

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System) Docket Nos. ER09-240-002

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213 (2008), the California Independent System Operator Corporation (“ISO”) respectfully submits this Motion for Leave to File Answer and Answer to comments and protests addressing the ISO’s filing made on March 23, 2009 (“March 23 Filing”) in compliance with the Commission’s February 19, 2009 order in the above-captioned dockets.¹ In that order, the Commission conditionally approved the ISO’s November 4, 2008 filing (“Parameter Filing”) which consisted of revisions to the ISO’s Market Redesign and Technology Upgrade Tariff (“MRTU Tariff”) to include provisions and associated numerical parameter values to enable the MRTU market optimization software to adjust non-priced quantities so as to avoid reliance on ineffective economic bids to obtain a feasible market solution. Several parties have submitted comments and protests concerning the March 23 Filing.²

Although an answer is permitted in response to comments, the CAISO recognizes that, unless authorized by the Commission, the Commission’s Rules of Practice and

¹ 126 FERC ¶ 61,147 (2009) (“February 19 Order”)

² Comments or protests concerning the March 23 Compliance Filing were submitted by the following entities: California Municipal Utilities Association (“CMUA”); City and County of San Francisco (“CCSF”); City of Santa Clara, California and the M-S-R Public Power Agency (“Santa Clara”); Metropolitan Water District of Southern California (“Metropolitan”); Modesto Irrigation District (“Modesto”); Pacific Gas and Electric Company (“PG&E”); Southern California Edison Company (“SCE”); State Water Project of the California Department of Water Resources (“SWP”); Western Power Trading Forum (“WPTF”); and the Transmission Agency of Northern California (“TANC”).

Procedures precludes an answer to protests. However, the Commission has accepted answers that are otherwise prohibited if such answers clarify the issues in dispute, *Southwest Power Pool, Inc.*, 89 FERC ¶61,284 at 61,888 (2000); *Eagan Hub Partners, L.P.*, 73 FERC ¶ 61,334 at 61,929 (1995), or assist the Commission, *El Paso Electric Co.*, 72 FERC ¶ 61,292 at 62,256 (1995). The CAISO submits that this answer does both, and therefore respectfully requests that, to the extent that this pleading involves answers to protests, the Commission accept this answer.

For the reasons explained below, the Commission should reject comments seeking alterations to the CAISO's proposals as set forth in the March 23 Compliance Filing.

I. BACKGROUND

On November 4, 2008 in preparation for MRTU *go live*, the ISO made a section 205 filing to amend the MRTU tariff to include explicit tariff provisions and associated numerical parameter values to enable the MRTU market optimization software to make adjustments to certain quantitative elements, such as transmission constraints, that do not have associated prices, in circumstances when the inability to adjust such elements would result in a market solution that is not operationally or economically reasonable. In the Parameter Filing, the ISO proposed to modify an inflexible tariff provision that required the market clearing software to exhaust all economic bids before engaging in any adjustments to submitted self-schedules. The ISO also proposed to include in its MRTU Tariff several rules to guide the setting and use of these parameters. In addition, in response to a significant stakeholder process, the ISO decided to set the value of the scheduling parameter associated with self-schedules submitted under existing rights

(which include Existing Transmission Contracts (ETCs), Transmission Ownership Rights (TORs), and Converted Rights (CVRs)) to a level higher than the \$5,000 scheduling parameter associated with internal transmission constraints to ensure that ETC/TOR/CVR Self-Schedules are not adjusted in the Day-Ahead Market when such treatment is consistent with the underlying existing rights.

On February 19, 2009, the Commission issued an order conditionally accepting the proposed provisions and parameter values, and finding that the Parameter Filing satisfied certain remaining compliance requirements of its June 25, 2007 MRTU order.³ On March 23, 2009 the ISO made a compliance filing pursuant to the February 19 Order. Therein, the ISO included language to incorporate the effectiveness threshold into the CAISO Tariff as directed by the Commission. The ISO also proposed several other tariff clarifications that, although not specifically required by the February 19 Order, are directly related to the use and setting of the market optimization parameters. On April 13, 2009, a number of parties filed comments and protests regarding the March 23 Filing.

