

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

<b>Shell Energy North America (US), L.P.)</b>	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>Docket No. EL12-88-000</b>
	)	
<b>California Independent System</b>	)	
<b>Operator Corporation,</b>	)	
<b>Respondent</b>	)	

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION TO COMPLAINT**

The California Independent System Operator Corporation (ISO) hereby submits its answer to the complaint filed in this proceeding by Shell Energy North America (US) L.P. (Shell) on May 21, 2012.<sup>1</sup> Shell alleges that the ISO's imposition of a tariff-defined penalty for Shell's late submission of meter data is unjust and unreasonable and thus violates section 206 of the Federal Power Act.

Shell does not contest that it violated the tariff provision in question. Nor does it claim that the ISO improperly applied or violated its tariff. Instead, Shell claims that the penalty is unjust and unreasonable because Shell's violation was caused by the actions of a third party – Southern California Edison Company (Edison). Shell states that under rules established by the California Public Utilities Commission (CPUC) it must rely on Edison to provide the meter data that Shell then submits to the ISO. Shell argues that Edison provided late revisions to the data and thus Edison is the true party at fault. Shell further argues that these events reflect greater problems in the ISO's meter data

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<sup>1</sup> The ISO submits this filing pursuant to Rules 206(f) and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.206(f), 385.213.

submission process. Shell urges the Commission to: (1) order the ISO to make specific tariff amendments; and (2) investigate what Shell claims is a general breakdown in the integrity of the ISO's settlements process.

Shell's complaint is founded on several basic misunderstandings of the ISO's authority, the nature of meter data, and the Commission-approved manner in which the ISO settles its markets and the sound policies underlying the ISO's settlements framework. In each of these areas, it is the CPUC, not FERC, which is in the best position to address Shell's concerns. Shell's flawed understanding of how the CPUC factors into the meter data process drives Shell's unsubstantiated and unsupported claim that the Commission must investigate the ISO's settlements process. It also renders moot Shell's request for tariff amendments. Furthermore, many of the core claims Shell makes have already been considered and rejected by the Commission in prior proceedings. Shell's complaint thus represents a collateral attack on the Commission's prior decisions. While Shell might present a case that is sympathetic on its face, its true dispute is not with the ISO, it is with the party that it has arranged with to read meters and report the meter data to it. That dispute is outside of the ISO tariff and must be resolved by the CPUC, not FERC.

To address Shell's concerns, the ISO is prepared to consult with the CPUC and other relevant parties to explore potential ways to accommodate Shell and similarly situated entities. However, any future changes would need to address issues comprehensively, recognize the CPUC's role in this matter, and result from a collaborative process rather than through a litigated Commission proceeding between the ISO and a single market participant.

## I. BACKGROUND

On July 5, 2012 the ISO issued a settlement statement to Shell that included a \$1,042.78 sanction for violating section 37.5.2.1 of the ISO tariff. Section 37.5.2.1 of the ISO tariff requires market participants to “provide complete and accurate Settlement Quality Meter Data for each Trading Hour.” The penalty for violating section 37.5.2.1 is delineated in section 37.11. As it existed during the period of Shell’s violation and as applied to Shell’s violation, section 37.11 provides for a penalty of 30% of the value of the misreported meter data.<sup>2</sup> This penalty is in addition to a market adjustment that, according to section 37.11, “approximates the financial impact on the market” from the meter data error.

Shell’s sanction relates to meter data it submitted for the September 3, 2011 trading day. Shell submitted meter data by the then-applicable T+43C submission deadline for that trading day.<sup>3</sup> Then, on November 14, 2011 it submitted revised data for the September 3 trading day. This submission of revised data after T+43C triggered the penalties that are the subject of Shell’s complaint.

