

California ISO Conformed Tariff as of January 12, 2001

IMPORTANT NOTE:

The Tariff is current through January 12, 2001; however, it does include tariff sheets that the Commission has not yet acted upon¹. For your convenience, these tariff changes are shown in black-line form at the back of this binder at tab entitled "BLACK-LINES INCORPORATED IN TARIFF."

In addition, this Tariff also includes revisions to Section 28 of the Tariff proposed in Amendment No. 31 to the California ISO Tariff and subsequently rejected by the Commission San Diego Gas & Electric Company (Complainant) v. Sellers of Energy and Ancillary Services into Markets Operated by the California, Independent System Operator and the California Power Exchange (Respondents), 93 FERC 61,121 (November 1, 2001). Rehearing is pending.

For any subsequent tariff amendments, black-line tariff changes will be found on the California ISO web site at www.caiso.com/pubinfo/FERC/filings.

¹ Amendment 30 was originally filed as ER00-3636-000. On October 5, 2000, FERC cancelled this docket number and reassigned the amendment to Docket Nos. EL00-95-000 and EL00-98-000.

This Tariff incorporates all ISO Tariff revisions approved by the Federal Energy Regulatory Commission (the Commission) up to and including Amendment No. 32 to the ISO Tariff, submitted in Docket No. ER01-313 on November 1, 2000, which was accepted by the Commission on December 29, 2000, *California Independent System Operator, et al.*, 93 FERC ¶ 61,337, and Amendment No. 33 to the ISO Tariff, submitted in Docket No. ER01-607 on December 8, 2000, and which was accepted by the Commission on an emergency basis on the same day. However, this Tariff also includes revisions that the Commission has not yet acted upon from the following filings:

- Filing submitted in Docket No. ER00-1365 on May 1, 2000, to comply with the Commission's order on Amendment No. 26, *California Independent System Operator Corp.* 90 FERC ¶ 61,345 (2000)
- Filing submitted in Docket No. ER00-2208 on July 14, 2000, to comply with the Commission's order on Amendment No. 28, *California Independent System Operator Corp.* 91 FERC ¶ 61,256 (2000)
- Filing submitted in Docket No. ER00-2383 on July 31, 2000, and subsequently modified on September 5, 2000, to comply with the Commission's order on Amendment No. 29 *California Independent System Operator Corp.* 91 FERC ¶ 61,324 (2000)
- Filing submitted in Docket No. ER01-819 on December 28, 2000, Amendment No. 34 to the California ISO Tariff (TAC Methodology)
- Filing submitted in Docket No. ER01-836 on December 29, 2000, and subsequently modified on January 12, 2001, Amendment No. 35 to the California ISO Tariff (Semi-Annual Filing)
- Filing submitted to comply with the Commission's order in Docket No. EL00-95-000 et al., *San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California, Independent System Operator and the California Power Exchange*, 93 FERC ¶ 61,294, (2000) on January 2, 2001
- Filing submitted in Docket No. ER01-889-000 on January 4, 2001, Amendment No. 36 to the California ISO Tariff (Temporary Exemption from Creditworthiness Requirement for Certain Classes of Scheduling Coordinators)

Further, this Tariff also includes revisions to Section 28 of the Tariff proposed in Amendment No. 31 to the California ISO Tariff and subsequently rejected by the Commission *San Diego Gas & Electric Company (Complainant) v. Sellers of Energy and Ancillary Services into Markets Operated by the California, Independent System Operator and the California Power Exchange (Respondents)*, 93 FERC ¶ 61,121 (November 1, 2001) rehearing pending.

Agreements. The New Participating TO shall assume responsibility for paying all Scheduling Coordinators charges regardless of whether the New Participating TO elects to become a Scheduling Coordinator or obtains the services of a Scheduling Coordinator.

3.2 Transmission Expansion.

A Participating TO shall be obligated to construct all transmission additions and upgrades within its Service Area that are determined to be needed in accordance with the requirements of this Section 3.2. A Participating TO's obligation to construct such transmission additions and upgrades shall be subject to: (1) its ability, after making a good faith effort, to obtain all necessary approvals and property rights under applicable federal, state, and local laws and (2) the presence of a cost recovery mechanism with cost responsibility assigned in accordance with Section 3.2.7. The obligations of the Participating TO to construct such transmission additions or upgrades will not alter the rights of any entity to construct and expand transmission facilities as those rights would exist in the absence of the TO's obligations under this ISO Tariff or as those rights may be conferred by the ISO or may arise or exist pursuant to this ISO Tariff.

3.2.1 Determination of Need.

The ISO, a Participating TO, or any other Market Participant may determine the need for and propose a transmission system addition. A transmission addition or upgrade is determined to be needed where it would promote economic efficiency or maintain system reliability as set forth below.