II. ANSWER

A. The ISO's Proposal to Amend Tariff Provisions Stating That it Enforces All Transmission Constraints is Just and Reasonable.

In the March 23 Filing, the ISO proposed to amend several provisions in the CAISO Tariff that contain misleading language suggesting that the ISO will enforce *all* transmission constraints. As the ISO explained, this language is problematic because it is directly contrary to the changes the ISO proposed, and the Commission accepted, to the MRTU Tariff in this proceeding. As described in the Parameter Filing, the ISO has

³ California Indep. System Operator, 119 FERC ¶ 61,313 (2007).

configured the market software such that it is simply not the case that the ISO will enforce all transmission constraints at all times in running its markets. As also discussed in the Parameter Filing, enforcement of all constraints at all times is simply not practical from a software perspective nor desirable or feasible from an operational or economic perspective. Indeed, an important element of the Parameter Filing, as approved by the Commission, was to provide tariff revisions that set forth rules and parameters under which the ISO will relax transmission constraints when economically or operationally sensible, rather than procuring additional ineffective resources to try to resolve all congestion completely through economic bids.

In preparation of its March 23 Filing, the ISO became aware of the inherent contradiction between the language in the ISO tariff stating that *all* transmission constraints are enforced in the ISO markets and the provisions approved in the Parameter Filing. The ISO believed that it was its responsibility to provide the proposed corrections to the ISO tariff because these existing statements are clearly misleading in light of the ISO's practices regarding the enforcement or relaxation of transmission constraints in running the markets.

In the March 23 Filing, the ISO also provided additional explanation as to why the statement is not accurate. In particular, the ISO discussed the following two instances, as described in the Business Practice Manual ("BPM") for the Full Network Model, in which, based on market simulation experiences and observations, enforcing all transmission constraints were found to be problematic: (1) where incomplete or inaccurate operational data on system conditions due to insufficient telemetry can result in spurious results, and (2) in the case of certain contingencies that are addressed by

dispatching use-limited quick-start resources when they occur in real-time, but which do not often materialize, such that committing such resources in the day-ahead market before knowing whether the contingency will materialize often results in unnecessary commitments and scheduling, which in turn can lead to exhausting the use limitations of these resources before their reliability services are actually needed.

In its protest, WPTF takes issue with the ISO's proposal. First, WPTF contends that the ISO has not provided sufficient detail about the conditions under which it will "relax transmission constraints" and suggests that the ISO proposes to do so at its "sole, non-transparent discretion" when the day-ahead market produces results that the ISO finds inconvenient."⁴ This is incorrect. The March 23 Filing did not propose any changes to the manner in which the ISO enforces transmission constraints, but rather, merely sought to correct inaccurate language that states that the ISO enforces *all* transmission constraints. If for no other reason, this language is inaccurate because of the fact that the ISO will relax certain transmission constraints so as to avoid utilizing ineffective economic bids, as proposed in the Parameter Filing and approved by the Commission.

WPTF's main concern appears to be with the two additional examples from the BPM for the Full Network Model that the ISO cited in the March 23 Filing as examples of situations where enforcing transmission constraints would be problematic. Contrary to WPTF's arguments, however, these additional examples regarding the ISO's transmission constraint enforcement as reflected in the BPMs were not included in the March 23 Filing to suggest or request some expansion in the ISO's authority to relax transmission constraints. Rather this additional explanation was provided in the interest

⁴ WPTF at 3, 8.

of transparency and to promote better understanding of the context in which the subject existing tariff statements stand contrary to ISO practices on enforcement of transmission constraints. Therefore, the ISO believes it was appropriate to provide this additional explanation and the references to the BPM for the Full Network Manual, which provides a more detailed explanation of the ISO's practices on this matter. The ISO also recognizes that these specific detailed explanations of its practices regarding enforcement of transmission constraints provided in the March 23 Filing are not in its tariff nor did the ISO propose to include all this detail in the tariff in its March 23 Filing.

