledge of the CAISO, the existing FERC Must-Offer obligations have not resulted in over-reliance of the energy limited use-limited resources. Today, the CAISO does recognize the limitations and takes measures not to abuse the energy limitations of such resources.

K. Relation to Existing Must-Offer Program.

NCPA does not object to the continuation of the current must-offer requirement so long as the scope is not expanded to include MSS units not presently covered.[102] PG&E refers to a "revised Section 40.7.1" and states that Qualifying Facilities that have existing Power Purchase Agreements under PURPA should be excluded from the definition of "FERC Must-Offer Generators."[103] The IRRP does not propose to modify the scope of the existing FERC must offer obligation, and has not "revised" Section 40.7.1. Thus, units that are currently exempt would remain exempt. In fact, Section 40.6A.1 provides an explicit exclusion from the must-offer obligation to "Load Serving Entities that have entered into a Metered Subsystem Agreement."

IID states that if the Commission determines the must-offer obligation is still required, it must ensure that it is implemented in a manner that does not impair the contractual rights of power purchasers serving load outside the CAISO's control area,

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101 CMUA at page 15.

102 NCPA at page 11.

103 PG&E at page 7.

and that the CAISO cannot require parties to offer Resource Adequacy Resources to the CAISO that are "already scheduled to run through bilateral agreements."[104] Again, the CAISO has not modified the existing program. Section 40.7.2 exempts from the definition of "Available Generation" capacity that is under contract.

L. Settlements

1. Imbalance Energy Payment

Williams proposes that, if a unit only has Resource Adequacy contracts for a portion of its output it should receive an imbalance energy payment while operating at minimum load pursuant to the FERC must-offer obligation in proportion to the uncontracted-for capacity of the unit.[105] Williams contends that if the CAISO were permitted to deny the imbalance energy payment to a unit that is only partially contracted for under the Resource Adequacy program, LSEs would be encouraged to only contract for a small amount with regard to a unit that it needs for local reliability if the LSE believes that the unit will usually sit at minimum load waiting to be dispatched after a contingency.[106] Williams states that in the MRTU proceeding, the CAISO has proposed a Bid Adder (default or negotiated) to be applied in proportion to the amount of the unit's capacity not under RA contract and that the logic behind MRTU Proposed Section 39.8.3 should apply to the IRRP.[107]

While William's argument has surface appeal, it fails to withstand scrutiny. A resource should never be contracted for less than its minimum load otherwise the notion

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104 IID at page 12.

105 Williams at page 11.

106 Williams at page 10.

107 Williams at page 12.

of being contracted and available is operationally meaningless since in order for the resource to make any of its contracted capacity available the resource has to operating at least at its minimum load. Thus, it is reasonable to expect that the resource will have ensured sufficient compensation to provide that the resource is available and therefore there should be no additional expectation that the MLCC double payment would need to continue for such partially contracted resource.

2. Allocation of Minimum Load Costs

a. The CAISO Agrees that the Allocation Methodology Should Conform to the Outcome of the Amendment No. 60 Proceeding

The CAISO recognizes that the issue of the proper allocation of FERC Must-Offer costs is currently pending before the Commission as it considers Amendment No. 60 in Docket No. ER04-835. In its IRRP filing, the CAISO did not intend to override the outcome of Amendment No. 60. To the contrary, the CAISO sought to allocate Resource Adequacy Un-Recovered Minimum Load Costs using the same methodology as for FERC Must-Offer Generators denied waivers under the current must-offer obligation.[108] Accordingly, the CAISO agrees with CMUA, MWD and Southern Cities that the cost allocation of the IRRP should be conformed to reflect the outcome of the Amendment No. 60 proceeding.[109]

Several parties, mostly those who are challenging the issue in the Amendment No. 60 Docket, protest the proposed allocation of costs to wheeling transactions.[110] Given the need to rely on existing systems and the fact that entities engaged in

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[108] See filing letter at pages 14-15.

[109] CMUA at page 20; MWD at pages 9-10; Southern Cities at page 11.

