

**Comments of the Imperial Irrigation District on
The California Independent System Operator Corporation's
October 29, 2008 Draft IBAA Tariff Compliance Language**

Pursuant to the California Independent System Operator Corporation's ("CAISO") October 29, 2008 Market Notice, Imperial Irrigation District ("IID") hereby submits its comments on the Draft IBAA Tariff Compliance language.

In the September 19 Order, FERC affirmed that the CAISO cannot use data it obtains pursuant to reliability standards for market purposes. However, contrary to this holding, the CAISO defines a Market Efficiency Enhancement Agreement ("MEEA") as "an agreement between the CAISO and *the Balancing Authority* of an IBAA." (See Appendix A). The CAISO also states in Section 27.5.3.2, that it "shall enter into ...MEEAs with *entities controlling supply resources within IBAA*s to provide alternative modeling and pricing for imports or exports." It also states in Section 27.5.3.2.2, that "[d]uring any hour in which an *MEEA entity* makes sales to the CAISO Balancing Authority at the same time that the IBAA entity is making an energy purchase from the CAISO Balancing Authority, the IBAA entity will ... be charged the default pricing point." We believe that the CAISO's language is inconsistent and urge the CAISO to reconcile these varying definitions of who can enter into an MEEA with the CAISO.

FERC made it clear that the IBAA proposal is a commercial pricing/market-based proposal, rather than a reliability-based proposal. (Sept. 19 Order at PP 2, 6, 34 and 83.) FERC recognized that the data requested by the CAISO are intended to be used only to more accurately price commercial transactions based on the value of that resource supplied to the CAISO for purposes of managing congestion. (See Sept. 19 Order at PP 5 and 111.) As FERC also noted, the IBAA proposal "addresses use of generator-specific data in the calculation of accurate prices with the new MRTU LMP methodology." (Sept. 19 Order at P 48.) FERC further noted that the CAISO confirmed that "the IBAA proposal addresses information to verify the real-time dispatch of external resources used to implement interchange transactions." (CAISO August 8, 2008 Answer at 48.)

IID therefore requests that the CAISO confirm that a neighboring utility, which operates a Balancing Authority Area, is not obligated to provide data in its role as a Balancing Authority that maintains the reliability of the grid. This distinction is not clear in the draft Tariff language. The CAISO cannot use data supplied by a Balancing Authority, under reliability standards, for market purposes. In its September 19 Order, FERC specifically stated that "we agree that the CAISO already has access to the necessary data to reliably operate the system [however] ... the CAISO cannot use the data it receives pursuant to reliability standards for market purposes." (See *Sept. 19 Order* at P 48; see also PP 181-182, 339-340, and 358.) Therefore a neighboring utility, in its role as a Balancing Authority cannot be obligated to supply data to the CAISO under the IBAA tariff provisions. To allow otherwise, would be contrary to FERC's holding in its IBAA Order and to established FERC policy. (See, e.g., *Entergy Services, Inc.*, 58 FERC ¶ 61,234 at 61,764 and 61,767 (1992))

The Proposal Does Not Comport FERC's Directives

In its September 19 directive, FERC "require the CAISO to include tariff provisions that specify the *minimum* information it requires to accurately model interchange transactions." (Sept. 19 Order at P 182.) The proposed Tariff language, however, far exceeds this minimum requirement. As noted above, the IBAA is a commercial pricing/market-based proposal and not a reliability-based proposal. The draft Tariff incorrectly focuses on requiring data from neighboring "Balancing Authority Areas," rather than on "individual sellers" who engage in commercial transactions with the CAISO. IID owns only a limited amount of generating facilities in its Balancing Authority Area, which are needed to serve IID's native load. Therefore, IID currently engages in relatively few, if any sales into the CAISO market. Section 27.5.3.2 of the Tariff requires data such as "schedules, exchanges and transactions for the MEEA signatory." To the extent that the CAISO finds that these data requirements are crucial, it should only seek data from a neighboring utility if and when that utility is actually making commercial sale of power into the CAISO market at a locational marginal price. IID urges that the CAISO make clear that the obligation to provide data falls only on the seller engaged in a commercial transaction with the CAISO -- not on a neighboring Balancing Authority in its role of maintaining grid reliability -- limits the applicability of the data requested and complies with FERC's directives.