WPTF also argues that without the benefit of a stakeholder process, market participants cannot fully understand the scope and effect of what the ISO is proposing.⁵ The ISO understands WPTF's desire to obtain as much information as possible regarding these practices, but believes that such information has been provided to WPTF and other market participants through detail provided in the BPM for the Full Network Model. Moreover, the specific practices described in the BPM were not formulated by the ISO at the time of the March 23 Filing; they arose from observations and case analyses during the course of market simulation, in which WPTF (through its members) and other market participants participated for many months. Of course, the ISO is willing to discuss these practices in greater detail with WPTF or any market participant that seeks additional information on this subject matter. Indeed, the ISO has previously discussed with market participants its three- and two-day-ahead processes for determining, based on anticipated

⁵ *Id.* at 4.

system conditions, whether the enforcement of certain transmission constraints will promote or hinder obtaining the most operationally reasonable market solution.⁶

What WPTF appears to be seeking is not that the ISO be required to enforce all constraints all the time, as that clearly would not be practical or appropriate from an economic or operational perspective, but rather an additional opportunity to influence the ISO's practices regarding the enforcement of constraints. The ISO notes once again that the practices that WPTF complains of are explicitly set forth in the BPM for the FNM. The ISO has put in place a robust BPM change management process that allows market participants themselves to propose revisions to the BPMs. The ISO believes that process is the proper venue for WPTF to vet any concerns that it has with matters included in the BPM for the FNM, rather than opposing a straightforward and necessary tariff clarification.

WPTF also specifically opposes as unreasonable the ISO's "proposal" not to enforce constraints due to a lack of sufficient telemetry and visibility of those constraints, as further reflected in the BPM for FNM.⁷ WPTF contends that the Day-Ahead Markets do not need to "see" the state of the network to manage congestion and produce prices.⁸ WPTF also states that it is not clear why this lack of visibility would require the ISO to refrain from enforcing some constraints in the real-time market, arguing that the ISO's state estimator should be able to project the states of facilities for which the ISO does not have visibility.⁹ WPTF also contends that the non-enforcement of certain constraints because they lead to the unnecessary commitment of use-limited resources in the day-

⁶ See See Mid-March Status Report of the California Independent System Operator Corporation, filed in Docket No. ER06-615 (March 16, 2009) at 3.

⁷ *Id.* at 4-5.

⁸ *Id.* at 5-6.

⁹ *Id.* at 6.

ahead market is “confusing,” because it is not clear why it would occur, unless the amount of demand in the day-ahead market is consistently clearing at levels significantly above those observed in real-time.¹⁰

The ISO has provided additional details and explanation regarding these practices in the BPM for the FNM. The BPM explains, based on the information available through market simulation, why these practices are appropriate and consistent with the remaining principles in the tariff. Although the ISO believes that WPTF’s issues are extraneous to the scope of – and as such do not contradict the need for – the ISO’s proposed corrections to misleading tariff provisions, the ISO offers some additional explanation here to help clarify the BPM sections related to WPTF’s concerns. First, the argument that the Day-Ahead Market need not have visibility of market conditions in order to set schedules and prices, while technically correct, is contrary to a fundamental objective of the MRTU market design, which is to produce Day-Ahead Schedules that are both feasible and operationally reasonable. The ISO could operate the Day-Ahead Market as a universe unto itself by taking WPTF’s suggestion at face value and enforcing all constraints at all times, and thereby reach a solution regardless of whether the resulting prices and schedules would be consistent with operational reality. The ISO doubts that this is the result that WPTF truly desires, however, as it would force the ISO to set Day-Ahead Schedules and prices based on the incorrect assumption that the network conditions driving those schedules and prices will be visible with enough accuracy in Real-Time to have comparable impacts on Real-Time Schedules and prices. Contrary to WPTF’s apparent expectation, enforcing all constraints at all times in the Day-Ahead Market without regard to the telemetry limitations of Real-Time will tend to foster systematic

¹⁰ *Id.* at 6-7.

divergences between Day-Ahead and Real-Time Market outcomes, which would compromise a basic design principle behind MRTU's two-settlement market system. That said, the ISO recognizes the importance of working with its PTOs to upgrade telemetry in areas of the ISO Controlled Grid where it is insufficient, but this effort will take time and more experience with the new market systems, and until such upgrades can be accomplished it would be counter-productive to run a Day-Ahead market that pretends the flows it sees in these areas will, *ceteris paribus*, be accurately replicated in the Real-Time telemetry-based State Estimator solution.