[110] *See for example*, Modesto ¶ 13 pages 5-6; SMUD at page 5.

wheeling benefit from the stable and reliable operation of the grid, the CAISO maintains use of the cost allocation methodology approved by the Commission for must-offer minimum load costs is appropriate for this interim program.

b. CDWR's Alternative Cost Allocation Proposal Should Be Rejected

CDWR alleges that in the MRTU filing the CAISO, "has proposed to allocate such costs based on coincident peak loads," and, according to CDWR, "[s]o too should the costs proposed in this interim resource adequacy program be allocated based on an entity's contribution to the coincident peak load in the area for which must offer generation is being incurred."[111] First, CDWR appears to be confusing the Amendment No. 60 cost allocation with MRTU. Amendment No. 60 differs to a certain extent because it predates application of Residual Unit Commitment. As noted in the filing letter, one of the objectives of the IRRP was to utilize the existing CAISO systems to the extent feasible. Given the need to have a program implemented to coincide with the start of the CPUC's Resource Adequacy requirements on June 1, 2006 and in recognition of the short-term nature of the IRRP, the CAISO proposed to allocate the costs in accordance with the existing methodology for minimum load costs from suppliers under the FERC must-offer obligation.

M. The IRRP Does Not Intrude Upon Enforcement of Resource Adequacy by LRAs

The CPUC urges that the IRRP "expressly reflect that the CPUC is solely responsible for enforcement of RAR that apply to CPUC-jurisdictional LSEs, including

[111] CDWR at page 12. See also, AReM at page 6.

any requirements that LSEs make RA filings to the CAISO."[112] The CAISO agrees that the CPUC is solely responsible for enforcement of the Resource Adequacy requirements that apply to CPUC-jurisdictional entities, but does not believe that this responsibility should extend to enforcement of submissions to the CAISO, which is governed by the ISO Tariff. It should be noted that should the CPUC for some reason direct LSEs to refuse to provide the CAISO with Resource Adequacy Plans, Section 40.2.1 and 40.2.2 permit them to do so such that the "form" of the submission to the CAISO would be "blank." Accordingly, the penalty requirement does not create a de facto obligation on the CPUC or its jurisdictional LSEs to provide the information to the CAISO in perpetuity. Moreover, this is not a dual penalty as suggested by AReM.[113] Rather the CPUC is enforcing its own requirements, while the CAISO will only enforce the timing and accuracy of the information provided as directed by the tariff in accordance with the existing Enforcement Protocol.

The CAISO disagrees that absent such clarification, the CPUC and the CAISO could potentially reach divergent decisions regarding whether a LSE's filings comply with the CPUC's requirements.[114] The CPUC is the sole arbitrator of whether Load Serving Entities are in compliance with their requirements.

Finally, SCE states that it is not clear from the CAISO's proposed tariff language which entity is subject to sanctions. SCE proposed that Section 40.6A.7 should be revised as shown:

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112 CPUC at page 7.

113 AReM at page 6.

114 CPUC at page 7.

> In addition to any other penalty or settlement consequence of a failure of a unit to operate in accordance with a ISO operating order, the failure of **a Scheduling Coordinator of a** Resource Adequacy Resource to make **the Resource Adequacy Resource** ~~itself~~ available to the ISO in accordance with the requirements of Sections 40 of this ISO Tariff or to operate the Resource Adequacy Resource by placing it online or in a manner consistent with a submitted Supplemental Energy bid or Proxy Price Energy Bid shall **result in that Scheduling Coordinator** being ~~be~~ subject to the sanctions set forth in Section 37.2 of the ISO Tariff.[115]

The CAISO agrees that the modification proposed by SCE provides additional clarification to the provision.

N. Acceptance of the IRRP Should Not Preclude Further Consideration of Certain Issues In the MRTU Docket

Vernon requests that to the extent the CAISO's IRRP is accepted, it should not have precedential significance with respect to the CAISO's proposed MRTU Tariff.[116] While many of the elements of the IRRP are similar to those of the MRTU program, the CAISO would agree that acceptance of the IRRP should not preclude further examination under MRTU. In particular, the temporary nature of this proposal would require that questions concerning longer-term issues such as the CAISO's proposal for allocation of import capacity must require further consideration under MRTU.

O. Clarifications

1. LRAs

Western seeks confirmation that it is its own LRA.[117] The CAISO agrees that Western is a LRA. Trinity also requests similar confirmation.[118] Again, the CAISO agrees Trinity is an LRA.