Shell does not dispute that it submitted revised data after the deadline. Instead it claims that the resubmission was the unavoidable consequence of another party’s failure. Shell, serving as its own scheduling coordinator, submitted the meter data in its role as an electric service provider (ESP).<sup>4</sup> ESPs rely on a meter data management

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<sup>2</sup> Under the then-effective Commission-approved version of section 37.11, the penalty varies depending on whether the scheduling coordinator or the ISO identified the error and whether the misreported data was to the benefit or detriment of the scheduling coordinator. Because Shell identified the error and because the error was to Shell’s benefit, the penalty is 30% of the value of the error.

<sup>3</sup> The currently effective meter data submission deadline is T+48B. The currently effective penalty is \$1,000 per late submission.

<sup>4</sup> In California’s regulatory environment, the term “electric service provider” is a load serving entity that serves direct access customers. See CAL. PUB. UTIL. CODE § 218.3 (defining “electric service provider”). Direct access is the term in California for retail choice.

agent (MDMA) to read customer meters, validate the data, and then provide that data to the ESP.<sup>5</sup> The ESP then provides that data through a scheduling coordinator to the ISO for settlement purposes. Edison serves as Shell's MDMA for the meter data in question.<sup>6</sup>

The meter data at issue relates to a single Shell customer that has 15 separate meters. According to Shell, when Edison provided Shell with meter data for the September 3 trading day, Edison provided data for only 14 meters. To meet the ISO's meter data reporting deadline, Shell states that it made a good faith estimate of the missing data and submitted it along with the actual data for the other 14 meters. Shell states that, after the ISO reporting deadline, Edison provided Shell with the missing data for the fifteenth meter. According to Shell, under the CPUC rules governing MDMA's, Edison can submit new or revised meter data to Shell for up to three years. Upon receiving the new data from Edison, Shell in turn submitted revised meter data to the ISO. The actual data was 144 MWH lower than what Shell initially reported to the ISO. Based on this difference in the value of the two meter data submissions, on July 5, 2012 the ISO imposed the 30% sanction identified in, and required by, section 37.11.

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<sup>5</sup> Re Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation, 84 CPUC 2d 365, CPUC D.98-12-080 (Dec. 17, 1998), ("The functions performed by the MDM entity are as follows: 1. Accept raw meter reads from meter reading entity. . . . 4. Validate, edit, and estimate data. . . . 6. Post validated, edited, and estimated data to MDMA server for retrieval by market participants. This might include performing data adjustments, reframing data, or resending previously posted data, as required); Re Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation, 77 CPUC 2d 255, CPUC D.97-12-048 (Dec. 3, 1997) ("the role of the MDMA's are to perform the following functions: . . . . Read and retrieve meter data· Validate, edit and estimate meter data· Calculate usage· Format data").

<sup>6</sup> The investor owned utility in whose service territory the ESP's customers are located may serve as the MDMA. However, third parties may also serve as MDMA's. Re Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation, 77 CPUC 2d 255, CPUC D.97-12-048 (Dec. 3, 1997) ("The ESP or the UDC may subcontract the MDMA services to third parties, and the ESP may subcontract with the UDC to provide such service.").

## II. ARGUMENTS RAISED IN SHELL'S COMPLAINT

As a result of the ISO penalty, Shell filed the instant complaint. Shell raises several claims in its complaint. Shell's primary argument is that Edison is the actual party at fault and, as such, Shell should be excused from the penalty or, in the alternative, the penalty should be assessed against Edison. Shell notes that section 37.5.2 imposes its obligations generally on "Market Participants." Shell further notes that Edison fits the tariff definition of a "Market Participant." Shell argues that, because Edison is subject to section 37.5.2, and had the responsibility for collecting and reporting the meter data to Shell and the ability to obtain accurate data in a timely fashion, Edison is the more appropriate market participant for the ISO to penalize. Shell also asserts that under CPUC rules, Edison has three years to correct the meter data it supplies Shell, yet Shell was penalized for providing the ISO with amended data after T+43C.<sup>7</sup> Shell argues that this mismatch in obligations is unfair and that the ISO should hold MDMA's to the same standard as scheduling coordinators. Finally, Shell claims that under California regulations, investor owned utilities serve as the default MDMA and that ESPs cannot negotiate the terms of service with them. For that reason, Shell asserts that ESPs are not able to pass ISO penalties on to the MDMA's when the penalties arise from late data provided by the MDMA.