3.2.1.1 Economically Driven Projects. The determination that a transmission addition or upgrade is needed to promote economic efficiency shall be made in any of the following ways:

3.2.1.1.1 If the Participating TO or any party questions the economic need for the project (except where the Project Sponsor commits to pay the full cost of construction) the proposal will be submitted to the ISO ADR Procedures for resolution.

3.2.1.1.2 Where a Project Sponsor other than the Participating TO commits to pay the full cost of construction of a transmission addition or upgrade and its operation, and demonstrates to the ISO financial capability to pay those costs, such commitment and demonstration shall be sufficient to demonstrate need. To ensure that the Project Sponsor is financially able to pay the costs of the project to be constructed by the Participating TO, the Participating TO may require (1) a demonstration of creditworthiness (e.g. an appropriate credit rating), or (2) sufficient security in the form of an unconditional and irrevocable letter of credit or other similar security sufficient to meet its responsibilities and obligations for the full costs of the transmission addition or upgrade.

3.2.1.1.3 Where a Project Sponsor asserts that a transmission addition or upgrade is economically beneficial, but that Project Sponsor is unwilling to commit to pay the full cost of the addition or upgrade; where (1) the proposed transmission expansion or upgrade was submitted to the Participating TO but was not included in the transmission expansion plan of that Participating TO in accordance with Section 3.2.2 or (2) the operation date of the planned expansion is not acceptable to the ISO or the Project Sponsor or (3) the Participating TO unreasonably delays implementing or subsequently decides not to proceed with the project, the Project Sponsor may submit its proposal to the ISO ADR Procedure for determination of need. A determination of need shall be made as follows:

3.2.1.1.3.1 The Project Sponsor shall include in its proposal a showing: (1) that the economic benefits of the proposed transmission addition or upgrade are expected to exceed its costs (giving consideration to any reasonable alternatives to the

construction of transmission additions or upgrades), and (2) a proposed pricing methodology for the transmission upgrades that, to the extent practicable, assigns the costs of the planned upgrades to the beneficiaries in proportion to their net benefits.

3.2.1.1.3.2 If neither any Market Participant nor the ISO disputes the Project Sponsor's showing, then the proposal is determined to be needed.

3.2.1.1.3.3 If any Market Participant or the ISO disputes the Project Sponsor's showing, then if the proposed transmission addition or upgrade is determined to be needed, the disputing Market Participant, the ISO, or the Project Sponsor may submit to resolution through the ISO ADR Procedure the issues of (1) whether the transmission addition or upgrade is needed on the ground that its economic benefits exceed its costs, (2) whether the beneficiaries of the transmission addition or upgrade can reasonably be identified, and (3) if so, the identity of those beneficiaries and their respective net benefits. If a Market Participant fails to raise through the ISO ADR Procedure a dispute as to whether a proposed transmission addition or upgrade is needed, or as to the identity, if any, of the beneficiary, then the Market Participant shall be deemed to have waived its right to raise such dispute at a later date. The determination under the ISO ADR Procedure as to whether the transmission addition or upgrade is needed and the identity, if any, of the beneficiaries, including any determination by FERC or on appeal of a FERC determination in accordance with that process, shall be final.

3.2.1.2 Reliability Driven Projects. The ISO or the Participating TO, in coordination with the ISO and Market Participants, through the coordinated planning processes of the WSCC and the RTGs, will identify the need for any transmission additions or upgrades required to ensure system reliability consistent with all Applicable Reliability Criteria. In making this determination, the Participating TO and the ISO, in coordination with the other

Market Participants, shall consider lower cost alternatives to the construction of transmission additions or upgrades, such as acceleration or expansion of existing projects, demand-side management, remedial action schemes, constrained-on Generation, Interruptible Loads or reactive support. The Participating TO shall perform the necessary studies to determine the facilities needed to meet all Applicable Reliability Criteria. The Participating TO shall provide the ISO and other Market Participants with all information relating to a proposed transmission addition or upgrade that they may reasonably request (other than information available to them through the WSCC or RTG) and shall, through the WSCC or RTG coordinated planning processes, develop the scope of and assumptions for such studies that are acceptable to the ISO and those other Market Participants. The ISO shall be free to propose any transmission upgrades it deems necessary to ensure System Reliability consistent with Applicable Reliability Criteria and subject to appropriate appeals, the TO shall be obligated to construct such lines. After the ISO Operations Date, the ISO, in consultation with Participating TOs and any affected UDCs, will work to develop a consistent set of reliability criteria for the ISO Controlled Grid which the TOs will use in their transmission planning and expansion studies or decisions.

3.2.2 Transmission Planning and Coordination.

The ISO shall actively participate with each Participating TO and the other Market Participants in the ISO Controlled Grid planning process in accordance with the terms of this ISO Tariff and the Transmission Control Agreement.

3.2.2.1 Each Participating TO shall develop annually a transmission expansion plan covering a minimum five-year planning horizon for its service area. Such Participating TO shall coordinate with the ISO and other Market Participants in the development of such plan. The Participating TO shall be responsible for ensuring that its transmission expansion plan meets all Applicable Reliability Criteria.