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115 SCE at page 8.

116 Vernon at page 2.

117 Western at page 12.

2. WESTERN

Western requests assurance that Hoover Dam will continue to be responsive to the AGC requirements of the Boulder Canyon contractors and not the CAISO.[119] Nothing in the IRRP should require a change in the AGC requirements at Boulder Canyon.

Western also seeks confirmation that Sections 40.6A.3 and 40.6B.3 do not apply to it.[120] These provisions would apply to Western only to the extent it is acting as a Scheduling Coordinator for Load Serving Entities operating in the ISO Control Area. In this situation, Western, as any other similarly situated Scheduling Coordinator, is to provide the CAISO with basic information requirements on the resources that are to meet the Resource Adequacy requirements for the loads it is serving.

3. Reporting Requirements on System Resources

Powerex asks that the CAISO be required to specify in tariff section 40.6A.3 that this reporting requirement is not applicable to non-resource-specific System Resources for which the unit specific information being requested would not be applicable.[121] The CAISO agrees as applied to non-resource-specific System Resources.

P. Technical Conference and Relation to EL05-146

SCE notes that a settlement has recently been filed in Docket No. EL05-146-000 concerning the complaint by the Independent Energy Producers Association to replace the current FERC must-offer obligation with a tariff-based procurement mechanism.

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118 Trinity at page 3.

119 Western at page 20.

120 Western at page 19.

121 Powerex at page 7.

SCE recommends that either a technical conference be held for parties to address overlapping issues or parties be permitted to include comments on the interrelationship between the IRRP and the RST settlement.[122]

While the CAISO recognizes the need to integrate the IRRP program with the outcome of Docket No. EL05-146, the CAISO does not believe a technical conference is necessary. The IRRP is primarily directed at obtaining information on the resources secured to comply with the Resource Adequacy programs established by Local Regulatory Authorities and to ensure that those resources are made available to the CAISO and that the CAISO will utilize them, prior to calling on any units under the current FERC must-offer obligation or the Reliability Capacity Services Tariff under the settlement in EL05-146. The related, but distinct, nature of the two proceedings can be addressed in comments, as suggested by SCE, and in any required compliance filing.

Q. The Resource Adequacy Plans and Supply Plans Should be Treated as Confidential Data Except As Needed To Share With Local Regulatory Authorities

Two parties, Constellation and AReM, recommend that data related to the IRRP be accorded confidential treatment, "the IRRP provisions should be clear that data pertinent to an LSE's market position, or other RAR compliance-related issues, will be held in confidence by CAISO."[123] The CAISO agrees that the data submissions, in particular the annual and monthly plans, should be treated as confidential information. With respect to compliance, the CAISO notes that as enforcement is primarily a matter

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[122] SCE at page 3.

[123] Constellation at page 7. AReM recommends replacing individual references of confidential protection with a separate sub-section providing such protection for all information provided under Section 40. AReM at pages 9-10.

for the LRA, there may be times when the CAISO must report information to those bodies.

R. Other Issues

1. The IRRP Does Not Discriminate Against Exports

Imperial Irrigation District claims that the CAISO's proposal, "is potentially discriminatory in that the effect may be to trap generation resources with the CAISO's control area to the detriment of surrounding control areas."[124] Imperial's claim is misplaced. Nothing in the IRRP prevents Imperial from entering into contracts with resources within the ISO Control Area to meet its own needs, and nothing in the proposed amendments effects the existing ISO Tariff provisions regarding the scheduling of exports. Moreover, AB 380 requires all Load Serving Entities, including Imperial, to maintain adequate physical generating capacity to meet their load requirements. The central purpose of the IRRP is to coordinate how the resources procured in accordance with the requirements set by Local Regulatory Authorities pursuant to AB 380 are made available to the CAISO and to minimize dispatches under the FERC must-offer obligation.

3. The IRRP Contains Sufficient Flexibility to Conform with Future Programs of Local Regulatory Authorities, Including the CPUC

PG&E states that, "the Commission should expressly provide that nothing in the CAISO Tariff is to be considered to supersede or otherwise interfere with the actions taken by the CPUC or by any LRA to implement Resource Adequacy."[125] Constellation

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[124] Imperial Irrigation District at pages 9-11.

