UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	)	Docket No. ER99-4545-000

ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO MOTIONS TO INTERVENE, REQUEST FOR CLARIFICATION, COMMENTS, PROTESTS, AND AMENDMENTS TO PROTESTS

I. INTRODUCTION AND SUMMARY

On September 28, 1999, the California Independent System Operator Corporation ("ISO") filed Amendment No. 22 to the ISO Tariff.[1] Amendment No. 22 proposed a variety of modifications to the ISO Tariff, including the following: (a) changes to the ISO Tariff related to the implementation of Firm Transmission Rights, including a requirement that FTR Holders provide the ISO with information on affiliated California market participants to assist in the monitoring of the FTR market; (b) modifications to the Existing Transmission Contract ("ETC") scheduling template that will provide for validation of ETC schedules; (c) changes required to implement the creation of a new Congestion Management Zone; (d) changes to allocate the costs of Reliability Must-Run Units located outside the Service Area of a Responsible Utility; (e)

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

various changes to enhance settlement and billing under the ISO Tariff that were developed through the ISO's stakeholder Settlement Improvement Team ("SIT"), and (e) certain non-substantive changes to provisions of the ISO Tariff related to Reliability Must-Run Contracts that the ISO had agreed to make in its Answer to comments on Amendment No. 15 to the ISO Tariff.

In accordance with the Notice of Filing issued on October 4, 1999, a number of interventions were filed on or before October 15, 1999, some of which included comments on or protests of Amendment No. 22.

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213, the ISO submits its Answer to the Motions to Intervene, Request for Clarification, Comments, Protests, and Amendments to Protests submitted in the above-captioned docket. As explained below, the ISO does not oppose the intervention of any of the parties that have sought leave to intervene in this proceeding. The opposition and requests for substantive modifications of some parties to portions of Amendment No. 22, however, are unsupported. As discussed below, the ISO has committed to make certain non-substantive modifications to portions of Amendment No. 22. The Commission should accordingly accept Amendment No. 22 without condition or substantive modification.

II. BACKGROUND

A. Amendment No. 22

In Amendment No. 22, the ISO proposes a number of modifications to the ISO Tariff which are the product of various stakeholder processes conducted over many months. Prior to the filing of Amendment No. 22 with the

Commission, these modifications had been presented for public review by stakeholders and participants in the California electricity markets and had been approved by the ISO Governing Board.

Amendment No. 22 includes a number of Tariff changes necessary to facilitate the implementation, and subsequent monitoring, of Firm Transmission Rights ("FTRs") in California early next year, including a requirement that FTR Holders provide the ISO with information on affiliated Market Participants. Other proposed changes will implement modifications to the ETC scheduling template that will provide for validation of ETC schedules and are the result of a lengthy development process and substantial stakeholder input. Amendment No. 22 also includes changes related to the creation, by the ISO Governing Board, of a new Congestion Management Zone between the Northern Zone ("NP15") and the Southern Zone ("SP15") on the ISO Controlled Grid. In addition, Amendment No. 22 includes Tariff revisions which address the allocation of costs for Generating Units that are required as Reliability Must-Run ("RMR") Units, but which are located outside the Service Area of a Responsible Utility, as defined by the ISO Tariff. Under these revisions, the costs would be allocated to the Responsible Utility or Utilities whose Service Areas are contiguous to the Service Area in which the RMR Unit is located.

A number of the changes in Amendment No. 22 were designed to enhance settlement and billing under the ISO Tariff and were developed through the ISO's stakeholder SIT These include revisions which would modify the methods used to both calculate and allocate Transmission Losses in the

Imbalance Energy and Unaccounted for Energy ("UFE") settlements. Amendment No. 22 would also implement a process by which Scheduling Coordinators may dispute new or modified charges or credits that appear for the first time on the Final Settlement Statement; as well as establishing a "placeholder" mechanism for disputes that are recurring in nature, which would allow Scheduling Coordinators to submit a dispute a single time and preserve their rights for similar disputes on subsequent statements. Other changes would address the allocation of awards payable to or from the ISO pursuant to good faith negotiations and/or the ISO's Alternative Dispute Resolution ("ADR") process. Lastly, Amendment No. 22 includes certain non-substantive changes to provisions of the ISO Tariff relating to RMR Contracts that the ISO had agreed to make in its Answer to Comments on Amendment No. 15 to the ISO Tariff.[2]

B. Interventions

A notice of intervention was filed by the Public Utilities Commission of the State of California ("CPUC") and motions to intervene were filed by a number of parties.[3]

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[2] No intervenor opposes or offers any substantive comment on this aspect of Amendment No. 22 other than to support it.

[3] Timely motions to intervene were filed by the Cities of Anaheim, *et al.* ("Anaheim"); California Department of Water Resources ("DWR"); California Electricity Oversight Board ("Oversight Board"); California Municipal Utilities Association; California Power Exchange Corporation ("PX"); Duke Energy Moss Landing, LLC, *et al.*; Duke Energy Trading and Marketing, L.L.C. ("DETM"); Dynegy Power Marketing, Inc.; Enron Power Marketing, Inc. ("Enron"); Metropolitan Water District of Southern California ("MWD"); Modesto Irrigation District ("Modesto"); Northern California Power Agency ("NCPA"); Pacific Gas and Electric Company ("PG&E"); the Cities of Redding and Santa Clara, *et al.* ("Redding"); Sacramento Municipal Utility District ("SMUD"); San Diego Gas & Electric Company (SDG&E); City and County of San Francisco; Southern California Edison Company ("SCE"); Southern Energy California, L.L.C., *et al.*; Transmission Agency of Northern California ("TANC"); Turlock Irrigation District; Western Area Power Administration ("WAPA"); and Williams Energy Marketing & Trading Company.

Most intervenors either indicated support for or did not oppose the majority of the changes proposed in Amendment No. 22.[4] Many of the intervenors, however, accompanied their interventions with Comments and/or Protests to portions of Amendment No. 22.[5] Several intervenors request clarification of certain issues before supporting approval of aspects of Amendment No. 22, while others request that the Commission's acceptance of aspects of the Amendment be subject to certain conditions.

The ISO does not oppose the intervention of any of the parties that have sought leave to intervene. The ISO does not believe, however, that any of the substantive challenges to Amendment No. 22 or any of the proposals for substantive modification of the proposed Tariff changes have merit. The ISO does agree to make certain non-substantive modifications to the proposed Tariff changes which are described below. Moreover, as further explained below, the ISO does not believe that conditional acceptance of any component of Amendment No. 22 is supported or that further clarification,

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[4] *See, e.g.,* Oversight Board at 3, supporting Amendment No. 22 as "the outcome of extensive collaborative processes in which the CAISO made every effort to accommodate and balance multiple interests."