3.2.2.2 The ISO shall review the Participating TOs' transmission expansion plans to ensure that each Participating TO's expansion plans meet the Applicable Reliability Criteria. The Participating TO will provide the necessary assistance and information as part of the coordinated planning process to the ISO to enable it to carry out its own studies for these purposes. If the ISO finds that the Participating TO's plan or projects do not meet the Applicable Reliability Criteria, the ISO will provide comments and the Participating TO will reassess its plans, as appropriate. The ISO may also propose new projects or suggest project changes (*e.g.*, timing, project size) for consideration by the Participating TO. Changes or additions made by the ISO and accepted by the TO will be included in the Participating TO's expansion plan. Changes or additions not accepted in the coordinated planning process will be resolved through the ISO ADR Procedure.

3.2.2.3 The Participating TO will act as a Project Sponsor for Participating TO proposed economic or reliability projects that are included in its expansion plan. The Participating TO shall provide to the ISO any information that the ISO requires to enable the ISO to comply with WSCC and RTG regional coordination requirements pursuant to Section 3.2.6.

3.2.2.4 The ISO will be a member of the WSCC and applicable RTGs (including WRTA) and participate in WSCC's operation and planning committees, and in the applicable RTG coordinated planning process. No Participating TO, Market Participant nor the ISO shall take any position before the WSCC or an RTG that is inconsistent with a binding decision reached through the ISO ADR Procedure.

3.2.3 Studies to Determine Facilities to be Constructed.

Where a Participating TO is obligated to construct or expand facilities in accordance with this ISO Tariff or where the ISO or any Market Participant requests that a Facility Study be

carried out, the Participating TO (in coordination with the ISO or the relevant Market Participants as the case may require), shall perform the necessary study or studies to determine the appropriate facilities to be constructed in accordance with the terms set forth in the TO Tariff. The scope of and assumptions for any studies requested by Market Participants sponsoring a transmission addition or upgrade on economic grounds shall be acceptable to the Project Sponsors and the ISO. Any dispute relating to a Facility Study Agreement (including any dispute over the scope of the study or its assumptions) shall be resolved through the ISO ADR Procedures.

3.2.4 Operational Review.

The ISO will perform an operational review of all facilities that are to be connected to, or made part of, the ISO Controlled Grid to ensure that the facilities being proposed provide for acceptable operating flexibility and meet all its requirements for proper integration with the ISO Controlled Grid. If the ISO finds that such facilities do not provide for acceptable operating flexibility or do not adequately integrate with the ISO Controlled Grid, the Participating TO will reassess its determination of the facilities required to be constructed.

3.2.5 State and Local Approval and Property Rights.

3.2.5.1 The Participating TO shall be obligated to make a good faith effort to obtain all approvals and property rights under applicable federal, state and local laws that are necessary to complete the construction of transmission additions or upgrades required to be constructed in accordance with this ISO Tariff. This obligation includes the Participating TO's use of eminent domain authority, where provided by state law.

3.2.5.2 If the Participating TO cannot secure any such necessary approvals or property rights and consequently is unable to construct a transmission addition or upgrade, it shall

promptly notify the ISO and the Project Sponsor and shall comply with its obligations under the TO Tariff to convene a technical meeting to evaluate alternative proposals. The ISO shall take such action as it reasonably considers appropriate, in coordination with the Participating TO, the Project Sponsor (if any) and other affected Market Participants, to facilitate the development and evaluation of alternative proposals including, where possible, conferring on a third party the right to build the transmission addition or upgrade.

3.2.5.3 Where it is possible for a third party to obtain all approvals and property rights under applicable federal, state and local laws that are necessary to complete the construction of transmission additions or upgrades required to be constructed in accordance with this ISO Tariff (including the use of eminent domain authority, where provided by state law) the ISO may confer on a third party the right to build the transmission addition or upgrade which shall enter into the Transmission Control Agreement in relation to such transmission addition or upgrade.

3.2.6 WSCC and RTG Coordination.

The Project Sponsor will have responsibility for completing any applicable WSCC or RTG regional coordination and rating study requirements to ensure that a proposed transmission addition or upgrade meets regional planning requirements. The Project Sponsor may request the Participating TO to perform this coordination on behalf of the Project Sponsor at the Project Sponsor's expense.

3.2.7 Cost Responsibility for Transmission Expansions or Upgrades.

Cost responsibility for transmission additions or upgrades constructed pursuant to this Section 3.2 (including the responsibility for any costs incurred under Section 3.2.6) shall be determined as follows:

3.2.7.1 Where a Project Sponsor commits to pay the full cost of a transmission addition or upgrade as set forth in Section 3.2.1.1.2, the full costs shall be borne by the Project Sponsor.

3.2.7.2 Where the need for a transmission addition or upgrade is determined by the ISO or as a result of the ISO ADR Procedure as set forth in Section 3.2.1.1.3, the costs shall be borne by the beneficiaries, in the approximate relative proportions by which they benefit, if those beneficiaries and such proportions can reasonably be determined.