Beyond excusing the specific penalty, Shell further requests that the Commission require the ISO to make the following amendments to its tariff:

- Require all market participants, including investor owned utilities and MDMA's, to adhere to the deadlines for providing "complete and accurate" data.
- Align the meter data reporting obligations in the tariff with the meter data reporting requirements adopted by the CPUC.

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<sup>7</sup> Under the current rules the penalty applies at T+48B.

- Where a scheduling coordinator's failure to provide timely meter data is caused by the failure of another market participant to provide complete, accurate, and timely meter data to that scheduling coordinator, impose any meter data penalties on the market participant that failed to provide timely, complete, and accurate data.
- Define what "complete and accurate" means for purposes of sections 37.5.2 and 37.11.

In Shell's view such tariff amendments would prevent future problems for Shell and other scheduling coordinators serving ESPs.

Finally, without providing any specific evidence to support its position, Shell requests that the Commission initiate a generic investigation of the ISO's settlements process because, according to Shell, the process lacks integrity. Shell argues that because "complete and accurate" is not defined, the ISO allows market participants to define it for themselves. Shell claims that market participants' differing practices in this regard lead to systematic differences between actual and reported deliveries from the grid. This, in Shell's account, leads to accumulations in unaccounted for energy (UFE). Because the costs of UFE are spread *pro rata*, Shell argues that scheduling coordinators reporting accurate meter data can be forced to bear the costs of scheduling coordinators that do not report accurate data.

To remedy these alleged problems, Shell urges the Commission to open a broad investigation of the ISO settlements process. Shell believes this process should allow market participants to discuss their respective definitions of "complete and accurate" and should force the ISO to report on the cost-shifting that has occurred as a result of differing definitions of "complete and accurate." Shell states that the "objective of this

investigation should be for the CAISO to adopt a clear definition of ‘complete and accurate’ that is adhered to by all Market Participants.”<sup>8</sup>

### **III. SHELL’S COMPLAINT IS PREMISED ON MISUNDERSTANDINGS, ERRONEOUS ASSUMPTIONS AND UNSUBSTANTIATED CLAIMS**

#### **A. The ISO’s Authority Over Market Participants Is Limited**

The first misapprehension in Shell’s complaint is that the ISO has plenary authority over its market participants with respect to all of their endeavors, including their retail activities that are beyond the scope of the ISO tariff and service agreements. Shell suggests that Edison should be penalized, and that the ISO should amend its tariff to make clear that in similar circumstances in the future, the MDMA will be the entity that the ISO penalizes. The mere fact that Edison is an ISO market participant does not give the ISO *carte blanche* authority over Edison when Edison performs a fundamentally retail activity.

When Edison, or some other third party, performs the MDMA function it is carrying out a retail activity subject to CPUC oversight and is not acting as a participant in the ISO’s FERC-jurisdictional wholesale market.<sup>9</sup> The CPUC is thus the proper entity to set standards of conduct, investigate potential violations of such standards, and establish appropriate penalties where violations occur. Although the ISO has a scheduling coordinator agreement with Edison, that agreement does not address Edison’s role as a MDMA; that role is the subject of a separate relationship between the ESP and the MDMA and is subject to the jurisdiction of the CPUC.

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<sup>8</sup> Shell Complaint at 10.