[5] Some of the intervenors commenting substantively on Amendment No. 22 do so in portions of their pleadings variously styled as "Comments," "Protests," or "Comments and Protest," without differentiation. There is no prohibition on the ISO's responding to the comments in these pleadings. The ISO is entitled to respond to these pleadings and requests notwithstanding the label applied to them. *Florida Power & Light Company*, 67 FERC ¶ 61,315 (1994). In the event that any portion of this answer is deemed an answer to protests, the ISO requests waiver of Rule 213 (18 C.F.R. §385.213) to permit it to make this answer. Good cause for this waiver exists here given the nature and complexity of this proceeding and the usefulness of this answer in ensuring the development of a complete record. *See, e.g., Enron Corporation*, 78 FERC ¶ 61,179 at 61,733, 61,741 (1997); *El Paso Electric Company*, 68 FERC ¶ 61,181 at 61,899 & n.57 (1994). Several parties also submitted pleadings entitled "Supplemental Protests" or "Amendments to Protests", contending that such filings were permitted by the Commission's regulations which permit amendment of pleadings. 18 C.F.R. § 385.215. The same rule also permits answers to such amendments. 18 C.F.R. § 385.215(b).

beyond that provided by the ISO in its filings in this proceeding, is necessary for the Commission to approve Amendment No. 22.

III. ANSWER TO COMMENTS AND PROTESTS

A. Amendment No. 22 Provides an Appropriate Mechanism For Allocating Costs Incurred by the ISO For Generating Units That Are Required As Reliability Must-Run Units And Which Are Outside the Service Area of a Responsible Utility.

One aspect of Amendment No. 22 addresses the limited issue of the responsibility for costs incurred by the ISO under an RMR Contract for an RMR Generating Unit that is outside the Service Area of any Responsible Utility. Section 5.2.8 of the ISO Tariff currently provides that the costs incurred by the ISO under an RMR Contract shall be payable to the ISO by the Responsible Utility in whose Service Area the RMR Unit is located. [6] As explained in the Amendment No. 22 transmittal letter, in the context of the 1999 Local Area Reliability Service ("LARS") solicitation process, by which RMR Units are designated, as a precondition of entering into a RMR Contract, a question with regard to certain Generating Units that were designated as RMR Units but were not within the Service Area of a Responsible Utility. This raised the broader policy issue of whether the ISO should be able to designate as RMR Units those Generating Units that are outside the Service Area of any Responsible Utility but whose output could support the reliability of the ISO Controlled Grid, and if so, who should be responsible for the costs associated with such RMR Units.

[6] Prior to Amendment No. 22, the ISO Tariff had defined "Responsible Utility" as "[t]he utility which is a party to the [Transmission Control Agreement] in whose Service Area the Reliability Must-Run Unit is located."

This issue was presented for stakeholder input and the consideration of the ISO Governing Board at two separate meetings in the Summer of 1999. The Governing Board ultimately determined that excluding Generating Units that were not in the Service Area of any Responsible Utility from consideration in the LARS process could result in higher RMR costs, and would be inconsistent with one of the primary goals of the LARS process -- lowering RMR costs by designating as RMR Units those Generating Units that can provide needed RMR services at the lowest cost.[7] The Governing Board therefore approved an approach which would assign the costs for an RMR Unit located outside the Service Area of any Responsible Utility to the Responsible Utility (or Utilities) whose Service Area is contiguous to the Service Area in which the Generating Unit is located. This approach imposes costs only on those Responsible Utilities that are receiving benefits from such unit, and more importantly upon entities who may be in a position to take steps, such as transmission upgrades, to avoid the need for the RMR Contract.[8] Where there is more than one such Responsible Utility, this assignment will be based on the proportion of benefits that each Responsible Utility receives from the RMR Unit, as determined by the ISO. This approach is reflected in the revisions to Section 5.2.8 and the definition of "Responsible Utility" which were approved at the August meeting of the ISO Governing Board and included in Amendment No. 22.

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[7] The Commission supported the ISO's plan to take a least-cost approach to selecting RMR Units in the October 30, 1997 order conditionally authorizing operation of the ISO. *Pacific Gas and Electric Co., et al.*, 81 FERC ¶ 61,122 at 61,555 and 61,557 (1997) (the "October 30 Order")

[8] *See* the August 18, 1999 Memorandum to the ISO Governing Board's Grid Reliability/Operations Committee, provided as Attachment A to this Answer.

Several intervenors, including the CPUC, support the ISO's proposal for allocation of the costs for RMR Units not in the Service Area of a Responsible Utility.[9] Other intervenors either request clarification of the proposed Tariff revisions, especially the revisions relating to the allocation of costs between more than one contiguous Responsible Utility, or protest the proposal in its entirety. For the reasons explained below, the protests lack merit, and no further clarification is necessary for the Commission to approve this aspect of Amendment No. 22.

One intervenor, PG&E, opposes the proposed revisions, based primarily on the assertion that, as a Responsible Utility, it is already responsible for costs for all RMR Units within its Service Area and that it should therefore not be assigned costs for any RMR Units outside that Service Area.[10] Responsible Utilities are Participating Transmission Owners who have transferred operational control of their transmission facilities to the ISO, pursuant to the Transmission Control Agreement ("TCA"). The ISO's need to enter into RMR Contracts is based on the fact that there are Generating Units which the ISO must call on under certain circumstances to provide Ancillary Services, Voltage Support or energy to support the reliability of the ISO Controlled Grid. Under the ISO's RMR structure, as approved by the Commission, the Participating Transmission Owners are responsible for the costs of those RMR Contracts. This cost

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[9] CPUC at 2; NCPA at 3-4. The CPUC does suggest that in the future, the ISO should consider issues of cost allocation if it were to designate as an RMR Unit a Generating Unit that is outside the former control areas (as opposed to the Service Areas) of any Responsible Utility. The ISO agrees that it may be appropriate to revisit this issue if it arises in conjunction with a future LARS process. However, the ISO does not envision designating, as RMR, any Generating Units outside the control area.

[10] PG&E at 7-9.

responsibility is reflected in Section 5.2.8 of the ISO Tariff and the definition of "Responsible Utility", as submitted in Amendment No. 15 to the ISO Tariff.[11]

The majority of Generating Units which must be designated as RMR Units to provide such reliability support are, as might be expected, within the Service Areas of the Transmission Owners who have transferred control of their facilities to the ISO. All of the units designated as RMR Units are within the Control Areas for which PG&E, SCE, and SDG&E had responsibility prior to the start of ISO operations. However, these Generating Units, while located within the former Control Areas of PG&E, SCE, and SDG&E, are not physically within the *Service Area* of a Responsible Utility. Nonetheless, these Generating Units either are necessary to provide energy and services that support the reliability of a portion of that Responsible Utility's facilities or do so at a lower cost than any Generating Units within that Responsible Utility's Service Area.[12] In the latter case, it will reduce overall RMR costs for the ISO to contract with that unit rather than a higher-cost unit in the Responsible Utility's Service Area. Moreover it is wholly appropriate to assign the costs for such a unit to the Responsible Utility (*i.e.*, Transmission Owner) that is contiguous to the Service Area in which the Generating Unit is located. That Responsible Utility receives benefits from that unit and can also take steps, such as the building of transmission reinforcements, which could prevent such RMR costs from being incurred by the ISO. The ISO's

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[11] The ISO submitted Amendment No. 15 in conjunction with, and to implement portions of, an offer of settlement among many parties, including PG&E, that resolved numerous RMR issues. The Commission accepted this offer of settlement and Amendment No. 15 in separate letter orders issued on May 28, 1999. *California Independent System Operator Corp.*, 87 FERC ¶ 61,229 (1999); *California Independent System Operator Corp.*, 87 FERC ¶ 61,250 (1999).