3.2.7.3 If specific beneficiaries cannot be reasonably identified then the cost of the transmission addition or upgrade borne by the Participating TO that is the owner of the transmission addition or upgrade shall be reflected in its Access Charge. Each of the Project Sponsors and specifically identified beneficiaries shall be entitled to receive:

- (a) its share of the Wheeling revenues attributable to the transmission addition or upgrade which shall be allocated to each of the Project Sponsors and specifically identified beneficiaries in the proportion that the cost of the transmission addition or upgrade borne by it bears to the total cost of the transmission addition or upgrade; and
- (b) a share of any Congestion Charges for the use of a Congested Inter-Zonal Interface of which the transmission addition or upgrade forms part in the proportion that the incremental transmission capacity of the Inter-Zonal Interface the cost of which has been allocated to it bears to its total transmission capacity

3.2.7.4 Once a New Participating TO has executed the Transmission Control Agreement and it has become effective, the cost for New High Voltage Facilities for all Participating TOs shall be included in the ISO Grid wide component of the High Voltage Access Charge in accordance with Schedule 3 of Appendix F. The

Participating TO who is supporting the cost of the New High Voltage Facility shall include such costs in its High Voltage Transmission Revenue Requirement, regardless of which TAC Area the facility is geographically located.

3.2.8 Ownership of and Charges for Expansion Facilities.

3.2.8.1 All transmission additions and upgrades constructed in accordance with this Section 3.2 shall form part of the ISO Controlled Grid and shall be operated and maintained by a Participating TO in accordance with the Transmission Control Agreement.

3.2.8.2 The Participating TO which owns or operates transmission additions and upgrades constructed in accordance with this Section 3.2 shall provide access to them and charge for their use in accordance with this ISO Tariff and the TO Tariff.

3.2.9 Expansion by Local Furnishing Participating TOs.

Notwithstanding any other provision of this ISO Tariff, a Local Furnishing Participating TO shall not be obligated to construct or expand facilities, (including interconnection facilities as described in Section 8 of the TO Tariff) unless the ISO or Project Sponsor has tendered an application under FPA Section 211 that requests FERC to issue an order directing the Local Furnishing TO to construct such facilities pursuant to Section 3.2 of the ISO Tariff. The Local Furnishing TO shall, within 10 days of receiving a copy of the Section 211 application, waive its right to a request for service under FPA Section 213(a) and to the issuance of a proposed order under FPA Section 212(c). Upon receipt of a final order from FERC that is no longer subject to rehearing or appeal, such Local Furnishing TO shall construct such facilities in accordance with this Section 3.2.

12.6 Payments.

Any payments agreed to between Market Participants and the ISO as a result of an audit, or directed by FERC, or disclosed by the ISO in reviews of its own books and records shall include interest computed at the rate calculated in accordance with the methodology specified for interest on refunds in FERC's regulations at 18 C.F.R § 35.19(a)(2)(III) (as amended from time to time) from the due date to the date such adjustments are due.

13. DISPUTE RESOLUTION.

13.1 Applicability.

13.1.1 General Applicability.

Except as limited below or otherwise as limited by law (including the rights of any party to file a complaint with FERC under the relevant provisions of the FPA), the ISO ADR Procedures shall apply to all disputes between parties which arise under the ISO Documents except where the decision of the ISO is stated in the provisions of this ISO Tariff to be final. The ISO ADR Procedures shall not apply to:

13.1.1.1 Disputes arising under contracts which pre-date the ISO Operations Date, except as the disputing parties may otherwise agree;

13.1.1.2 Disputes as to whether rates and charges set forth in this ISO Tariff are just and reasonable under the FPA.

13.1.2 Disputes Involving Government Agencies.

13.1.2.1 If a party to a dispute is a government agency the procedures herein which provide for the resolution of claims and arbitration of disputes are subject to any limitations imposed on the agency by law, including but not limited to the authority of the agency to effect a remedy. If the governmental agency is a federal entity, the procedures

herein shall not apply to disputes involving issues arising under the United States Constitution.

13.1.3 Injunctive and Declaratory Relief.

Where the court having jurisdiction so determines, use of the ISO ADR Procedures shall not be a condition precedent to a court action for injunctive relief nor shall the provisions of California Code of Civil Procedures sections 1281 *et seq.* apply to such court actions.

13.2 Negotiation and Mediation.

13.2.1 Negotiation.

The ISO and Market Participants (party or parties) shall make good-faith efforts to negotiate and resolve any dispute between them arising under ISO Documents prior to invoking the ISO ADR Procedures outlined herein. Each party shall designate an individual with authority to negotiate the matter in dispute to participate in such negotiations.