<sup>9</sup> Several CPUC orders establish the roles and responsibilities of MDMA’s. See Re Proposed Policies Governing Restructuring California’s Electric Services Industry and Reforming Regulation, 84 CPUC 2d 365, CPUC D.98-12-080 (Dec. 17, 1998); Re Proposed Policies Governing Restructuring California’s Electric Services Industry and Reforming Regulation, 77 CPUC 2d 570, CPUC D.97-12-090 (Dec. 16, 1997); Re Proposed Policies Governing Restructuring California’s Electric Services Industry and Reforming Regulation, 77 CPUC 2d 255, CPUC D.97-12-048 (Dec. 3, 1997).

Additionally, Shell's proposed tariff amendment would be an incomplete solution to its alleged problem. Even assuming, *arguendo*, that the ISO could penalize investor owned utilities for action taken in their role as MDMA's (and that FERC had authority to approve such tariff language), Shell's argument ignores the fact that a MDMA would not necessarily be an ISO market participant, let alone a scheduling coordinator.<sup>10</sup> As such, the ISO would not always be in contractual privity with such parties, and they are not necessarily FERC-jurisdictional entities. Importantly, the ISO is not in contractual privity with these entities in their roles as MDMA's or with respect to any related retail functions. The ISO's scheduling coordinator agreements with market participants are not intended to cover functions such as performance of MDMA responsibilities. The functions performed by MDMA's are outside the scope of the ISO tariff and any FERC-approved agreements relating to the ISO. Requiring certain MDMA's to bear penalties simply because they also have generic scheduling coordinator agreements with the ISO would result in some MDMA entities being subject to ISO penalties for retail-related activities and others not being subject to such penalties. That would constitute undue discrimination. For these reasons, an ISO tariff amendment making MDMA's that have scheduling coordinator agreements with the ISO responsible for penalties incurred by the scheduling coordinators they serve (pursuant to contract) is not a reasonable or fair proposal.

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<sup>10</sup> The CPUC provides a list of approved MDMA's on its website (*available at* <http://www.cpuc.ca.gov/PUC/energy/Retail+Electric+Markets+and+Finance/Electric+Markets/Metering/mdmas.htm>). The ISO publishes a list of scheduling coordinators, congestion revenue rights holders, and convergence bidding entities (*available at* [http://www.caiso.com/Documents/List-SchedulingCoordinators\\_CRRHoldersandConvergenceBiddingEntities.pdf](http://www.caiso.com/Documents/List-SchedulingCoordinators_CRRHoldersandConvergenceBiddingEntities.pdf)). Cross-referencing the two lists indicates no overlap.



In recognizing that the CPUC is the appropriate party to regulate the activities of MDMAs, the ISO does not suggest that Edison – or any other MDMA that is also a scheduling coordinator for a load serving entity – is generally immune from meter data penalties incurred in their role as a scheduling coordinator. The scheduling coordinator for the load serving entity (whether it is an ESP or incumbent investor owned utility) is the party responsible under the tariff for submitting meter data for the load serving entity’s customers. That is the appropriate party to penalize when data is not properly submitted. Neither Edison nor any other MDMA is obligated to submit meter data to the ISO for Shell’s (or any ESP’s) customers. Under the ISO tariff, that responsibility lies solely and appropriately with the applicable scheduling coordinator, which in this instance is Shell.<sup>11</sup> However, where Edison, or any other market participant, fails to provide “complete and accurate” meter data as a scheduling customer for its own retail customers, the meter data penalties unquestionably apply. Thus, there is no basis for Shell’s suggestions that some market participants are not subject to sections 37.5.1 and 37.11. The ISO tariff already is quite clear that all scheduling coordinators – when acting as scheduling coordinators – are subject to the meter data submission rules.

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<sup>11</sup> Section 10.3.6.3 states: “Scheduling Coordinators must submit Actual Settlement Quality Meter Data for the Scheduling Coordinator Metered Entities they represent to the CAISO no later than midnight on the forty-eighth (48) Business Day after the Trading Day (T+48B) for the Recalculation Settlement Statement T+55B calculation.” Because Shell acts as its own scheduling coordinator, the obligation to submit meter data by T+48B unquestionably lies with Shell.