[12] *See* NCPA at 3-4, noting that certain Generating Units that it owns which have been designated as RMR Units may fall into this category.

proposal is therefore consistent with principles of cost causation and sends appropriate price signals to the party most capable of eliminating these costs.

Nothing in Amendment No. 22 would change the current approach to the allocation of RMR Costs reflected in Section 5.2.8, as approved by the Commission. No costs incurred by the ISO under RMR Contracts will be allocated to any entity other than a Responsible Utility. Amendment No. 22 simply makes clear which Responsible Utility (or Utilities) will be assigned costs for the extremely limited subset of units designated as RMR Units that are not physically in the Service Area of a Responsible Utility. Thus, any intervenors who suggest that the proposed revisions to Section 5.2.8 might result in RMR costs being assigned to non-ISO participant transmission owners or any entities other than Responsible Utilities are incorrect.[13] For example, because the term "Responsible Utilities" is limited to Transmission Owners that have transferred control of their transmission facilities to the ISO pursuant to the TCA, WAPA's concerns about the types of entities that might be subject to RMR costs under revised Section 5.2.8 are misplaced.[14]

PG&E claims that it would be inequitable to assign all costs for an RMR Unit that is not in the Service Area of a Responsible Utility only to a contiguous Responsible Utility (or Utilities) if entities in other Service Areas are also receiving benefits from the unit. The ISO acknowledges that non-ISO participant transmission owners may derive some benefits from such an RMR Unit. In fact, non-participants arguably could also receive benefits even from an RMR Unit

[13] PG&E at 8; SCE at 2 n.1.
[14] WAPA at 2.

which is within the Service Area of a Responsible Utility. Under Section 5.2.8, as currently approved by the Commission, all RMR costs for such a unit would be assigned to the Responsible Utility in whose Service Area the unit is located, despite the fact that some other entity also received some benefits from the unit in question. Amendment No. 22 merely applies the same result to a slightly different set of circumstances, where the unit is not physically located within the Service Area of the Responsible Utility.[15]

PG&E argues that this could provide a disincentive for non-ISO participant transmission owners to join the ISO as Participating Transmission Owners. Such entities would then become subject to RMR costs. To the extent that such a disincentive exists, it is embodied in the fundamental approach to allocation of RMR costs, most recently implemented through Amendment No. 15. Amendment No. 22 does not alter this approach.

Another argument raised by PG&E goes beyond the scope of the ISO's proposal in Amendment No. 22. PG&E contends that the ISO has not demonstrated that Generating Units outside a Responsible Utility's Service Area can meet the criteria for designation as an RMR Unit. That determination is made through the ISO's LARS process, which is not at issue in the instant proceeding.[16] The annual LARS process is conducted with substantial

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[15] It is likely that any entity other than a Participating Transmission Owner that receives benefits from an RMR Unit will be a non-ISO participant. The ISO has no ability to assign costs of this nature to a non-participant.

[16] In addition, the ISO notes PG&E's claim that the potential market power of a Generating Unit is the only criteria for designation as an RMR Unit is incorrect. The Commission has confirmed that numerous criteria are to be considered in the selection of RMR Units, including whether the designated unit "provides resources for maintaining reliability" and issues of cost. October 30 Order, 81 FERC at 61,557.

participation from stakeholders and interested parties, and the results of this process are presented for approval by the ISO's stakeholder Governing Board. Generating Units that receive RMR Contracts in that process must file them with the Commission. As explained above, the ISO has already determined through a previous LARS process that certain Generating Units that are not in the Service Area of a Responsible Utility can and do, in some instances, meet the criteria for designation as RMR Units. Amendment No. 22 merely makes clear which Responsible Utility is responsible for the costs of such RMR Units.

A number of intervenors raise concerns about or object to the criteria in the ISO's proposal for allocating costs of an RMR Unit among multiple Responsible Utilities where more than one Responsible Utility is contiguous to the Service Area in which the Generating Unit is located. This issue has not arisen to date, but would arise in the circumstance in where the ISO designates as RMR, a Generating Unit that is not physically in the Service Area of any Responsible Utility but is contiguous to (and therefore provides reliability benefits to) two or more Responsible Utilities.[17] In such a circumstance, the designation will either be because the unit is clearly necessary to support the Responsible Utility's system or because it can fulfill an RMR need at a lower cost than other alternatives. The ISO will allocate the costs for such an RMR Unit in proportion to the benefits that each Responsible Utility receives, based on a case-by-case determination to be made by the ISO.

[17] Because this circumstance has not arisen to date, Modesto is mistaken when it alleges that Amendment No. 22 would result in a "shift of millions of dollars of RMR related costs." Modesto at 6.

Some intervenors attack the ISO for not explaining in advance exactly how it will make this determination,[18] while others request additional clarification of how the ISO will make this determination.[19] These comments are premature. In most cases, where only one Responsible Utility is contiguous to the Service Area where the RMR Unit is located, this allocation issue will never arise -- all costs will be allocated to the one contiguous Responsible Utility. If, in the future, the ISO designates as RMR a Generating Unit that is contiguous to more than one Responsible Utility, it is appropriate to permit the ISO some discretion in the manner in which the relative benefits of the RMR Unit will be determined and the costs of that unit allocated. Such a determination will involve a technical analysis which may vary greatly from case to case. Many of the details upon which the ISO makes its RMR designations will be included in the LARS process, which is approved by the Governing Board and which involves stakeholder input. Instituting a stakeholder process to develop a list of criteria for making this determination, as proposed by some intervenors, would be of little, if any, utility at this time and would be duplicative of the LARS process

When and if the ISO is in a position of designating a Generating Unit which is not in the Service Area of a Responsible Utility but is in a Service Area contiguous to two or more Responsible Utilities, the ISO will engage in a public process (in conjunction with the LARS process) to determine the benefits each Responsible Utility receives from such a unit and the allocation of RMR costs for such units. The LARS process, by which such a Generating Unit would be

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18 PG&E at 8; Modesto at 6-7.

19 DWR at 3; TANC at 8; Redding at 14.

designated as an RMR Unit, requires confirmation of the cost recovery mechanism applicable to such Generating Units. The affected Responsible Utilities and other interested stakeholders will be provided an opportunity to comment on the ISO's determination, and the results of such determination will be presented for approval to the ISO's stakeholder Governing Board. Because the determination of the benefits that each Responsible Utility receives from such a unit would involve the exercise of the ISO's authority under Section 5.2.8, as revised by Amendment No. 22, there would be no additional FERC filing with respect to this determination or the allocation of RMR costs for such units. However, the ISO's determination would be subject to the terms of the Alternative Dispute Resolution ("ADR") provisions in Section 13 of the ISO Tariff.[20] All affected parties will therefore have ample opportunity both to provide input on the ISO's determination of benefits and allocation of costs and to challenge the results of this process before a neutral arbitrator. In addition, nothing in the ISO's proposal would limit the rights of any party to file a Complaint under Section 206 of the Federal Power Act with respect to this allocation of RMR costs. In light of this, the provisions of Amendment No. 22 that would apply in this isolated circumstance are reasonable and sufficient.

[20] The concerns of some intervenors that this determination would not be subject to ADR are therefore unfounded. TANC at 8; Redding at 14-15, SCE at 1-2.