Second, WPTF's argument that the State Estimator should be able to compensate for telemetry limitations ignores the fact that the quality of State Estimator solutions is highly dependent on accuracy and completeness of the inputs the State Estimator receives from telemetry. Although it is correct in principle that the State Estimator is designed to produce a complete view of system conditions – including line flows, loads, injections, etc. – based on less than complete information, it is likewise important to understand the logic behind its operation. The State Estimator essentially takes the input data and formulates a complete power flow “state” that is the best fit with the real-time field data. For any given input data set, there may be more than one possible state that is consistent with the data, in which case the State Estimator picks the one that is most consistent. Obviously, the more complete and accurate the input data, the less latitude the State Estimator has to consider alternative possible states and the more reliably it will reflect the true state of the system. Where the input data is less robust, missing or inaccurate, it follows that the resulting State Estimator solutions will be less accurate; the State

Estimator has no inherent ability to overcome these limitations. Thus WPTF's argument on this point is misinformed.

Third, WPTF misinterprets the logic behind the ISO's concern about committing use-limited resources in the Day-Ahead Market. As the ISO explained in the March 23 Filing, such instances of inappropriate Day-Ahead unit commitment typically arise due to the enforcement of contingencies in the IFM, not because the IFM clears excessively high levels of demand as WPTF alleges. By design, the IFM performs contingency analysis in order to ensure that its resulting Schedules are feasible with respect to alterations in power flows that result when a contingency occurs. Certain contingencies, however, are not effectively managed simply by invoking contingency flow limits to accommodate the changes in power flows, but require ISO operators to call upon use-limited generators in the area of the contingency, in Real--Time when the contingency actually occurs. Enforcing the corresponding contingencies in the IFM would then lead to Day-Ahead commitment of these generators rather than preserving their limited use for actual contingencies, and this would occur in the IFM without any excessive amount of demand scheduling in the IFM.

WPTF also argues that if the Commission accepts the ISO's proposal, it should clarify that when the ISO relaxes other transmission constraints it should set the price of the constraint to the maximum energy bid price.¹¹ This suggestion reflects a misunderstanding of the ISO's practices described in the BPM for the FNM regarding the enforcement of constraints. In particular, WPTF equates *not enforcing a constraint in the market to relaxing the constraint through the market*. In the instant proceeding the ISO has already provided and the Commission has already accepted subject to further

¹¹ WPTF at 9-10.

compliance all the provisions and associated parameter values in the tariff associated with the relaxation of transmission constraints under various conditions.¹² Under these provisions, a constraint is relaxed in the market scheduling run when the cost of re-dispatch to relieve congestion exceeds the \$5000 scheduling parameter. In such instances the market pricing run utilizes the \$500 pricing parameter, resulting in a shadow price on the constraint that will be at least \$500 and as high as the price of the last MWh of re-dispatch that was accepted for congestion relief prior to relaxing the constraint. When a constraint is thus relaxed through the market, there is no question that congestion has occurred and that this congestion is driving prices via the market optimization process. In contrast, when a constraint is not enforced based on the ISO's practices as reflected in the BPM for FNM, the market-determined power flow on the constraint may or may not rise to congestion levels, and therefore there is no basis to establish a congestion-based shadow price, as doing so would assume congestion sufficient to force constraint relaxation and would artificially inflate prices. In contrast to a market mechanism, the BPM provisions for not enforcing certain constraints constitute a series of guidelines that the ISO's operating engineers and grid operators must follow in order to ensure that the Full Network Model used in the running of the markets reflects the most operationally realistic and reliable set of conditions and assumptions. In particular, where the ISO systems lack sufficient visibility to the relevant grid facilities, or where constraint enforcement would lead to Day-Ahead Market decisions that are at variance with operating procedures, good utility practice and good market design require the ISO not to enforce those transmission constraints.

¹² See February 19 Order at P 43.