**B. The Definition of Meter Data for Load Serving Entities is Fundamentally a Retail Issue**

In alleging that the ISO tariff does not define “complete and accurate” meter data, Shell misapprehends what constitutes meter data.

Under Appendix A of the ISO tariff, “Meter Data” is defined as being either “usage data collected by a metering device” or usage data “derived by the use of Approved Load Profiles.” An “Approved Load Profile” in turn is defined as “Local Regulatory Authority approved Load profiles applied to cumulative End-Use Meter Data in order to allocate consumption of Energy to Settlement Periods.” Additionally, the tariff specifies that scheduling coordinators for “SC Metered Entities” (*i.e.*, load serving entities), submit “Settlement Quality Meter Data,” rather than just meter data. Turning meter data into settlement quality meter data largely involves applying validation, editing and estimation procedures, as well as distribution loss factors. Section 10.3.14 of the ISO tariff makes clear that “Scheduling Coordinators shall be responsible for obtaining any necessary approval of the relevant Local Regulatory Authority to its proposed security, validation, editing and estimation procedures. The CAISO will not perform any Validation, Estimation and Editing on the Settlement Quality Meter Data it receives from Scheduling Coordinators.”

Additionally, the CPUC has established procedures for performing validation, editing and estimation for ESP-related meter data.<sup>12</sup> The CPUC has also approved distribution loss factor methodologies for application to revenue quality meter data (*i.e.*,

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<sup>12</sup> Re Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation, 84 CPUC 2d 365, CPUC D.98-12-080 (Dec. 17, 1998).

raw meter data) for reporting to the ISO.<sup>13</sup> Thus, the ISO tariff and CPUC regulations explicitly acknowledge that the meter data reported for each load serving entity may be calculated in a fashion unique to that entity. The tariff also reflects the central role that the CPUC (*i.e.*, the local regulatory authority overseeing the bulk of load served within the ISO), plays in determining what constitutes meter data. Each local regulatory authority can review MDMA's business practices and review agreements between MDMA's and ESPs.

In this context "complete and accurate" meter data means that the scheduling coordinator is reporting to the ISO data that actually reflects data either collected from a metering device or calculated according to an approved load profile and that has had LRA-approved validation, editing, and estimation procedures and distribution loss factors applied against such data. By its nature, meter data values must be self reported. The ISO does not have the staff – and cannot be expected to send staff – to read individual retail meters or confirm that an entity accurately implemented its local regulatory authority-approved load profile methodology. However, if there is reason to believe that a scheduling coordinator has self-reported data that does not meet these requirements, such scheduling coordinator remains subject to the ISO's meter data penalties and the Commission's prohibition on the submission of false or inaccurate information.<sup>14</sup>

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<sup>13</sup> See, *e.g.*, Re Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation, 77 CPUC 2d 570, CPUC D.97-12-090 (Dec. 16, 1997).

<sup>14</sup> 18 C.F.R. § 35.41(b).

### **C. The Existing Meter Data Submission Deadlines Reflect Important Policy Considerations**

One of Shell's claims is that the ISO should amend its tariff to align the ISO meter data reporting timelines with MDMA's obligations under CPUC rules. Because, as explained above, the ISO does not believe the ISO or the Commission has the authority to regulate the conduct of MDMA's in performing their retail meter reading function, such alignment reasonably could only occur by allowing scheduling coordinators to resubmit meter data without penalty for up to three years (*i.e.*, the amount of time it claims a MDMA has to provide revised meter data to ESPs). Otherwise, Shell's request would require a complete undoing of the ISO's FERC-approved settlements framework. Such a change in the ISO tariff would ignore the importance the ISO, its stakeholders, and the Commission places on early market settlement and financial certainty.