In the September 19 Order, FERC noted the CAISO's acknowledgement that after-the-fact data could be sufficient for the IBAA purposes. Specifically, "[t]he CAISO also submits that it is possible that the information required would not have to be day-ahead information but instead could be after-the-fact information made available to the CAISO." (See CAISO August 8 Answer at 39.) However, in the draft Tariff, the CAISO appears to only contemplate "historical" (after-the-fact) data with reference to the process of *establishing* an MEEA. The Tariff appears to require that once a MEEA is established, the IBAA entity must provide the "hourly" data described in Section 27.5.3.2 (a)-(f) consistent with the CAISO Tariff timelines. The CAISO's draft Tariff specifically states that "[d]ata shall be provided in standard electronic format in a manner and timeline that is consistent with the scheduling, bidding, operational and Settlement requirements under the CAISO." (See Section 27.5.3.2 of the Draft IBAA Tariff.) This does not comport with the Commission's directive of specifying the *minimum* requirements nor is it in line with the CAISO's representations that such data could be after-the-fact. IID therefore requests that the CAISO clarify that only historical data is required. IID also requests that the CAISO to specify what it means by its requirement that the data should be in "standard electronic format."

FERC directed the CAISO to include tariff provisions that limit the proposed terms and conditions for the MEEA process to: (1) state the limited purpose for which the CAISO will use the information; (2) specify measures the CAISO must take to preserve the confidentiality of information; (3) provide procedures with which the parties would have to comply in their negotiations; (4) provide dispute resolution procedures; and (5) establish audit rights for both parties. (Sept. 19 Order at P186.) The draft Tariff language, however, exceeds this requirement. IID objects to any standard requirement in an MEEA for a neighboring utility to provide data to the CAISO on transactions entered into by that utility with other entities in bilateral markets outside the CAISO as

well as on the neighboring utility's own loads in its own balancing authority area located outside the CAISO. The CAISO needs to clarify this is not its intent.

IID similarly objects to any standard provision in an MEEA compelling a neighboring balancing authority to provide the CAISO with schedules submitted by other market participants to the neighboring balancing authority. (See Sept. 19 Order at PP 160-163.) These demands for data by the CAISO are overly broad and unduly burdensome. Moreover, the demand for schedules, exchanges and transaction submitted to a neighboring Balancing Authority conflicts with the Commission's ruling that reliability data cannot be used for market purposes.

The draft tariff language describing the process for adopting a new IBAA or for modifying an existing IBAA (Sections 27.5.3.8 and 27.5.3.9, for example) does not meet FERC's directives. In the September 19 Order, FERC recognized the uniqueness of various Balancing Authorities. FERC stated that "not all adjacent balancing authority areas share [similar] unique characteristics or have the same impacts on the CAISO system." (Sept. 19 Order at P7.) FERC noted that it does not "expect the CAISO to seek IBAs for every adjacent balancing authority area ... [but when] the CAISO proposes additional IBAs for adjacent balancing authority areas, it should *fully justify* its proposal based on the characteristics of the relevant balancing authority area and may not simply rely on our decision here." (Sept. 19 Order at P7.) FERC also required the CAISO to clearly reflect that it must seek FERC's approval, pursuant to Section 205 of the FPA to adopt a new IBAA. The CAISO's draft Tariff sheet does not accomplish these directives. In addition to complying with the Section 205 filing requirement, the CAISO must first "fully justify its proposal based on the characteristics of the relevant balancing authority area." IID requests that the CAISO incorporate this specific language in its Tariff.

The CAISO also does not provide all the requisite information to justify the IBAA proposal and instead only makes several references that details will be available in its Business Practice Manuals ("BPM"). For example, Section 27.5.3.9 of the draft Tariff notes that "[t]he CAISO's methodology for determining such default Resource IDs, as well as the specific default Resource IDs that have been adopted for the currently established IBAs, are provided in the *Business Practice Manuals*." Section 27.5.3.8, the CAISO states that "[e]xcept under exigent circumstance, the CAISO must follow a consultative process with the applicable Balancing Authority and CAISO Market Participants pursuant to the process further defined in the *Business Practice Manuals*." However, these details are not currently provided in the existing BPMs. IID wants to know when will these details be made available in the BPMs and in which BPM(s). As the CAISO knows, the Full Network Model BPM was last revised in April 2008 – there has been no indication that another revision is forthcoming. Likewise, the CAISO is concerned that details with respect to the establishment of a new IBAA may be relegated to a BPM. IID seeks some safeguard that the CAISO will include this information in the tariff. IID therefore respectfully requests that the CAISO affirm that will include these details in its tariff.

FERC also directed the CAISO to revise the IBAA to reflect, among other things, that the CAISO "must file *any* changes to the IBAA, including changes to the default pricing points, or *any* new IBAA proposal with the Commission." (Sept. 19 Order at P 8.)

FERC noted that the CAISO's IBAA proposal was not "sufficiently clear to indicate that *any new* IBAA must be filed with the Commission under section 205 of the FPA." (Sept. 19 Order at P 215.) This therefore includes any new information that the CAISO now seeks to relegate to the BPM. This information must be filed with the Commission under section 205 of the FPA to allow open stakeholder comment.