13.2.2 Statement of Claim.

In the event a dispute is not resolved through such good-faith negotiations, any one of the parties may submit a statement of claim, in writing, to each other disputing party, the ISO ADR Committee, and the ISO Governing Board, which submission shall commence the ISO ADR Procedures. The statement of claim shall set forth in reasonable detail (i) each claim, (ii) the relief sought, including the proposed award, if applicable, (iii) a summary of the grounds for such relief and the basis for each claim, (iv) the parties to the dispute, and (v) the individuals having knowledge of each claim. The other parties to the dispute shall similarly submit their respective statements of claim within fourteen (14) days of the date of the initial statement of claim or such longer period as the chair of the ISO ADR Committee may permit following an application by the responding party. If any responding party

wishes to submit a counterclaim in response to the statement of claim, it shall be included in such party's responsive statement of claim. A summary of the statements of claim shall be published by the ISO in the ISO newsletter or WEnet, and any other method adopted by the ISO ADR Committee. No Market Participant shall be considered as having received notice of a claim decided or relief granted by a decision made under these procedures unless the summary of the statements of claim published by the ISO includes such claim or relief.

13.2.3 Selection of Mediator.

After submission of the statements of claim, the parties may request mediation, if at least 75% of the disputing parties so agree, except that where a dispute involves three parties, at least two of the parties must agree to mediation. If the parties agree to mediate, the chair of the ISO ADR Committee shall distribute to the parties by facsimile or other electronic means a list containing the names of at least seven prospective mediators with mediation experience, or with technical or business experience in the electric power industry, or both, as he or she shall deem appropriate to the dispute. The parties shall either agree upon a mediator from the list provided or from any alternative source, or alternate in striking names from the list with the last name on the list becoming the mediator. The first party to strike off a name from the list shall be determined by lot. The parties shall have seven days from the date of receipt of the ISO ADR Committee chair's list of prospective mediators to complete the mediator selection process and appoint the mediator, unless the time is extended by mutual agreement. The mediator shall comply with the requirements of Section 13.3.2.

13.2.4 Mediation.

The mediator and representatives of the disputing parties, with authority to settle the dispute, shall within fourteen (14) days after the mediator's date of appointment schedule a

date to mediate the dispute. Matters discussed during the mediation shall be confidential and shall not be referred to in any subsequent proceeding. With the consent of all disputing parties, a resolution may include referring the dispute directly to a technical body (such as a WSCC technical advisory panel) for resolution or an advisory opinion, or referring the dispute directly to FERC. The ISO shall publish notice of the referral of the dispute in the ISO newsletter or WEnet, and any other method adopted by the ISO ADR Committee.

13.2.5 Demand for Arbitration.

If the disputing parties have not succeeded in negotiating a resolution of the dispute within thirty (30) days of the initial statement of claim or, if within that period the parties agreed to mediate, within thirty (30) days of the parties first meeting with the mediator, such parties shall be deemed to be at impasse and any such disputing party may then commence the arbitration process, unless the parties by mutual agreement agree to extend the time. A party seeking arbitration shall provide notice of its demand for arbitration to the other disputing parties, the ISO ADR Committee and the ISO Governing Board, which shall publish notice of such demand in the ISO newsletter or electronic bulletin board, and any other method adopted by the ISO ADR Committee.

13.3 Arbitration.

13.3.1 Selection of Arbitrator.

13.3.1.1 Disputes Under \$1,000,000. Where the total amount of claims and counterclaims in controversy is less than \$1,000,000 (exclusive of costs and interest), the disputing parties shall select an arbitrator from a list containing the names of at least 10 qualified individuals supplied by the ISO ADR Committee, or if the ISO is a party to the dispute, the names of at least ten (10) qualified individuals supplied by the American

Arbitration Association within 14 days following submission of the demand for arbitration. If the parties cannot agree upon an arbitrator within the stated time, they shall take turns striking names from the list of proposed arbitrators. The first party to strike-off a name shall be determined by lot. This process shall be repeated until one name remains on the list, and that individual shall be the designated arbitrator.

13.3.1.2 Disputes of \$1,000,000 or Over. Where the total amount of claims and counterclaims in controversy is \$1,000,000 or more (exclusive of interest and costs), the disputing parties may agree on any person to serve as a single arbitrator, or shall endeavor in good faith to agree on a single arbitrator from a list of ten (10) qualified individuals provided by the ISO ADR Committee, or if the ISO is a party to the dispute, the names of at least ten (10) qualified individuals supplied by the American Arbitration Association within fourteen (14) days following submission of the demand for arbitration. If the parties are unable to agree on a single arbitrator within the stated time, the party or parties demanding arbitration, and the party or parties responding to the demand for arbitration, shall each designate an arbitrator. Each designation shall be from the ISO ADR Committee list of arbitrators no later than the tenth (10th) day thereafter. The two arbitrators so chosen shall then choose a third arbitrator.