[125] PG&E at page 5.

requests that the CAISO be directed "to add a new provision to its Tariff that demonstrates its intent to modify its tariff as necessary so that it remains consistent with CPUC and LRAs directives on RAR as applicable to LSEs and suppliers."[126] Neither of these requests are necessary.

By deferring to the determinations of Local Regulatory Authorities with respect to the fundamental elements of their Resource Adequacy Programs (Reserve Margin levels, load forecasts, determination of qualification of resources, and enforcement), the IRRP by design accepts these elements as they are modified and updated by the applicable Local Regulatory Authorities. The broad language requested by PG&E can lead to unnecessary confusion. It invites unwarranted debate as to whether any provision of the IRRP, even provisions simply requiring reporting of information, conflict with a LRA program. The CAISO will continue to work with the CPUC and other LRAs as they develop and implement their Resource Adequacy programs, and will make adjustments to the CAISO Tariff as necessary. Given the anticipated limited duration of the IRRP, the CAISO anticipates that most updates, if needed, would be made to the MRTU Tariff.

4. There Should be No Changes to the CAISO's Existing Procurement Authority

PG&E believes "that Revised Section 42.1.5" "should impose restrictions on the CAISO's procurement authority, limiting it to that absolutely necessary to maintain compliance with Applicable Reliability Criteria, as defined in the CAISO Tariff."[127] First,

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126 Constellation at page 4.

127 PG&E at page 8.

the CAISO notes that the only "revision" to section 42.5 was a modification to the section number. The substance of the provision is long-standing tariff language. Second, the first sentence of the provision limits its scope to situations in which the CAISO concludes "it may be unable to comply with the Applicable Regulatory Authority." Accordingly, no modification or revision to the provision is warranted. The CAISO hopes not to need to engage in procurement under this provision, but it remains a necessary backstop provision to prevent outages such as those that occurred during the 2000 and 2001 energy crisis.

According to NCPA,

> [t]he CAISO appears to want to insert itself in all LSE procurement decisions, and essentially to dictate what resources are procured, counted, and deemed deliverable. For example: (1) The LRA can establish any RA criteria it desires, but the CAISO will still do backstop procurement if it believes the overall control area criteria are insufficient. In other words, the LRA combined criteria must result in the LSE procuring resources when and where CAISO wants them. (2) LSEs can procure any resources they wish, provided they are specific units, from plants in particular locations deliverable to load, with various conditions and limitations associated with certain types of plants or contracts. (3) LSEs may run the units they wish to serve load, provided they are prescheduled or available to CAISO for dispatch if they are not. (4) Even if LSEs meet all CAISO procurement requirements, the CAISO may still procure resources on their behalf if it believes conditions warrants and allocate a share of the costs to the LSE. In short, the CAISO has appointed itself nanny for LSE procurement decisions[128].

NCPA's comments fail to recognize the CAISO's responsibilities under state law and its Commission-approved tariff. Under AB 1890, the CAISO is to "ensure efficient use and reliable operation of the transmission grid consistent with achievement of planning and operating reserve criteria no less stringent than those established by the

[128] NCPA at page 8.

Western Systems Coordinating Council and the North American Electric Reliability Council," and to obtain from FERC the authority needed "to secure generating and transmission resources necessary to guarantee achievement of such criteria." Under its tariff, the CAISO must operate in accordance with Good Utility Practice. Its procurement of resources is focused, as discussed above, on its responsibility to comply with Applicable Regulatory Criteria, most notably the Minimum Operating Reliability Criteria established by the WECC. If NCPA or any other market participant believes the CAISO is not prudently procuring necessary resources to meet its short-term grid management responsibilities, it may file a complaint with the Commission. The CAISO, however, must have sufficient authority to ensure it can meet demand with appropriate operating reserves. These requirements must be met by resources that are capable of supplying power where and when it is needed.

III. CONCLUSION.

Wherefore, the CAISO respectfully requests that the Commission accept the CAISO IRRP as proposed in its filing and discussed herein, without suspension or hearing, to go into effect on May 12, 2006 or May 31, 2006 as requested.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-captioned docket.