B. The Proposed Revisions To ETC Scheduling Templates Preserve Rights Under Existing Contracts, Provide Additional Opportunities To Validate Use of Those Rights, and Only Require Market Participants To Take Minimal Steps To Provide the ISO With Information About the Exercise of Those Rights.

Other changes proposed in Amendment No. 22 would revise the ISO's Scheduling Protocol and Schedules and Bids Protocol to implement revisions to the scheduling templates for ETCs as well as the new templates developed for FTRs. As the ISO was developing the software necessary to implement FTRs, it became apparent that certain changes to the ISO's scheduling templates would be necessary. The extensive upgrades to the scheduling software needed to accommodate FTRs also gave the ISO an opportunity to add a function to the software relating to the validation of ETC rights. Consistent with the provisions of the ISO Tariff, the ISO has honored all Existing Contracts since it commenced operation on March 31, 1998.[21] Because the rules applicable to ETCs were substantially clarified in the October 30 Order, shortly before start-up, the ISO was required to make certain software and Tariff accommodations to facilitate ETC scheduling late in the start-up process.[22] Since start-up, the ISO's scheduling software has therefore been unable to validate ETC schedules to ensure that the schedules submitted do not exceed the contractual rights of the entity holding rights under an Existing Contract (hereafter referred to as an "ETC holder"). Instead, the ISO developed a mechanism whereby a party submitting schedules on behalf of an ETC holder (hereafter referred to as an "ETC

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21 *See* Section 2.4.4 *et seq.* of the ISO Tariff; October 30 Order, 81 FERC at 61,470-71.

22 October 30 Order, 81 FERC at 61,470-74.

scheduler") would reflect ETC rights in the energy schedule submitted for that ETC holder.

As explained in the Amendment No. 22 transmittal letter, this scheduling approach and the ISO's software created an opportunity for entities with ETCs to "link" a segment of a schedule which has priority ETC rights to a segment of a schedule to which such contractual priority does not apply and which therefore is properly treated as a new firm use. The ISO's current scheduling software automatically assigns the "linked" new firm use segment the same scheduling priority as the segment with valid ETC priority. This allows entities with rights under ETCs to obtain higher priority -- to which they have no contractual entitlement -- for their new firm use schedules at the expense of other entities scheduling new firm uses.[23] Although the ISO has not observed this behavior on any significant scale, the extensive upgrades to the scheduling software necessary to accommodate implementation of FTRs provided the ISO with an opportunity to add a validation function for ETC scheduling, which would eliminate the opportunity for such unwarranted and unintended "upgrades." The modified software and scheduling templates would ensure that ETC scheduling priority is assigned consistent with contractual rights. The software would also offer additional flexibility in the submission of ETC schedules and allow ETC schedulers to schedule multiple uses of the same resource, whereas previously

[23] For example, if an entity with an ETC has a schedule A→B→C, and the ETC scheduler claims an ETC right for the "A→B" portion of the schedule, the entire schedule, from A→B→C is given the ETC priority.

an ETC scheduler was required to schedule a resource as either all ETC or all new firm use.

The development of the revised design for scheduling templates took place over many months, with substantial input from stakeholders along the way. Stakeholders expressed concerns with the ISO's initial plans for revising the scheduling templates during four training sessions related to FTR implementation in March and April of this year. The ISO had originally targeted filing Tariff changes related to the revised scheduling templates in the first half of the year, but elected to defer such a filing and refine its proposal based on stakeholder input. More recently, draft Tariff revisions were circulated to all Market Participants in early August in connection with the ISO's August Market Issues Forum. Additional conference calls and meetings addressing the issues concerning the ETC and FTR scheduling templates were held on August 13 and August 19. Based on further input from ETC holders and ETC schedulers, the ISO modified its design extensively to address these parties' concerns that the new software not interfere with their ETC rights. The ISO management then presented its revised proposal to the ISO Governing Board, with an analysis of the various concerns expressed in the stakeholder meetings and the options and related costs to address those concerns. The ISO management's proposal was designed to be a fair compromise which takes into account, and continues to honor, the rights of ETC holders, the rights of new firm use load, the cost of various options, and the additional functionality afforded to ETC schedulers. On

August 26, 1999, the ISO Governing Board approved the ISO management's proposal subject to the following two clarifications:

1. the template and associated Tariff change would not expose the ETC scheduler or ETC holder to Usage Charges so long as the scheduled usage under the Existing Contract is at or below the contract amount, properly adjusted for derations or other operating conditions in accordance with the Hour-Ahead scheduling timeline; and

2. the ability of the ETC holder to modify schedules following the Hour-Ahead scheduling timeline, as may be provided by the Existing Contracts, would not be diminished by this proposal.

This extensive stakeholder process belies the claims of some intervenors that the proposed Tariff revisions are the result of "an inadequate stakeholder process."[24]

Although no party opposes the changes necessary to implement the FTR scheduling templates, a number of intervenors express concerns about or oppose the changes related to the ETC scheduling templates. Several of the parties who express concerns about the Tariff revisions indicate general support for the ISO's development of ETC scheduling templates.[25] Most of the concerns expressed by intervenors are based on misunderstandings of the protections afforded ETC holders under the ISO's proposal. As discussed below, the ISO does agree to make a non-substantive modification to the Tariff revisions to accommodate concerns of this nature. Other comments suggest that ETC schedulers should not be required to take even the minimal steps necessary to

[24] Modesto at 7. Modesto also suggests that the proposed Tariff revisions do not properly reflect the concepts to which Modesto and other ETC holders agreed. *Id.* Modesto does not explain what concepts are not so reflected, however. As explained above, the ISO's proposal fully reflects the direction of the ISO Governing Board, which balanced the interests of all stakeholders.

[25] TANC at 6; Modesto at 6.

inform the ISO about the exercise of ETC rights that are reflected in the ISO's modified proposal, while still others raise issues about aspects of the ISO design unaffected by Amendment No. 22. In sum, none of these comments express valid objections to the ISO's proposal to implement ETC scheduling templates, and the Commission should accept this aspect of Amendment No. 22 without condition or substantive modification.

The Tariff revisions proposed in Amendment No. 22 are consistent with the direction of the ISO's stakeholder Governing Board. The revisions do nothing to alter existing ETC priorities in scheduling and the rights of ETC holders to schedule outside normal ISO scheduling timelines. The Tariff revisions create a new contract usage template, which is to be used to provide the ISO with information concerning ETC rights. Under the ISO's current scheduling software, this information is presented as part of the energy schedule for the ETC holder. The ISO's scheduling systems provide all Scheduling Coordinators with opportunities to validate their schedules.