13.3.2 Disclosures Required of Arbitrators.

The designated arbitrator(s) shall be required to disclose to the parties any circumstances which might preclude him or her from rendering an objective and impartial determination. Each designated arbitrator shall disclose:

13.3.2.1 Any direct financial or personal interest in the outcome of the arbitration;

13.3.2.2 Any information required to be disclosed by California Code of Civil Procedure Section 1281.9; and

13.3.2.3 Any existing or past financial, business, professional, or personal interest that are likely to affect impartiality or might reasonably create an appearance of partiality or bias. The designated arbitrator shall disclose any such relationships that he or she personally has with any party or its counsel, or with any individual whom they have been told will be a witness. They should also disclose any such relationship involving members of their families or their current employers, partners, or business associates. All designated arbitrators shall make a reasonable effort to inform themselves of any interests or relationships described above. The obligation to disclose interests, relationships, or circumstances that might preclude an arbitrator from rendering an objective and impartial determination is a continuing duty that requires the arbitrator to disclose, at any stage of the arbitration, any such interests, relationships, or circumstances that arise, or are recalled or discovered. If, as a result of the continuing disclosure duty, an arbitrator makes a disclosure which is likely to affect his or her impartiality, or might reasonably create an appearance of partiality or bias or if a party independently discovers the existence of such circumstances, a party wishing to object to the continuing use of the arbitrator must provide written notice of its objection to the other parties within ten (10) days of receipt of the arbitrator's disclosure or the date of a party's discovery of the circumstances giving rise to that party's objection. Failure to provide such notice shall be deemed a waiver of such objection. If a party timely provides a notice of objection to the continuing use of the arbitrator the parties shall attempt to agree whether the arbitrator should be dismissed and replaced in the manner described in Section 13.3.1. If within ten (10) days of a party's objection notice the parties have not agreed how to proceed the matter shall be referred to the ISO ADR Committee for resolution.

13.3.3 Arbitration Procedures.

The ISO ADR Committee shall compile and make available to the arbitrator and the parties standard procedures for the arbitration of disputes, which procedures (i) shall include provision, upon good cause shown, for intervention or other participation in the proceeding by any party whose interests may be affected by its outcome, (ii) shall conform to the requirements specified herein, and (iii) may be modified or adopted for use in a particular proceeding as the arbitrator deems appropriate, in accordance with Section 13.3.4. The procedures adopted by the ISO ADR Committee shall be based on the latest edition of the American Arbitration Association Commercial Arbitration Rules, to the extent such rules are not inconsistent with this Section 13. Except as provided herein, all parties shall be bound by such procedures.

13.3.4 Modification of Arbitration Procedures.

In determining whether to modify the standard procedures for use in the pending matter, the arbitrator shall consider (i) the complexity of the dispute, (ii) the extent to which facts are disputed, (iii) the extent to which the credibility of witnesses is relevant to a resolution, (iv) the amount in controversy, and (v) any representations made by the parties. Alternatively, the parties may, by mutual agreement, modify the standard procedures. In the event of a disagreement between the arbitrator and the agreement of the parties regarding arbitration procedures to be utilized, the parties' agreement shall prevail.

13.3.5 Remedies.

13.3.5.1 Arbitrator's Discretion. The arbitrator shall have the discretion to grant the relief sought by a party, or determine such other remedy as is appropriate, unless the parties agree to conduct the arbitration "baseball" style. Unless otherwise expressly limited herein, the arbitrator shall have the authority to award any remedy or relief available

from FERC, or any other court of competent jurisdiction. Where any ISO Document leaves any matter to be agreed between the parties at some future time and provides that in default of agreement the matter shall be referred to the ISO ADR Procedures, the arbitrator shall have authority to decide upon the terms of the agreement which, in the arbitrator's opinion, it is reasonable that the parties should reach, having regard to the other terms of the ISO Document concerned and the arbitrator's opinion as to what is fair and reasonable in all the circumstances.

13.3.5.2 "Baseball" Arbitration. If the parties agree to conduct the arbitration "baseball" style, the parties shall submit to the arbitrator and exchange with each other their last best offers in the form of the award they consider the arbitrator should make, not less than seven (7) days in advance of the date fixed for the hearing, or such other date as the arbitrator may decide. If a party fails to submit its last best offer in accordance with this Section, that party shall be deemed to have accepted the offer proposed by the other party. The arbitrator shall be limited to awarding only one of the proposed offers, and may not determine an alternative or compromise remedy.

13.3.6 Summary Disposition.

The procedures for arbitration of a dispute shall provide a means for summary disposition of a demand for arbitration, or a response to a demand for arbitration, that in the reasoned opinion of the arbitrator does not have a good faith basis in either law or fact. If the arbitrator determines that a demand for arbitration or response to a demand for arbitration does not have a good faith basis in either law or fact, the arbitrator shall have discretion to award the costs of the time, expenses, and other charges of the arbitrator to the prevailing party. A determination made under this Section is subject to appeal pursuant to Section 13.4.