Dated at Folsom, California on this 19th day of April, 2006.

/s/

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Grant Rosenblum
Counsel for the California Independent System Operator Corporation

ATTACHMENT A

WECC Members

ADOE – Alberta Department of Energy
AESO – Alberta Electric System Operator
AEUB – Alberta Energy and Utilities Board
AESC – Allegheny Energy Supply Company, LLC
ALTA – AltaLink L.P.
AWEA – American Wind Energy Association
WPE – Aquila Networks-WPC
ACC – Arizona Corporation Commission
AEPC – Arizona Electric Power Cooperative, Inc.
APA – Arizona Power Authority
APS – Arizona Public Service Company
ATCO – ATCO Electric Ltd.
AUR – Auriga Corporation
APX – Automated Power Exchange, Inc.
AVA – Avista Corp.
BEPC – Basin Electric Power Cooperative
BMI – Battelle Memorial Institute
BHP – Black Hills Power
BPAP – Bonneville Power Administration – Power Business Line
BPAT – Bonneville Power Administration – Transmission Business Line
BCHA – British Columbia Hydro and Power Authority
BCME – British Columbia Ministry of Energy & Mines
BCTC – British Columbia Transmission Corporation
BCUC – British Columbia Utilities Commission
BURB – Burbank Water and Power
CBC – California British Columbia Transmission Company, LLC
CDWR – California Department of Water Resources
CEOB – California Electricity Oversight Board
CEC – California Energy Commission
CFBF – California Farm Bureau Federation
CISO – California Independent System Operator
CORA – California Office of Ratepayer Advocates
CPUC – California Public Utilities Commission
CALP – Calpine Corporation
CES – Cambridge Energy Solutions
CRGL – Cargill Power Markets, LLC
CEOE – CE Obsidian Energy
CAWC – Central Arizona Water Conservation District
CINE – Cinergy Services, Inc.
HHWP – City and County of San Francisco – Hetch Hetchy Water & Power
ANHM – City of Anaheim
GLEN – City of Glendale Public Service Department
RDNG – City of Redding
RVSD – City of Riverside
COPC – Colorado Public Utilities Commission
CSU – Colorado Springs Utilities
CFE – Comision Federal de Electricidad
COMP – Compusharp Inc.
CCG – Constellation Energy Commodities Group, Inc.
DGT – Deseret Generation & Transmission Co-operative
DENA – Duke Energy North America, LLC
DETM – Duke Energy Trading and Marketing, LLC
ECON – Economic Insight
EMMT – Edison Mission Marketing & Trading, Inc.
EQI – EleQuant, Inc.
EPE – El Paso Electric Company
ECI – Electrical Consultants, Inc.
ENW – Energy Northwest
ESL – Energy Strategies LLC
ENMX – ENMAX Corporation
EMC – EPCOR Merchant and Capital L.P.
EMCU – EPCOR Merchant and Capital (US) Inc.
EWEB – Eugene Water & Electric Board
FARM – Farmington Electric Utility System
FBC – FortisBC
FPLE – FPL Energy LLC
GEO – Geo-Energy Partners-1983 Ltd.
GBPP – Gila Bend Power Partners, LLC
PGR – Gila River Power, L.P.
GBT – Great Basin Transmission, LLC
HGC – Harquahala Generating Company, LLC
HESI – Henwood Energy Services, Inc.
HPLP – Hunt Power, L.P.
IPC – Idaho Power Company
IPUC – Idaho Public Utilities Commission
IID – Imperial Irrigation District
KEMA – KEMA Inc.
LCG – LCG Consulting
LAC – Los Alamos County
LDWP – Los Angeles Department of Water and Power
MLCI – Merrill Lynch Commodities, Inc.
MWD – Metropolitan Water District of Southern California
MTI – Micron Technology Inc.
MIR – Mirant Americas, Inc.
MID – Modesto Irrigation District
MATL – Montana Alberta Tie Ltd.
MDEQ – Montana Department of Environmental Quality
MPSC – Montana Public Service Commission
MWEC – Morenci Water & Electric Company
NGU – National Grid USA Service Company, Inc.
NREL – National Renewable Energy Laboratory
NCI – Navigant Consulting, Inc.
NVOE – Nevada State Office of Energy
NMPRC – New Mexico Public Regulation Commission
NTD – New Transmission Development Company [A Trans-Elect Company]
NAPG – North American Power Group, Ltd.
NCPA – Northern California Power Agency
NPCC – Northwest Power and Conservation Council
NWMT – NorthWestern Energy
NRG – NRG Power Marketing, Inc.
OCES – Oak Creek Energy Systems, Inc.
OOE – Oregon Department of Energy
OPUC – Oregon Public Utility Commission
PG&E – Pacific Gas and Electric Company
PAC – PacifiCorp
PACM – PacifiCorp – Merchant Function
PASA – Pasadena, City of
PBEC – Peabody Energy Corporation
PRPA – Platte River Power Authority
PGE – Portland General Electric Company
PWX – Powerex
PPLE – PPL EnergyPlus, LLC
PPLM – PPL Montana, LLC
PPM – PPM Energy, Inc.
PRAX – Praxair, Inc.
PSC – Public Service Company of Colorado
PNM – Public Service Company of New Mexico
NPUC – Public Utilities Commission of Nevada
CHPD – Public Utility District No. 1 of Chelan County
DOPD – Public Utility District No. 1 of Douglas County
GCPD – Public Utility District No. 2 of Grant County
PSE – Puget Sound Energy
REI – Reliant Energy, Inc.
RES – RES-North America
RVE – Roseville Electric
SMUD – Sacramento Municipal Utility District
SRP – Salt River Project
SDGE – San Diego Gas & Electric Company
SME – Saracen Merchant Energy LP