WPTF also contends that the ISO should not be permitted to place in its BPMs details regarding which particular types of constraints are not enforced, because, WPTF argues, the ISO might dispatch its pool of available supply bids differently which could, in turn, affect LMPs.¹³ The ISO does not believe these details are appropriately included in the tariff at this time. First, the Commission’s test for whether or not particular provisions need to be included in a utility’s tariff is whether or not such provisions *significantly affect* rates, terms or conditions of jurisdictional service. What WPTF describes is a series of tenuous “ifs” and “maybes” which might result in an impact on LMPs. The ISO submits that this does not rise to the level of a significant affect on rates, terms or conditions of jurisdictional service. Many of the tariffs of other ISOs and RTOs that operate LMP-based markets have the same level of detail regarding the enforcement of transmission constraints.¹⁴ Therefore, the details concerning the enforcement of specific transmission constraints are appropriately included in the ISO’s BPM for the Full Network Model. Moreover, and most importantly, WPTF and other market participants will have the opportunity after six months of MRTU operations to provide additional input as to what, if any, language in the BPMs should be included in the CAISO Tariff.¹⁵ Therefore, if WPTF and/or other participants believe that actual operational practice supports moving these details to the ISO Tariff, they will have the chance to raise this concern in just a few months time.

¹³ *Id.* at 11-12.

¹⁴ *See e.g.*, PJM OATT, Attachment K, Section 1.10.8; NYISO OATT, Section 33.2; Midwest ISO OATT, Section 33.2; ISO New England Market Rule 1, Section III.1.10.8.

¹⁵ *.See California Independent System Operator Corp.*, 122 FERC ¶ 61,271 (2008) at PP 122-123.

B. The ISO’s Proposal to Clarify the Treatment of Existing Transmission Contracts is Just and Reasonable.

In the stakeholder process leading up to the Parameter Filing, several parties who hold existing transmission rights expressed a concern that the MRTU market optimization procedures proposed in the Parameter Filing could reduce what they perceived as the firmness of their scheduling rights in the Day-Ahead Market and expose them to financial costs that diminish the value of their existing contracts. In order to address this concern, the ISO proposed in the Parameter Filing to increase the IFM parameter values used for protection of TOR/ETC/CVR self-schedules up to a value above the parameter value for relaxing internal transmission constraints. Such parameter settings will mean that when there is a binding transmission constraint near the location of a supply or load resource self-scheduled under an TOR, ETC or CVR right, the IFM software will relax the transmission constraint rather than curtail the TOR/ETC/CVR self-schedule. The Commission approved this solution in the Parameters Order.

In the March 23 Compliance Filing, the ISO explained that recent communications with certain market participants reveal that some parties interpret this solution as a strict requirement to treat all existing rights as having higher priority than transmission constraint enforcement, regardless of whether the underlying contractual rights as communicated to the ISO through the process specified in the tariff warrant such treatment. The ISO explained that this view is incorrect because the relative priority of existing rights is ultimately governed by the rights themselves (i.e. the underlying transmission contracts), which are communicated to the ISO by the relevant Participating Transmission Owner (“PTO”) through Transmission Rights and Transmission Curtailment (“TRTC”) Instructions. The ISO explained that its November 4 proposal to

set the parameter value for existing rights above the transmission constraint relaxation scheduling parameter was not intended to change the basic policy that the nature and appropriate treatment of existing rights are determined exclusively by the underlying contract between the transmission customer and the Participating TO and are communicated to the ISO through the TRTC Instructions. The TRTC Instructions ultimately govern the ISO's implementation of existing rights, even if such instructions direct the ISO to afford certain existing rights a lower scheduling priority than would otherwise be the case under the default rule for scheduling priorities, and might result in the penalty price for certain existing rights self-schedules being set lower than the penalty price for relaxation of transmission constraints. Although the TRTC vehicle is new to the MRTU market design, the ISO's implementation of existing rights according to instructions provided by the PTO is a long standing rule in the ISO tariff that pre-dates the transition to MRTU. As with the issue regarding enforcement of transmission constraints discussed above, in preparing its filing in compliance with the February 19 Order, the ISO found it necessary, based on specific situations recently identified by the parties to certain existing contracts, to clarify the application of the rules regarding treatment of existing rights, particularly in light of the concern that these parties would otherwise object to the ISO's universal application of the Parameter Filing tariff provisions. The ISO, therefore, proposed to clarify Section 27.4.3.5 of the CAISO Tariff, which offers the higher protection for ETC and TOR Self-Schedules in the DAM and RTM, and CVR Self-Schedules in the DAM, to make clear that the scheduling parameters for existing rights will be set in accordance with the applicable TRTC Instructions.