13.3.7 Discovery Procedures.

The procedures for the arbitration of a dispute shall include adequate provision for the discovery of relevant facts, including the taking of testimony under oath, production of documents and other things, the presentation of evidence, the taking of samples, conducting of tests, and inspection of land and tangible items. The nature and extent of such discovery shall be determined as provided herein and shall take into account (i) the complexity of the dispute, (ii) the extent to which facts are disputed, (iii) the extent to which the credibility of witnesses is relevant to a resolution, and (iv) the amount in controversy. The forms and methods for taking such discovery shall be as described in the Federal Rules of Civil Procedure, except as modified pursuant to Section 13.3.4.

13.3.8 Evidentiary Hearing.

The arbitration procedures shall provide for an evidentiary hearing, with provision for the cross-examination of witnesses, unless all parties consent to the resolution of the matter on the basis of a written record. The forms and methods for taking evidence shall be determined by the arbitrator(s) and modified pursuant to Section 13.3.4. The arbitrator may require such written or other submissions from the parties as he or she may deem appropriate, including submission of direct and rebuttal testimony of witnesses in written form. The arbitrator may exclude any evidence that is irrelevant, immaterial, unduly repetitious or prejudicial, or privileged. The arbitrator shall compile a complete evidentiary record of the arbitration which shall be available to the parties on its completion upon request.

13.3.9 Confidentiality.

Subject to the other provisions of this ISO Tariff, any party may claim that information contained in a document otherwise subject to discovery is "Confidential" if such

Information would be so characterized under the Federal Rules of Evidence. The party making such claim shall provide to the arbitrator in writing the basis for its assertion. If the claim of confidentiality is confirmed by the arbitrator, he or she shall establish requirements for the protection of such documents or other information designated as "Confidential" as may be reasonable and necessary to protect the confidentiality and commercial value of such information. Any party disclosing information in violation of these provisions or requirements established by the arbitrator, unless such disclosure is required by federal or state law or by a court order, shall thereby waive any right to introduce or otherwise use such information in any judicial, regulatory, or other legal or dispute resolution proceeding, including the proceeding in which the information was obtained.

13.3.10 Timetable.

Promptly after the appointment of the arbitrator, the arbitrator shall set a date for the issuance of the arbitration decision, which shall be no later than six months (or such date as the parties and the arbitrator may agree) from the date of the appointment of the arbitrator, with other dates, including the dates for an evidentiary hearing or other final submissions of evidence, set in light of this date. The date for the evidentiary hearing or other final submission of evidence shall not be changed, absent extraordinary circumstances. The arbitrator shall have the power to impose sanctions, including dismissal of the proceeding, for dilatory tactics or undue delay in completing the arbitration proceedings.

13.3.11 Decision.

13.3.11.1 Except as provided below with respect to "baseball" style arbitration, the arbitrator shall issue a written decision granting the relief requested by one of the parties, or such other remedy as is appropriate, if any, and shall include findings of fact and law. The arbitration decision shall be based on (i) the evidence in the record, (ii) the terms of

the relevant ISO Documents, (iii) applicable United States federal law, including the FPA and any applicable FERC regulations and decisions, and international treaties or agreements as applicable, and (iv) applicable state law. Additionally, the arbitrator may consider relevant decisions in previous arbitration proceedings. A summary of the disputed matter and the arbitrator's decision shall be published in an ISO newsletter or electronic bulletin board and any other method adopted by the ISO ADR Committee, and maintained by the ISO ADR Committee.

13.3.11.2 In arbitration conducted "baseball" style, the arbitrator shall issue a written decision adopting one of the awards proposed by the parties, and shall include findings of fact and law. The arbitration decision shall be based on (i) the evidence in the record, (ii) the terms of the relevant ISO Documents, (iii) applicable United States federal law, including the FPA and any applicable FERC regulations and decisions, and international treaties or agreements as applicable, and (iv) applicable state law. If the arbitrator concludes that no proposed award is consistent with the factors enumerated in (i) through (iv) above, or addresses all of the issues in dispute, the arbitrator shall specify how each proposed award is deficient and direct that the parties submit new proposed awards that cure the identified deficiencies. A summary of the disputed matter and the arbitrator's decision shall be published in an ISO newsletter or electronic bulletin board, and any other method adopted by the ISO ADR Committee. An award shall not be deemed to be precedential.

13.3.11.3 Where a panel of arbitrators is appointed pursuant to Section 13.3.1.2, a majority of the arbitrators must agree on the decision.

13.3.12 Compliance.

Unless the arbitrator's decision is appealed under Section 13.4, the disputing parties shall, upon receipt of the decision, immediately take whatever action is required to comply with

the award to the extent the award does not require regulatory action. An award that is not appealed shall be deemed to have the same force and effect as an order entered by the FERC or any court of competent jurisdiction.

13.3.13 Enforcement.

Following the expiration of the time for appeal of an award pursuant to Section 13.4.3, any party may apply to FERC or any court of competent jurisdiction for entry and enforcement of judgment based on the award.