Some intervenors express concerns about whether the new scheduling templates protect the adjusted rights of ETC holders after transmission line derates.[26] These concerns are unfounded. The proposed Tariff revisions afford ETC schedulers the opportunity to modify schedules in the event of a transmission line derate or operating condition that requires an adjustment of available ETC rights. Under the revised Tariff provisions, ETC schedulers must submit any revised schedules within two hours of a transmission line derate. This

[26] TANC at 6-7; Redding at 9-10; Anaheim at 4-5.

requirement and the associated timeline is the same as that proposed, and accepted by the Commission in Amendment No. 13, for the ISO's "TO Debit" solution[27] and will apply to new firm users and ETC holders alike. The ISO has also modified its software design to provide a feature that will protect the adjusted ETC rights of an ETC holder even if the ETC scheduler does not submit a revised schedule after a transmission line derate or similar event. If no revised schedule has been submitted, any scheduled amounts that are in excess of an ETC holder's adjusted rights (*i.e.*, rights after the derate) will be treated as new firm uses by the ISO, and will therefore may be subject to Usage Charges. Any scheduled amounts which are within the adjusted ETC rights, however, will not be subject to Usage Charges. Thus, ETC holders will not face exposure to Usage Charge Congestion costs for their valid ETC rights, as those rights may be adjusted as result of a derate, even if no revised schedule is submitted.[28] As part of the resolution of this issue the ISO has committed to provide ETC schedulers with timely information on the revised rights, thereby facilitating timely

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[27] *California Independent System Operator Corp.*, 86 FERC ¶ 61,122 (1999).

[28] Under the hypothetical posed by Anaheim, if an ETC holder in the Day-Ahead Market schedules a 100 MW delivery using 100 MW of available ETC rights, and the path subsequently was derated by 10%, one of two things could happen. First the ETC scheduler would be notified of the derating and would have an opportunity to submit a revised schedule, consistent with the timelines discussed above. The ETC scheduler could then revise the schedule to reflect the adjusted ETC rights, such that the scheduled delivery would not exceed the adjusted ETC rights (which, for the sake of this example, we will consider to be 90 MW). That revised schedule would not be subject to any Usage Charges. In the alternative, if no revised schedule was submitted, the ISO would treat all scheduled usages above the adjusted ETC rights as new firm uses subject to Usage Charges, but only to the extent those usages exceeded the ETC rights as adjusted due to the derate (again 90 MW in the example).. The entire 100 MW schedule would not be treated as new firm uses, despite the fact that the ETC scheduler had taken no action in response to the derate. This was one of the features the ISO added to its ETC scheduling template design in response to the concerns of ETC holders and at a substantial cost

submission of revised ETC schedules that would enable ETC holders to avoid exposure to Usage Charges.

In an apparently related concern, three intervenors request that language similar to that added in Amendment No. 22 to the end of Section 3.3.1.3 of the Scheduling Protocol (SP 3.3.1.3) be added to SP 3.2.6.3 and 3.2.8.3.[29] Although this addition will not substantively add to the protections to ETC holders as described above, the ISO agrees to make this change in a compliance filing to be submitted in this docket. The ISO believes this addition, and the explanation provided above, addresses Anaheim's concerns about the term "invalidated contract usage" as used in the revised Tariff provisions.

Anaheim requests additional clarification of the impact of a deration on a schedule that relies upon ETC rights over multiple segments to complete a delivery of energy.[30] Anaheim's concern is that "the entire schedule will be treated as new firm use due to a partial derating of only one segment." This will not occur under the ISO's proposal. If a single Day-Ahead schedule combines ETC entitlements over two separate segments, and there is a subsequent derating of one segment, the ETC rights on both segments of the schedule would be adjusted, but only to the extent ETC rights on the derated segment would need to be adjusted. The ETC scheduler would then be notified and would have the opportunity to revise the schedule with respect to both segments to take into account the adjusted ETC rights. Even if a revised schedule is not submitted, scheduled usages would only be subject to Usage Charges to the extent those

[29] TANC at 7; Redding at 10; Anaheim at 5 n.1.

[30] Anaheim at 5-6.

usages exceeded the ETC rights as adjusted due to the derate on one segment. The ISO also notes that, in such a circumstance, an ETC holder could obtain additional protection in advance by making arrangements for its ETC scheduler to submit separate schedules for each segment of the delivery in question.

The ISO also reiterates that nothing in Amendment No. 22 will alter the rights that certain ETC holders now have to change their schedules after the Day-Ahead and Hour-Ahead Markets close. The ETC scheduling template is simply the new mechanism by which ETC schedulers will provide the ISO with advance information about the usage of ETC rights. The ISO currently receives such information through alternative mechanisms, albeit ones that provide no opportunity to validate consistency of the schedules with the ETC rights they purport to exercise. SCE and TANC's concerns that Amendment No. 22 might limit current scheduling flexibility under Existing Contracts are therefore misplaced.[31]

MWD submits comments objecting to the minimal steps that the ISO's proposal require Participating Transmission Owners ("Participating TOs") and ETC schedulers (who are often the Participating TOs) to take in order to inform the ISO of the exercise of ETC rights.[32] These objections ignore the fact, noted above, that the ISO's scheduling infrastructure provides ample opportunities for ETC holders and others to ensure that their rights are properly reflected in their

[31] SCE at 2-3; TANC at 6. It is unclear what TANC is referring to when it mentions a potential inconsistency between the ISO's proposal and the Responsible Participating Transmission Owner Agreement. The impacts of Amendment No. 22 on Congestion Usage Charges that might be assessed with respect to ETC schedules are addressed in the discussion above.

[32] MWD Supplemental Protest ("MWD Supp.") at 2-5.

schedules and imposes minimal responsibilities on Participating Transmission Owners and ETC schedulers. All Scheduling Coordinators have the ability to repeatedly validate the accuracy of their schedules up until the end of the Hour-Ahead scheduling timeline. Moreover, any responsibilities created by the ISO's proposal are either less burdensome or equivalent to the responsibilities which other Market Participants must satisfy.

MWD suggests that the provisions in revised SP 3.2.5, under which Participating TOs notify the ISO of the amounts of capacity to reserve for its customers under ETCs, are duplicative of the Participating TO's obligation under Section 2.4.4.4 of the ISO Tariff to provide the ISO operating instructions with respect to ETC rights. There is no inconsistency. In fact, the ISO utilizes the operating instructions provided pursuant to Section 2.4.4.4 to initially determine the reservation of ETC rights. The notification under SP 3.2.5 provides an opportunity for daily verification that the schedules submitted are consistent with the ETC rights for which that Participating TO has submitted operating instructions.

MWD next complains that an ETC scheduler might improperly fill out a contract usage template in a manner that is inconsistent with the information provided by the Participating TO. This is an issue that is properly addressed between an ETC holder and its scheduler. The ISO must be provided with information about not only an ETC holders rights under an Existing Contract, but also the scheduled usage of those rights. It is plainly the responsibility of the ETC scheduler to do so. ETC schedulers and all Scheduling Coordinators are

provided more than adequate training on the ISO's scheduling requirements and, as noted above, are provided ample opportunity throughout the scheduling process to validate their schedules. The ISO cannot be responsible for all errors that a Scheduling Coordinator might make. It is incumbent upon ETC holders to ensure that the proper schedules are submitted on their behalf. The ISO's proper role in that relationship is implementing the schedules it is provided.

MWD also raises the issue of possible charges for deviations that may be assessed if an ETC holder modifies its schedule in real time. This issue is unrelated to Amendment No. 22. The ISO's proposal in Amendment No. 22 with respect to ETC scheduling templates will not alter the assessment of charges for real time deviations.