In two recent stakeholder processes that resulted in tariff amendments filed with the Commission,<sup>15</sup> and in the ISO's FERC Order 741 compliance process,<sup>16</sup> the ISO addressed the importance that the ISO's settlements timeline holds for managing market-wide credit risk. Both the ISO's stakeholders and the Commission recognized that earlier settlement creates less credit risk and greater financial certainty for wholesale market participants.<sup>17</sup> An important aspect of enabling earlier and more final settlements is the establishment of deadlines for the submission of actual settlement

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<sup>15</sup> *Cal. Indep. Sys. Operator Corp.*, 136 FERC ¶ 61,232 (2011) (relating to the Settlement Process Timeline Change initiative); *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,265 (2009) (relating to the Payment Acceleration initiative).

<sup>16</sup> *Cal. Indep. Sys. Operator Corp.*, 136 FERC ¶ 61,194 (2011).

<sup>17</sup> *Credit Reforms in Organized Wholesale Electric Markets*, 133 FERC ¶ 61,060 PP 16-37 (2010); *Cal. Indep. Sys. Operator Corp.*, Settlements Process Timeline Changes Transmittal Letter at 9, FERC Docket No. ER11-4176-000 (Aug. 1, 2011) ("The ISO's proposed settlement cycle received widespread stakeholder support.").

quality meter data that allows settlements based on estimated meter data to be reconciled against the actual data. The meter data penalties at issue in the instant complaint are the means by which the ISO compels the submission of the actual meter data that allows that reconciliation to happen.

Contrary to Shell's suggestions, the Commission has not ignored the importance of these issues. In the two dockets Shell cites in its complaint,<sup>18</sup> the Alliance for Retail Energy Markets (AREM) raised many of the same arguments that Shell raises in its complaint. For example, in both dockets AREM argued that the ISO "tariff does not define . . . what constitutes 'complete and accurate' SQMD that must be provided."<sup>19</sup> Contrary to what Shell claims, the Commission considered and rejected these claims.<sup>20</sup> Notably, in both instances, the Commission specifically said that the complaints about application of the meter data penalties to ESPs were "a collateral attack on the Commission's prior order"<sup>21</sup> approving the ISO's Payment Acceleration initiative and that extensive relaxation of the meter data penalty submission deadline "would be inconsistent with the intent of the Payment Acceleration Initiative."<sup>22</sup> Shell is seeking yet a third bite at the apple on behalf of ESPs. The Commission should reject Shell's proposal for the same reasons it rejected similar arguments in the past.

While reinforcing the need for having hard meter data submission deadlines, the ISO has not ignored the type of CPUC retail considerations that Shell suggests the ISO

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<sup>18</sup> FERC Docket Nos. ER11-2819 & ER11-2574.

<sup>19</sup> *Cal. Indep. Sys. Operator Corp.*, Motion to Intervene and Protest of the Alliance for Retail Energy Markets at 7, FERC Docket No. ER11-2819-000 (Feb. 22, 2011); *Cal. Indep. Sys. Operator Corp.*, Motion to Intervene and Protest of the Alliance for Retail Energy Markets at 4, FERC Docket No. ER11-2574-000 (Jan. 20, 2011).

<sup>20</sup> *Cal. Indep. Sys. Operator Corp.*, 135 FERC ¶ 61,159, P 25 (2011); *Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,140, P 41 (2011).

<sup>21</sup> *Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,140, P 41 (2011).