CDWR, along with several other parties, protests the ISO's proposed clarification on this issue.¹⁶ CDWR first argues that the clarification proposed in the March 23 Filing is inconsistent with the tariff language proposed in the Parameter Filing regarding existing rights, constitutes a collateral attack on the February 19 Order approving that language, and violates legal protections for physical transmission entitlements.¹⁷ All of these arguments are specious because they rest on the incorrect assumption by CDWR that the adoption of the scheduling parameters for existing rights, as set forth in the Parameter Filing supersedes the pre-existing tariff requirement that the ISO implement existing rights, including associated scheduling priorities, in accordance with the TRTC Instructions. However, as explained by the ISO in the March 23 Filing, the ISO never contemplated that the parameters for existing rights that it proposed in the Parameter Filing would trump the fundamental and long-established principle that the ISO would implement existing rights in accordance with the TRTC Instructions that it receives from the applicable PTO. Indeed, Dr. Kristov made clear in his testimony accompanying the Parameter Filing that the ISO's software would have the capability "to set different parameter values for different ETCs *if their rights as communicated to the CAISO via the Transmission Reservation and Transmission Curtailment (TRTC) instructions warrant such differentiation.*"¹⁸ Stated another way, the parameter values established for existing rights in the Parameter Filing are meant to apply provided that the TRTC Instructions inform the ISO that the contracts are to be accorded such treatment.

¹⁶ Because the other parties raise issues that are substantially identical to those raised by CDWR, the ISO has framed this response as a response to CDWR, although the arguments presented herein equally apply to the protests of the other parties.

¹⁷ CDWR at 4-15.

¹⁸ Parameter Filing, Exh. ISO-1 at 38 (emphasis added).

The merit of such an approach is clear: it reflects the general priority that existing rights are afforded in the ISO's markets but also preserves the principle that the ISO's role is properly confined to implementing existing rights, and that it should not be called on to interpret them. To this end, the ISO implements the existing rights through TRTC Instructions, by which the precise nature of specific existing rights is communicated to the ISO by the applicable PTO. This approach has formed the bedrock of the ISO's policy on the treatment of existing rights under MRTU, and as explained in the March 23 Compliance Filing, has been carefully crafted with stakeholders and the Commission over recent years, has been the subject of several Commission orders,¹⁹ and has been incorporated into the MRTU tariff.²⁰ Nowhere in its protest does CDWR even acknowledge this history, much less attempt to address it, which poses a significant dilemma to CDWR's arguments.

Also, despite CDWR's arguments to the contrary, the Commission never endorsed a contrary result in the February 19 Order. CDWR notes the Commission's statement in that order that PG&E and SCE had not provided any evidence to suggest that adopting the ISO's proposed scheduling parameters for existing rights would confer to the holders of those rights a scheduling priority superior to their original contractual entitlements. CDWR reads into this statement a conclusion that the ISO can never set a scheduling parameter for a particular existing right lower than the parameter for relaxation of a transmission constraint even if it receives a TRTC Instruction to the

¹⁹ See *California Indep. System Operator Corporation*, 110 FERC ¶ 61,113 (2005); *California Indep. System Operator*, 116 FERC ¶ 61,281 (2006).

²⁰ See e.g., CAISO Tariff Section 27.4.3.5 which provides that "[i]n accordance with the submitted and accepted TRTC Instructions, valid Day-Ahead TOR Self-Schedules, Day-Ahead ETC Self-Schedules and Day-Ahead CVR Self-Schedules shall not be adjusted in the IFM in response to an insufficiency of Effective Economic Bids."

contrary. However, the Commission never explicitly reached this conclusion, and given that this result would require overturning the long-standing principle that the ISO implements existing rights in accordance with TRTC Instructions, such an outcome should not be assumed.²¹