The Data Requirements are Overly Broad and Vague

The data requirements for MEEAs that the CAISO specified, as noted above, far exceed the Commission's directives or the CAISO's prior positions, impose an undue hardship on IBAA Entities and may be difficult, if not impossible, to satisfy. This is particularly true if the CAISO intends to require Balancing Authorities to compile and provide data on entities in that Balancing Authority's Balancing Authority Area. For example, Sections 27.5.3.2(a)-(f) of the draft IBAA tariff imposes data requirements that exceed data available to any one entity in the IBAA. The CAISO proposes to adopt far reaching data requirements such as total generation within the IBAA, and total gross energy scheduled into the IBAA from other Balancing Authority Areas, to name a few. These data requirements are overly broad and are also impractical and unreasonable. On the face of these overly broad requirements, it appears that a single IBAA entity cannot establish an MEEA without the full consent and data of entities within its Balancing Authority. IID has a large number of independent generators in its Balancing Authority Area. IID cannot, nor would it wish to, compel these third-party generators to provide their commercially sensitive data for IID to fulfill its bilateral obligations with the CAISO under an MEEA. Further, it is unconscionable for the CAISO to subject a Balancing Authority to tariff violations as well as default prices that are skewed in the CAISO's favor if it cannot obtain the information from a third-party. It is simply not the function of a Balancing Authority to gather and provide detailed, competitively-sensitive information for purposes of pricing commercial transactions. The CAISO should limit the scope of the information requested to minimum requirements, as the FERC specifically directed.

MEEA Tariff Language is Vague

Sections 27.5.3.2, 27.5.3.3 and 27.5.3.7 of the draft tariff language regarding the use of MEEAs are still unreasonably vague and do not present any further clarification as the Commission directed the CAISO to provide. FERC specifically stated that "we find that the proposed MEEA does not offer a transparent and balanced agreement from which parties may develop an alternative pricing arrangement in a non-discriminatory manner." (Sept. 19 Order at P 182.) However, the proposed MEEA tariff language is neither transparent nor balanced. FERC "direct[ed] the CAISO to explain the information needed ... and how it will identify the resource supporting interchange transactions and include this explanation in the tariff." (Sept. 19 Order at P 183.) The proposed tariff does not accomplish this directive.

For example, Section 27.5.3.2.2 is extremely confusing and needs detailed explanation, along with specific examples. IID questions whether this tariff section is workable from an administrative and settlements perspective. This section is ambiguous and seems ripe for disputes. Moreover, it does not seem to comport with the FERC's directive. Specifically, FERC stated that in addition requiring the CAISO to specify the *minimum information* it requires to accurately model interchange

transactions, “once it receives this information, the CAISO must offer actual pricing to the party signing the MEEA.” (Sept. 19 Order at P 182.) The CAISO now appears to impose a new concept of default pricing when purchases are in excess of a *maximum limit* established under this section of the tariff. Notwithstanding the execution of an MEEA by the IBAA, this new provision imposes default pricing for specified purchases. To the best of IID’s knowledge, this concept was not vetted at the stakeholder level or by FERC. The CAISO cannot arbitrarily adopt new proposals on compliance, especially when such significant changes were not approved by the Commission. IID therefore requests that the CAISO either remove that new proposal or first seek Commission approval to modify the IBAA proposal.

The Tariff Provisions Do Not Comport with FERC’s Directives

FERC's order recognizes that MEEAs are an integral component of the CAISO's IBAA proposal, without which the use of default, proxy pricing points cannot be legally justified. (See Sept. 19 Order at PP 6 and 181.) A reasonably-tailored and even-handed MEEA therefore is critical to the success of the CAISO's IBAA proposal. The CAISO's draft tariff language appears to still be one-sided - - in the CAISO's favor. Although it purports to open good faith negotiations, the language does not provide for bilateral negotiations. Instead, Section 27.5.3.3 of the draft tariff states that “[t]he CAISO shall provide a requesting IBAA entity with a form of MEEA within 30 days of the receipt of any such written request. The IBAA entity must make any requested changes to the MEEA within 30 days of receipt of a form of MEEA.” The Tariff is silent on how the CAISO will treat requested changes to the MEEA that it does not agree with. IID request that the Tariff be revised to incorporate language requiring the CAISO to accommodate direct bilateral negotiations, upon the request of the IBAA and should also have a reciprocal obligation of good faith on both the CAISO and the market participant in any such negotiations. This will save time and eliminate some misunderstanding. Further, to avoid confusion, the tariff should provide that any MEEA forwarded by the CAISO should specify exactly what information the CAISO needs the basis for that request.