<sup>22</sup> *Cal. Indep. Sys. Operator Corp.*, 135 FERC ¶ 61,159, P 25 (2011).

has ignored. In the ISO's recent Settlement Process Timeline Change initiative the ISO created a modest extension of the meter data reporting deadline to accommodate retail billing considerations. The ISO explained that requiring final meter data submission by T+48B rather than T+43C

allows for two retail billing cycles to pass before the actual settlement quality meter data is required to be submitted to the ISO. The ISO and the majority of stakeholders believe that this additional time will permit the meter data collection, verification, validation and submittal process to be completed, reduce the need to resubmit revised meter data after the T+48B timeframe, and provide for a more accurate market settlement earlier in the settlement timeline.<sup>23</sup>

The ISO further explained that this approach should "incent market participants to put into place applicable controls to assure that settlement quality meter data is submitted by the required due date while still allowing a reasonable time for scheduling coordinators to gather and submit the data without incurring penalties."<sup>24</sup> The Commission accepted this rationale in approving the tariff amendments accompanying the initiative. Further, the ISO does not bar submission of revised meter data after T+48B. The ISO merely imposes a modest sanction of \$1,000 for doing so. Contrary to Shell's statements in its complaint, penalized scheduling coordinators do not suffer reputational harm because ISO sanctions are treated confidentially.<sup>25</sup> Thus, the ISO's existing process already represents a reasonable accommodation of the CPUC

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<sup>23</sup> Settlements Process Timeline Changes Transmittal Letter at 17.

<sup>24</sup> *Id.* at 20.

<sup>25</sup> As an example, section 37.9.4 of the tariff requires the ISO to seek Commission approval before distributing the proceeds of penalties collected during each calendar year to those market participants that did not have a violation during that calendar year. When the ISO makes this filing it redacts from public view the chart of which entities received a distribution because "[p]ublic disclosure of the information would allow parties to determine which Market Participants were assessed penalties." *Cal. Indep. Sys. Operator Corp.*, Petition of the California Independent System Operator Corporation for Approval of Disposition of Proceeds of Penalty Assessments, at 4, FERC Docket No. ER12-77-000 (Oct. 13, 2011).

process. Shell does not raise any new facts or arguments to support undoing these previously approved tariff provisions.

One of the “applicable controls” that ESPs such as Shell could theoretically use to ensure that they meet the ISO’s meter data deadlines would be to negotiate for the ability to pass through ISO penalties to their MDMAs. ESPs have the ability to choose who should serve as their MDMA; they are not required to utilize an investor owned utility. To the extent an ESP voluntarily defaults to an investor owned utility as its MDMA and has issues with that investor owned utility’s performance of its functions or believes that the MDMA should bear any ISO penalties, it should raise the matter with the CPUC which is the regulatory agency responsible for retail meter reading and MDMA agreements. If ESPs were to handle these matters in their MDMA contracts, the ISO would still be able to penalize directly the party that failed to meet its ISO tariff obligations (*i.e.*, the applicable scheduling coordinator) and would not be required to completely undo its existing settlements process.

In its complaint, Shell claims that under CPUC rules it is incapable of negotiating such an arrangement with an IOU which serves as the MDMA as a default provider.<sup>26</sup> If this is true, then Shell’s claim only serves to bolster the ISO’s position that Shell’s concerns need to be addressed to the CPUC, not the Commission. Under these circumstances, the appropriate course of action is for Shell to seek modification of the CPUC’s rules in a CPUC proceeding or to arrange with a MDMA that is not an investor owned utility.

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<sup>26</sup> Shell’s complaint does not provide any support for its suggestion that CPUC rules bar it from negotiating such an arrangement.

#### **D. Shell Provides No Basis to Substantiate its Call for a Commission Investigation of the ISO Settlement Process**

The basis of Shell's request for an investigation into the ISO's settlements process is its mistaken view that scheduling coordinators have a choice whether or not they want to submit "complete and accurate" meter data. As explained above, this is not the case. Shell has presented no argument to support its claim that there is any ambiguity in the words "complete" or "accurate." Nor does Shell explain why the accepted, plain meaning of these words is insufficient to discern the meaning of the ISO tariff. Thus, the ISO rules Shell complains about do not establish the perverse incentives that Shell alleges.