13.3.14 Costs.

The costs of the time, expenses, and other charges of the arbitrator shall be borne by the parties to the dispute, with each side on an arbitrated issue bearing its pro-rata share of such costs, and each party to an arbitration proceeding bearing its own costs and fees. If the arbitrator determines that a demand for arbitration or response to a demand for arbitration was made in bad faith, the arbitrator shall have discretion to award the costs of the time, expenses, and other charges of the arbitrator to the prevailing party. Notwithstanding the above, at the discretion of the arbitrator, the winning party in any dispute which has resulted in the enforcement of an important right affecting the public interest shall not be required to pay any of the costs of the arbitrator and may recover such of its own reasonable attorney fees, expert witness fees and other reasonable costs from the losing party to the dispute if (a) a significant benefit, whether pecuniary or non-pecuniary, has been conferred on the general public, (b) the necessity and financial burden of private enforcement are such as to make the award appropriate, and (c) such fees should not, in the interest of justice, be paid out of the recovery.

13.4 Appeal of Award.

13.4.1 Basis for Appeal.

A party may apply to the FERC or any court of competent jurisdiction to hear an appeal of an arbitration award only upon the grounds that the award is contrary to or beyond the scope of the relevant ISO Documents, United States federal law, including, without limitation, the FPA, and any FERC regulations and decisions, or state law. Appeals shall, unless otherwise ordered by FERC or the court of competent jurisdiction, conform to the procedural limitations set forth in this Section 13.4.

13.4.2 Appellate Record.

The parties intend that FERC or the court of competent jurisdiction should afford substantial deference to the factual findings of the arbitrator. No party shall seek to expand the record before the FERC or court of competent jurisdiction beyond that assembled by the arbitrator, except (i) by making reference to legal authority which did not exist at the time of the arbitrator's decision, or (ii) if such party contends the decision was based upon or affected by fraud, collusion, corruption, misconduct or misrepresentation.

13.4.3 Procedures for Appeals.

13.4.3.1 If a party to an arbitration desires to appeal an award, it shall provide a notice of appeal to the ISO Governing Board, all parties and the arbitrator within 14 days following the date of the award. The appealing party must likewise provide notice to the ISO ADR Committee, which shall publish notice of the appeal in an ISO newsletter or on WEnet, and any other method adopted by the ISO ADR Committee.

Within ten (10) days of the filing of the notice of appeal, the appealing party must file an appropriate application, petition or motion with the FERC to trigger review under the FPA

or with a court of competent jurisdiction. Such filing shall state that the subject matter has been the subject of an arbitration pursuant to the relevant ISO Document.

13.4.3.2 Within 30 days of filing the notice of appeal (or such period as FERC or the court of competent jurisdiction may specify) the appellant shall file the complete evidentiary record of the arbitration and a copy of the award with FERC or with the court of competent jurisdiction. The appellant shall serve copies of a description of all materials included in the submitted evidentiary record.

13.4.4 Award Implementation.

Implementation of the award shall be deemed stayed pending an appeal unless and until, at the request of a party, the FERC or the court of competent jurisdiction to which an appeal has been filed, issues an order dissolving, shortening, or extending such stay. However, a summary of each appeal shall be published in an ISO newsletter or electronic bulletin board, and any other method adopted by the ISO ADR Committee.

13.4.5 Judicial Review of FERC Orders.

FERC orders resulting from appeals shall be subject to judicial review pursuant to the FPA.

13.5 Allocation of Awards Payable by or to the ISO.

13.5.1 Allocation of an Award.

If the ISO must pay an award to a party pursuant to good faith negotiations or the ISO ADR Procedures, the ISO will recover the amount of the award from Market Participants and Scheduling Coordinators. If the ISO receives an award from a party pursuant to good faith negotiations or the ISO ADR Procedures, the ISO will flow back the amount of the award to Market Participants and Scheduling Coordinators.

13.5.2 Timing of Adjustments.

Upon determination that an award is payable by or to the ISO pursuant to good faith negotiations or the ISO ADR Procedures, the ISO shall calculate the amounts payable to and receivable from the party, Market Participants, and Scheduling Coordinators, as soon as reasonably practical, and shall show any required adjustments as a debit or a credit in a subsequent Preliminary Settlement Statement.

13.5.3 Method of Allocation.

13.5.3.1 Allocation to Market Participants.

The ISO will use best efforts to determine which Market Participant(s) is or are responsible for and/or benefit from payment of an award by or to the ISO and to allocate receipt of or payment for the award equitably to such Market Participant(s). In undertaking the allocation, the ISO shall consider the extent of a Market Participant's participation in affected markets and the ISO Tariff in effect on the applicable Trading Day(s), and may consider any other relevant factor, including but not limited to, applicable contracts.

13.5.3.2 Residual Amounts.

Any awards for which the ISO is unable to identify Market Participants in accordance with 13.5.3.1 and any award amounts that the ISO is unable to collect that are not covered by Section 11.16.1 will be allocated to all Scheduling Coordinators through Neutrality Adjustments.