WECC Members (continued)

SBP	–	Sea Breeze Pacific Regional Transmission Systems, Inc.
SCL	–	Seattle City Light
SWPC	–	Siemens Westinghouse Power Corporation
SER	–	Sempra Energy Resources
SETC	–	Sempra Energy Trading Corp.
STGP	–	Shell Trading
SPR	–	Sierra Pacific Resources Transmission
SNCL	–	Silicon Valley Power – City of Santa Clara
SNPD	–	Snohomish County Public Utility District No. 1
SCE	–	Southern California Edison Company
SWTC	–	Southwest Transmission Cooperative, Inc.
SWPG	–	Southwestern Power Group II, LLC
SUEZ	–	SUEZ Energy Marketing NA, Inc.
SC2G	–	SWRTA Class 2 Group
TPWR	–	Tacoma Power
TNSK	–	Tenaska
TNP	–	Texas-New Mexico Power Company
AES	–	The AES Corporation
BOE	–	The Boeing Company
TAUC	–	TransAlta Utilities Corporation
TCP	–	TransCanada Energy Ltd.
TANC	–	Transmission Agency of Northern California
TSGT	–	Tri-State Generation and Transmission Association, Inc.
TSMD	–	Tri-State Generation and Transmission Association, Inc.
TEP	–	Tucson Electric Power Company
TIDC	–	Turlock Irrigation District
USBR	–	U.S. Department of Interior, Bureau of Reclamation USDO – (Denver Office) USGP – (Great Plains) USLC – (Lower Colorado) USMP – (Mid-Pacific) USPN – (Pacific Northwest) USUC – (Upper Colorado)
UAMP	–	Utah Associated Municipal Power Systems
UCCS	–	Utah Committee of Consumer Services
DPU	–	Utah Division of Public Utilities
UEO	–	Utah Energy Office
UMPA	–	Utah Municipal Power Agency
UPSC	–	Utah Public Service Commission
USE	–	Utility System Efficiencies, Inc.
VEA	–	Valley Electric Association, Inc.
OTED	–	Washington State Office of Trade & Economic Development
WUTC	–	Washington Utilities and Transportation Commission
WECI	–	Wellhead Electric Company, Inc.
WAPA	–	Western Area Power Administration WAHQ – (Golden, Colorado) WACM – (Loveland, Colorado) WALC – (Phoenix, Arizona) WASN – (Sacramento, California) WAUC – (Salt Lake City, Utah) WAUW – (Billings, Montana)
WLB	–	Westmoreland Coal Company
WEMT	–	Williams Power Company, Inc.
WIA	–	Wyoming Infrastructure Authority
WPSC	–	Wyoming Public Service Commission