Finally, MWD complains that the ISO has not included automatic defaults in its software to ensure that ETC rights would be honored "regardless of errors in templates." Again, it is a small but absolutely vital responsibility of Scheduling Coordinators, including ETC schedulers, to ensure that the ISO is provided the correct information about their schedules, including the scheduling of ETC rights. The ETC usage template reflected in the ISO's proposal simply takes the place of the existing mechanism by which the ISO receives this information. It is unclear what MWD refers to as the requested "automatic defaults." As explained above, the ISO has added a feature which ensures that an entire valid ETC schedule is not subjected to Usage Charges after a derate even if the ETC scheduler does not take advantage of the opportunity to submit a revised schedule.

During the stakeholder process, a few stakeholders did request that the ISO's software be modified to automatically curtail and adjust an ETC schedule in the case of a line deration. This option was presented to the ISO Governing Board at its August meeting. There were a number of reasons the requested option was rejected, one of which was the cost of the software modifications. More importantly, however, this option may have violated the fundamental tenet that the parties to Existing Contracts (the Participating TOs and ETC holders) must give the ISO correct usage information, even in a derate situation. Under the ISO Tariff, the ISO is to have no role in interpreting Existing Contracts.[33] An automatic curtailment and adjustment mechanism could have put the ISO in just such a role. Most Scheduling Coordinators and ETC holders believed that the ISO should not be in a position to adjust their schedules. ISO management therefore recommended against implementing this option, and the Governing Board agreed. This conclusion is reasonable and should be respected by the Commission.

MWD submits an additional comment concerning an issue pending in another proceeding. MWD requests that the Commission condition the elimination of SBP 4.6, as proposed in Amendment No. 21 to the ISO Tariff, upon the addition of certain language to SP 7.2.2(a).[34] MWD provides no support for its request. The language that it requests be added appears to address the question of the exposure of amounts scheduled under ETC rights to Usage Charges in the event of a derate. The ISO has already addressed this issue

[33] Section 2.4.4.4.1.1.

[34] MWD Supp. at 5-6.

elsewhere in Amendment No. 22 and the modifications of the Tariff revisions it has agreed to make in this Answer. There is no reason why this issue should be linked to the elimination of SBP 4.6. As the ISO explained in its Answer to Comments submitted in Docket No. ER99-4462 on October 29, 1999, the elimination of SBP 4.6 is fully justified. MWD's request should be denied.

The PX requests that the Commission require the ISO to provide the PX with certain information on the individual rights of certain ETC holders.[35] The PX's request is vague about what necessary information a scheduler for an ETC holder would not already possess. The PX makes a similar request with respect to validation of FTR holdings, which is discussed in more detail below. Both requests amount to little more than unsupported pleas for the ISO to take over responsibilities which are properly fulfilled by the PX as a Scheduling Coordinator. In addition, neither request addresses the ISO's proposals in Amendment No. 22. These requests therefore go beyond the scope of the instant docket. There is simply no need for the Commission to address here requests that have no bearing on the proposals before it.[36]

C. Tariff Revisions Related to Implementation of Firm Transmission Rights Are Widely Supported and Should Be Approved.

Some of the Tariff revisions submitted in Amendment No. 22 were designed to implement features related to the ISO's initial auction for and release of Firm Transmission Rights. Background information on the ISO's FTR design

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35 PX at 4.

36 *See California Independent System Operator Corp.*, 84 FERC ¶ 61,234 at 62,197 (1998) (wherein the Commission declined to address issues not implicated by a Tariff amendment filing).

is provided in detail in the Amendment No. 22 transmittal letter and is incorporated here by reference. No intervenor opposes the proposed amendments relating to FTR implementation, but several raise questions about aspects of the ISO's proposals, which are addressed below. The Commission should accordingly accept the ISO's proposal.

As explained in the Amendment No. 22 transmittal letter, the ISO has concluded that it is unnecessary to establish "position limits" on the amount of FTRs that a single entity could own or limits on FTR scheduling for the first year of FTR implementation. The ISO has, however, allocated additional resources for its Department of Market Analysis ("DMA") to exercise its existing authority to closely monitor the FTR Markets.[37] Specifically, the DMA will monitor the FTR Markets, including FTR auction results and secondary market activity, to determine whether any entity is "hoarding" FTRs or purposely over-scheduling FTRs to create "phantom" Congestion, thereby manipulating Congestion prices. Amendment No. 22 revises the ISO Tariff to ensure that the ISO has the necessary information to conduct such monitoring of the FTR Markets. Under these revisions, FTR Holders will be required, as part of their registration of FTRs, to provide the ISO with the identity of all affiliated entities that are also FTR Holders or California Market Participants.

Several intervenors support the ISO's plan to monitor the FTR Markets.[38] PG&E requests clarification of the notification required by the ISO's proposal.

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[37] The "Department of Market Analysis" is the new name for the ISO's Market Surveillance Unit.

[38] MWD at 6; PX at 4.

PG&E states that it is subject to substantial communication restrictions among regulated and unregulated affiliates and does not want to be in a position of having to engage in unnecessary communications.[39] The information required by the ISO's proposal would simply be a list of the Affiliates of the FTR Holder that are themselves FTR Holders or Market Participants, as defined in the ISO Tariff. Providing this information should not require any FTR Holder to engage in any unauthorized or inappropriate communications with an Affiliate.[40]

Another intervenor, DETM, raises questions about the ISO's plans to monitor the FTR Market. Specifically, DETM expresses concern that the ISO has established some kind of "*de facto* position limits, which if exceeded, will presumptively expose the subject FTR Holder to remedial action."[41] This concern is misplaced. The ISO has expressly declined to establish position limits, *de facto* or otherwise, for the first year of FTR implementation. The monitoring of the FTR Markets will be conducted pursuant to the ISO's existing authority, as reflected in the Market Monitoring and Information Protocol ("MMIP"). To the extent the DMA detects evidence of hoarding of FTRs or purposeful over-scheduling to create "phantom" Congestion, the DMA will prepare the appropriate reports and recommend any corrective actions to be taken consistent with the terms of MMIP 4.4.1.

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[39] PG&E at 3.

[40] The PX suggests that the registration procedures may be "unnecessarily cumbersome" without indicating any particular aspect of those procedures. PX at 4. In fact, the effort required to provide the ISO with this list of Affiliates and the information required by Section 9.8.1, as revised by Amendment No. 22, should be minimal.

[41] DETM at 3.

Amendment No. 22 also includes revisions to Section 9.4.2.1 of the ISO Tariff that define the criteria to be used by the ISO to determine the starting price in the primary FTR auction for a new Inter-Zonal Interface that previously had been a transmission path or group of transmission paths within an existing Zone (*i.e.*, Intra-Zonal Path(s)). Such a new Inter-Zonal Interface can be created when the ISO exercises its authority under Section 7.2.7 of the ISO Tariff to create a new Congestion Management Zone. Since no Usage Charges are assessed or collected for Intra-Zonal Congestion, the ISO's proposal would base the seed price for any such new Inter-Zonal Interface on the corresponding Grid Operation Charges collected by the ISO in the most recent twelve-month period that are applicable to the Intra-Zonal Path(s) in question in the relevant direction.