CDWR also raises a number of substantive arguments regarding the appropriate interpretation of certain existing rights that it holds for which PG&E is the PTO. As a general matter, such arguments are simply irrelevant because as a matter of general business practice under the ISO Tariff the ISO plays no role in interpreting existing rights. To reiterate, the MRTU Tariff makes clear that the ISO's role is to implement existing rights in accordance with the TRTC Instructions that it received from PTOs. If CDWR believes that PG&E or any other PTO has submitted TRTC Instructions that are inconsistent with the provisions of an existing contract that it has with the PTO, then its recourse is first with the PTO, not the ISO. Moreover, if the Commission were to be called upon to rule on the interpretation of whether the contract requires the higher protection made available under Section 27 and were to find that CDWR's allegations have merit, then the appropriate solution is to direct the PTO to conform the TRTC Instructions to properly reflect the provisions of the existing contract. In response, the ISO would provide the specific contract the appropriate level of scheduling protection. The ISO also notes that the ISO Tariff provides parties an opportunity to seek ADR regarding the treatment of a specific contract, which would give CDWR the relief it seeks if indeed its contract provisions require that it be accorded the higher level of protection.

²¹ CDWR's other argument regarding the February 19 Order is even less compelling: that the Commission did not grant CDWR's request to direct PG&E and SCE to honor their contractual obligations with respect to existing contracts because it did not anticipate the clarification proposed in the March 23 filing. This argument is entirely speculative.

Given these existing remedies for CDWR's complaints, there is no need for the Commission to require the ISO to undo a system that has been carefully crafted to protect existing rights while ensuring that the ISO does not become the arbiter of those rights, based on this one disagreement by CDWR regarding the instructions provided by the PTO to the ISO.

Given that the ISO is, based on long-established tariff provisions, required to implement the operating instructions provided by the PTO regarding specific ETCs, the ISO sees no alternative at this time to doing so. Because the PTO has, in the case of the contracts discussed by CDWR, explicitly stated through the TRTC Instructions that these rights must have a lower priority than generic self-scheduled load within the PTO's service territory, the only method for reflecting this priority under the newly filed market parameters is to set the penalty price for that specific contract lower than the scheduling parameter for generic self-scheduled ISO load. The ISO submits that this is the appropriate approach because to do otherwise would afford the subject rights superior scheduling priority to generic self-scheduled load and would require, as discussed above, the ISO to act contrary to long-standing tariff principles regarding the treatment of existing rights by the ISO. The ISO does not believe the February 19 Order intended or anticipated such an outcome. At the time that the ISO submitted the Parameter Filing, it had not been informed by the PTO that it should treat the CDWR rights at issue differently than CDWR's other ETC rights under the same contract, which are afforded the higher ETC scheduling priority under Section 27 per the TRTC Instructions from the PTO. Certain intervenors criticize the ISO for not filing a request for clarification or rehearing of the February 19 Order on this issue. However, this is not a practical solution

because the Commission's order did not address such situations. Thus, there was no error to correct or issue to clarify in that order. Therefore, the ISO determined that the best course of action was to bring this particular issue to the attention of the parties and the Commission in its compliance filing, offer the modest clarification to section 27 that simply moves to a more prominent position language that already exists in that paragraph so that there is no confusion as to the treatment of existing rights, and provide parties an opportunity to protest this treatment if they found it inappropriate. However, the parties have failed to provide any reason why the ISO's proposed tariff modification is not just and reasonable, nor whether the application of the existing tariff provisions to the specific contract situation raised by CDWR is inappropriate. Therefore, the ISO submits that the Commission should accept the proposed tariff change to ensure that it is clear that the ISO will implement existing rights in accordance with the TRTC Instructions that it received from the PTOs.

C. The ISO Will Review and Report on Any Changes That Should Be Made To The Effectiveness Threshold Level When Sufficient Congestion Data is Available.