Additionally, Shell presents no evidence to substantiate the notion that there is a widespread lack of compliance. Systematic non-compliance would be reflected in charges for UFE. UFE represents the difference between generation in, and imports into, the ISO control area on the one hand measured against load in, and exports out of, the ISO control area. In defining this term, Appendix A of the tariff explains that UFE "is attributable to meter measurement errors, power flow modeling errors, energy theft, statistical Load profile errors, and distribution loss deviations." Section 11.5.3 explains that UFE is calculated for each utility service area and is charged *pro rata* to demand in that service area. As reflected in a recent report, the ISO's UFE charges since 2011 by month have typically been less than .5% of total load.<sup>27</sup> Most notably, in all but one month from January 2011 through March 2012, UFE has been negative, suggesting that scheduling coordinators representing load have been systematically over-reporting load,

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<sup>27</sup> Operations Highlights Report, at 7, presented by Eric Schmitt, ISO Vice President, Operations, to ISO Board of Governors (May 16 & 17, 2012), *available at* <http://www.caiso.com/Documents/OperationsReport-Highlights-May2012.pdf>.



rather than under-reporting load as Shell suggests. Negative UFE also results in a *pro rata* credit back to scheduling coordinators serving load.

Further, section 10.3.10.1 requires scheduling coordinators to perform an annual metering audit “to ensure compliance with all applicable requirements of any relevant Local Regulatory Authority.” The results of these audits would identify any systematic flaws in meter data reporting or the application of LRA-approved validation, estimation, and editing procedures; load profiles; and distribution loss factors. No such systematic flaws have been identified. Based on these factors, there is no basis to conclude that a broad investigation of the ISO settlements process is warranted. Shell provides no evidence to substantiate its belief to the contrary.

Even assuming, *arguendo*, that Shell presented evidence of systematic flaws in how ESPs report meter data, Shell’s request for a full-scale FERC investigation into all aspects of the ISO’s settlements process is inappropriate because it would call for the Commission to inquire into issues that simply have no relationship to how ESPs submit meter data. ESP-provided meter data is a mere tributary feeding into the roiling river of data that supplies the ISO’s settlements process. Less than 15% of California’s load is served by ESPs. The overwhelming majority of the meter data is thus not at issue. Furthermore, meter data is only one type of data that is used in the settlements process. For example, completely different streams of data feed the settlement of congestion revenue rights, convergence bids, ancillary services, energy market awards, and many aspects of the grid management charge. Shell does not allege, let alone provide any evidence, that these other streams of data feeding into the settlements process are fouled. Moreover, Shell does not suggest – let alone provide evidence – that there are

widespread errors in how the ISO performs its settlements calculations once data is input into the ISO's settlements systems. Under these circumstances, the Commission must summarily deny Shell's request as lacking legitimate factual, legal, or policy basis.

**IV. THE ISO IS PREPARED TO WORK WITH THE RELEVANT PARTIES TO EXPLORE WHETHER THERE ARE ANY COMPREHENSIVE APPROACHES TO METER DATA SUBMISSION CONSISTENT WITH POLICY GOALS**

The ISO recognizes that Shell has concerns and is prepared to consult with the CPUC and other relevant parties to explore whether there are any ways to accommodate Shell and similarly situated entities without undermining the ISO's settlements paradigm. Any future changes would need to address issues comprehensively, recognize the CPUC's role in this matter, and result from a collaborative process rather than through a litigated Commission proceeding between the ISO and a single market participant.

**V. COMMUNICATIONS**

Communications regarding this filing should be addressed to the following individuals. The individual identified with an asterisk is the person whose name should be placed on the official service list established by the Secretary with respect to this submittal:

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## VI. CONCLUSION

For the foregoing reasons, the Commission should deny Shell's complaint in its entirety.

Respectfully submitted,

**By: /s/ David S. Zlotlow**

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Dated: August 14, 2012

## CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service list in the 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 at Folsom, California this 14th day of August, 2012.

*/s/ Jane Ostapovich*  
Jane Ostapovich