PG&E notes that RMR Units can be used to relieve Intra-Zonal Congestion in many circumstances, and requests that the Commission clarify that such RMR costs may also be considered in setting a seed price for a new path.[42] The requested clarification is unnecessary. The ISO's proposal, while generally applicable to all new Zones, was specifically designed to provide the ISO with a mechanism for setting a seed price for the new Zone between Path 15 and Path 26 created by the ISO Governing Board at its August meeting. The ISO has primarily used Adjustment Bids and Supplemental Energy bids to address Congestion on Path 26. The ISO's proposal to base the seed price for that Zone on the Grid Operations Charges which recover the costs of Intra-Zonal Congestion Management through Adjustment Bids, but does not include RMR

[42] PG&E at 3-4.

costs which are recovered from the Participating TO, is therefore appropriate. The ISO is currently engaged in an analysis of its approach to both the pricing and cost-recovery for Intra-Zonal Congestion with a goal of developing reforms to those aspects of Intra-Zonal Congestion Management. If appropriate, the ISO will propose modifications to its mechanism for setting the seed price for new Congestion Management Zones which take such reforms into account.

D. Other Comments Concerning Firm Transmission Rights Are Unrelated to Amendment No. 22 and Should Not Be Addressed in This Proceeding.

As mentioned above, the PX submits a "protest" objecting to an aspect of the ISO's FTR design which is unaffected by Amendment No. 22. The PX requests that the Commission require the ISO to verify that the schedules submitted by a Scheduling Coordinator properly reflect the FTR holdings of the individual Market Participants that the Scheduling Coordinator represents.[43] As an initial matter, the Commission should reject this filing as beyond the scope of this proceeding because it does not even purport to address any aspect of Amendment No. 22. That matter aside, the PX's proposal is nothing less than a request for the ISO to take over a fundamental responsibility of a Scheduling Coordinator. Section 2.2.6 *et seq.*, as well as numerous other provisions of the ISO Tariff, establish the responsibility of Scheduling Coordinators to submit the proper schedules on behalf of the entities they represent and to ensure, in submitting such schedules, that the entities they represent comply with all applicable provisions of the ISO Tariff and Protocols. The PX's seeks to avoid

[43] PX at 2-4.

fulfilling this responsibility. In addition, the Commission has required the ISO to post on its home page "the identities of FTR holders, the number of FTRs that they hold on each interface, and the path rating for the interface."[44] The PX therefore should have all the information it needs to verify whether the entities it represents have the FTR rights that they claim. The PX's proposal therefore lacks merit.

MWD requests that the Commission direct the ISO to revise its Tariff to provide the ISO with authority to "publish on its home page such information concerning the price of FTRs as the ISO Board determines to be appropriate."[45] As MWD correctly points out, the ISO had agreed with certain comments submitted by MWD and TANC in Docket No. ER98-3594 that the publication of FTR pricing information could have positive effects. The ISO does not believe, however, that a separate provision needs to be added to the ISO Tariff to indicate that the ISO has this authority. There is no restriction on the ISO posting such information. The ISO currently plans to post pricing information for FTRs procured in the primary FTR auction.[46] The requested Tariff revision is therefore unnecessary.

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[44] *California Independent System operator corp.*, 87 FERC ¶ 61,143 at 61,581 (1999).

[45] MWD at 6, *citing* 87 FERC ¶ 61,143 at 61,580.

[46] The ISO notes again, as it did in the Amendment No. 22 transmittal letter, that it has requested guidance on three questions related to the secondary markets for FTRs, including what information must be publicly posted for such transactions, pursuant to the Commission's regulations. Several intervenors support the ISO's request for guidance. PG&E at 4; DWR at 2.

E. The ISO Governing Board Has Properly Authorized the Creation of a New Congestion Management Zone Pursuant to Its Existing Authority Under the ISO Tariff.

In Amendment No. 22, the ISO proposed minor Tariff revisions related to the creation of a new Congestion Management Zone. Section 7.2.7 of the ISO Tariff governs the creation, modification and elimination of Congestion Management Zones. Section 7.2.7.2.1 gives the ISO the authority to create a new Zone if it finds that, within a Zone, the cost to alleviate Congestion on a path over a 12 month period "is equivalent to at least 5 percent of the product of the rated capacity of the path and the weighted average Access Charge of the Participating TOs." In order for a new Zone to be an Active Zone, Section 7.2.7.3.1 requires that a "workably competitive Generation market" exist on both sides of the relevant Inter-Zonal interface to be created for a substantial portion of the year.

The Commission approved these Tariff provisions and the criteria for creation of a new Congestion Management Zone in the October 30 Order, subject only to the condition that the ISO submit a study evaluating the Zone creation criteria. The Commission indicated that it would reconsider the appropriateness of these criteria after evaluating the results of this study.[47] The study was initially to be completed one year after the ISO's projected Operations Date. On March 31, 1999, the ISO filed a motion to extend indicating that, due to commitment of resources to other priorities, it had been unable at that time to devote the necessary funds and manpower to complete the study, noting that the

[47] October 30 Order, 81 FERC at 61,484.

ISO had been authorized by the Governing Board to hire consultants to work on the study, and requesting that the ISO be permitted to submit this, and other studies required by the October 30 Order, by November 30, 1999. The Commission granted that request in a recent order.[48] The ISO is currently preparing that report for filing within the timeframe approved by the Commission.

In the meantime, the ISO Governing Board has authorized the creation of a new Congestion Management Zone based on the criteria the Commission approved in the October 30 Order. As explained in the Amendment No. 22 transmittal letter, transmission Path 26 has been congested in the north-to-south direction during many hours since the start of ISO Operations. The ISO has managed Congestion on Path 26 by increasing the output of resources south of Path 26 and decreasing the output of resources north of Path 26. This has resulted in substantial Intra-Zonal Congestion Management costs. By a resolution approved on August 26, 1999, the ISO Governing Board determined that the criteria for creating a new Zone had been satisfied, and authorized the creation of a Congestion Management Zone ("ZP26") between the Northern Zone ("NP15") and the Southern Zone ("SP15") of the ISO Controlled Grid.[49] The timing of this determination was critical. As explained above, the ISO will soon be conducting its initial auction for FTRs.[50] The Governing Board's action in August was necessary to ensure that FTRs for the new Inter-Zonal Interface could be released in the initial auction.

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[48] *California Independent System Operator Corp.*, 88 FERC ¶ 61,221 at 61,730 (1999).

[49] This resolution was provided as Attachment K to the Amendment No. 22 transmittal letter.

[50] The auction is currently scheduled to proceed on November 17, 1999.

Only two intervenors oppose the creation of the new Zone, and one of these two suggests that the Commission could approve the creation of the new Zone subject to certain conditions.[51] The other intervenor requests that the Commission direct the ISO to provide more information on the data and criteria used to support the creation of the new Zone.[52] The requests of both these parties should be rejected. The ISO (and its Governing Board) have properly exercised the existing authority under the ISO Tariff to create a new Zone. There is no justification for rejecting the exercise of that discretion.

The arguments of both Redding and MWD are based on a faulty premise: they presume that the Commission, and not the ISO, will determine whether the criteria for creating a new Zone have been met. Section 7.2.7.2.1 of the ISO Tariff makes it clear that a new Zone will become effective "after the ISO Governing Board has determined that a new Zone is necessary." Other provisions of Section 7.2.7.2 make it equally clear that the ISO has the discretion to create, modify or eliminate Zones under certain defined circumstances.[53] Nothing in these provisions requires the ISO to seek the Commission's approval of the determination of the ISO Governing Board. The Tariff does explicitly require regulatory approval for changing *the criteria* for establishing or modifying Zone boundaries.[54] The absence of similar language in Section 7.2.7.2.1 leaves no doubt that creation of a new Zone is not dependent upon Commission approval. Any party who believes the ISO has misapplied the criteria specified in

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51 Amendment to the Protest of the Cities of Redding, *et al.* (hereafter "Redding Amend.").