In their comments, PG&E and SCE both address the appropriate threshold for determining the effectiveness of economic bids in relieving transmission constraints. In the March 23 Filing, in compliance with the Commission's February 19 order the ISO provided language to include the effectiveness threshold in the tariff and proposed to set that value at two (2) percent. The ISO explained that this value was arrived at by comparing congestion re-dispatch solutions accepted by the market software under alternative settings of the effectiveness threshold against solutions that ISO grid operators would consider consistent with prudent and reasonable operating practices. Through

such comparisons, the ISO determined that setting the effectiveness threshold in the one-half to one percent range the market software would too often resolve congestion utilizing resources that were remote from and barely effective on the congested constraint. The ISO also explained in the March 23 Filing that using a higher effectiveness threshold would likely lead to unintended consequences, and therefore proposed to implement a value for the start-up of the MRTU markets that it believed would balance both concerns, with the intention of carefully observing the market impacts of the two percent value and considering a change if appropriate.

SCE takes issue with the proposed two percent value arguing that such a value is not reflective of historical operating practices.²² Although historical practices are one valid consideration in determining the appropriate threshold, they can not be the sole determinant because the California electricity markets did not previously operate under an LMP pricing system. As the ISO explained in the March 23 Filing, the likely unintended consequences of a higher effectiveness threshold would be manifested through the market LMPs, both at the nodal level and at aggregate levels. The ISO therefore believes that the initial effectiveness threshold value must strike a balance between historical operating practices and the accuracy and consistency of LMPs. Given the evidence available to date, the ISO believes that the two percent value was the best choice for start-up.

Both PG&E and SCE request that the Commission require the ISO to conduct further analysis on the effectiveness threshold. SCE contends that the ISO should analyze congestion re-dispatch costs using effectiveness factors of three, four and five percent, and using different effectiveness factors between the day-ahead and real-time

²² SCE at 2.

markets when performing this analysis.²³ PG&E requests that the Commission require the ISO to make a filing by August 1, 2009 reporting on the two percent value based on the first 90 days of MRTU operations.²⁴

The ISO does not object to performing the analyses requested, and is in fact already planning on conducting such analysis. However, the ISO also believes that these analyses are most appropriately performed at a somewhat later date than that proposed by PG&E, because the ISO does not expect that the three months from April through June will provide sufficient market data under the high-load and high-congestion conditions in which the impacts of the effectiveness threshold will be most clearly identifiable. The ISO believes that about three months of data from periods of sufficiently high congestion are needed in order to conduct any meaningful and informative analysis. Six to nine months after MRTU go-live the ISO is likely to have sufficient congestion data for this analysis because at that point the ISO will have data from the summer as well as the following three months during which congestion is often highest.

Finally, PG&E states that it understands that the ISO intends to apply the effectiveness threshold not only to individual resource nodes but also to the aggregate nodes known as Load Aggregation Points (“LAPs”). PG&E recommends that the ISO review its tariff and resolve any conflicts or inconsistencies between the existing provisions regarding the calculation of LAP prices and the LAP prices that result from application of the effectiveness threshold to LAPs. The ISO had noted in the March 23 Filing that the implementation of the effectiveness threshold could result in LAP prices that fail to reflect fully some local congestion that the LAP load was not sufficiently

²³ *Id.*
²⁴ PG&E at 2.

effective in relieving. Although the ISO believes that it is calculating LMPs correctly in accordance with the tariff, both for individual nodes and LAPs, the ISO commits to include this question in its analysis of the effectiveness threshold and to discuss this issue further with PG&E and any other interested market participants. In particular, the ISO will include in this an analysis of the ISO's procedures that publish and settle prices that are based on the weighted average price of the constituent Pricing Nodes which is the Aggregate Pricing Node price and not the aggregate node price, which would apply instead the threshold at the aggregate LAP. The ISO will analyze if there are any systematic consequences of this procedure such as the potential for price and bid dispatch inconsistency. Again, the ISO believes that more actual experience during congested operating periods is necessary to assess whether any changes are required to the LAP price calculations in light of the effectiveness threshold setting. The ISO therefore proposes to conduct more thorough, detailed analysis and to recommend any modifications that may be needed to the effectiveness threshold or the LAP price calculation methodology no later than the time frame proposed above.

III. CONCLUSION

Wherefore, for all the reasons stated above, the CAISO respectfully requests that the Commission accept the March 23 Filing as filed.

Respectfully submitted,

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Dated: April 28, 2009

Certificate of Service

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service lists compiled by the Secretary in the above-captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 28th day of April, 2009 at Washington, D.C.

/s/ Michael Kunselman

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