52 MWD at 8-10.

53 *See, e.g.*, Sections 7.2.7.2.2, 7.2.7.2.3, and 7.2.7.2.4.

54 Section 7.2.7.2.5.

the ISO Tariff can bring the matter before the Commission through a complaint.[55] No one has done so in the case of Path 26; nor, as explained below, would a complaint be warranted in this instance.

The fact that the ISO's Zone creation authority is not dependent upon Commission approval is equally apparent in the October 30 Order. In that order, the Commission states that:

> The ISO expects to create, eliminate and modify the Zones from time to time as changes in patterns and levels of transmission congestion dictate. The ISO will monitor the grid and determine if changes are necessary. The creation of a new Zone will be considered if over the course of a 12-month period "the cost to alleviate the Congestion on a path is equivalent to at least 5% of the product of the rated capacity of the path and the weighted average Access Charge of the Participating Transmission Owners."[56]

Nothing in this discussion suggests that the ISO's creation of new Zones would require filing with and approval by the Commission. The Commission approved the ISO's proposal subject only to the Commission's reconsideration of the criteria for creating new Zones after it has evaluated the results of the study described above.[57] Until the study is completed and the Commission announces the results of this evaluation, the ISO is authorized to place new Zones into effect

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[55] The ISO notes that the Tariff provisions governing Zone creation are analogous to a "formula" rate. The Tariff sets forth the criteria to be applied, which the ISO is then required to follow. As with a formula rate, there is no requirement that applications of the criteria be submitted to the Commission, only changes in those criteria require a FERC filing. *See, e.g.*, *Northeast Utilities Service Co.*, 62 FERC ¶ 61,294 at 62,906 (1993).

[56] October 30 Order, 81 FERC at 61,482.

[57] *Id.* at 61,484.

pursuant to the existing criteria and without additional regulatory approval.[58]

The submission of Tariff changes related to the creation of ZP26 in Amendment No. 22 did not constitute a request for regulatory approval of the ISO's exercise of this authority. The transmittal letter plainly states that the relevant portion of Amendment No. 22 consists of "*conforming* revisions to the ISO Tariff to *reflect* the creation of this new Zone."[59] The ISO also used the Amendment No.22 transmittal letter to notify the Commission of its decision to exercise its authority to create a new Zone.

Furthermore, neither Redding nor MWD makes a valid case that the ISO has not properly exercised its authority under the Tariff with respect to creation of a new Zone. They concede that the criteria set forth in Section 7.2.7.2.1 have been satisfied,[60] and focus on the requirement that there must be a "workably competitive Generation market . . . on both sides of the relevant Inter-Zonal Interface for a substantial portion of the year" for a new Zone to be an Active Zone. They ignore the fact, however, that Section 7.2.7.3.5 of the ISO Tariff, as approved by the Commission, explicitly provides that "[t]he ISO Governing Board shall adopt criteria that defines a 'workably competitive Generation' market." In the instant case, the simple fact that the ISO Governing Board has approved the designation of the new Zone as an Active Zone is evidence that the Board has found that these criteria have been satisfied. MWD claims that the ISO has not

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[58] If there were any doubt on this score, it would be removed by the fact that two parties, Santa Clara and Palo Alto opposed the ISO's proposal, arguing that "new Congestion Zones should be established only with the Commission's approval." *Id.* at 61,483. The Commission approved the ISO's proposal without comment on these arguments or adoption of such a requirement.

[59] Amendment No. 22 transmittal letter at p. 12 (emphasis added).

[60] MWD at 9.

attempted to define these criteria. This is not true. In the Annual Report prepared by the ISO's Market Surveillance Unit (now the DMA), the ISO indicated that the definition of what constitutes a "workably competitive market" was under discussion, but that the ISO had adopted certain temporary criteria for this standard.[61]

Redding also addresses the criteria for "workably competitive markets," with a focus on portions of the "Report on Redesign of California Real-Time Energy and Ancillary Services Markets" prepared by the Chairman of the ISO's independent Market Surveillance Committee ("MSC") and submitted in Docket Nos. ER98-2843 *et al.* on October 19, 1999. As Redding accurately states, this report includes various observations on the creation of new Zones and recommendations on how the ISO should define "workably competitive markets."[62] Redding contends that the ISO Governing Board's determination to create a new Congestion Zone did not properly taken into account the recommendations of the MSC. This argument is flawed for three reasons. First, it is the ISO Governing Board, and not the MSC, that adopts the criteria that define a "workably competitive Generation market." Although the Governing Board will surely take the recommendations of the MSC into account into adopting such criteria, it is not required to adhere to them. Second, the Governing Board authorized creation of the new Zone in August, almost two months before the MSC's observations on this issue were available. Redding is

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[61] *See* p. 5-27 of the Annual Report on Market Issues and Performance submitted in Docket No. ER99-3158 on June 4, 1999.

[62] Redding Amend. at 4-8.

essentially accusing the ISO of failing to anticipate what the MSC's recommendations would be months in the future. Third, the critical timing of the creation of the new Zone in connection with the FTR auction does not permit the ISO or its Governing Board to revisit this issue in light of the MSC's recommendations.

The ISO does, of course, value highly the observations and recommendations of the MSC and its Chairman. The ISO is currently in the process of preparing its response to the MSC Report. In addition, Section 7.2.7.3.5 indicates that the ISO Governing Board will undertake an annual review of the methodology for the creation or modification of Zones (including Active or Inactive Zones) and "make such changes as it considers appropriate." The ISO will take the MSC's comments, as well as the report on Zone creation criteria currently being prepared and any Commission action on that report, into account in conducting this review. None of these facts, however, should have an impact of the Governing Board's decision in August, utilizing the criteria then in effect, to create a new Active Zone.

In the alternative, Redding requests that the Commission establish three conditions for its "approval" of the Zone. As noted above, further regulatory approval is not required for the new Zones to go into effect. There is therefore no basis for requesting such conditions. In addition, the conditions themselves are not justified even if regulatory approval were required. One of the requested conditions is that the establishment of the new Zone "not be prejudicial with

respect to the establishment of additional Congestion Management Zones."[63] This request is based on the fact that the Commission's approval of the five percent Zone creation criterion was "subject to further review."[64] The ISO acknowledges that the Commission will revisit this issue after evaluating the report currently being prepared. The ISO takes issue, however, with Redding's claim that the criterion currently set forth in Section 7.2.7.2.1 "has not received the imprimatur of the Commission."[65] The Commission did approve the five percent criterion, albeit subject to further review, and that criterion remains in effect until the Commission takes further action on this issue.

Redding also requests that Usage Charges over the new Inter-Zonal interface should only be assessed for north-to-south transactions.[66] Redding explains that M-S-R utilizes Path 26 "primarily in a south-to-north direction" which can diminish the north-to-south Congestion normally experienced on Path 26. This is nothing less than a request to fundamentally alter the ISO's Congestion Management Zone without justification. It is true that the substantial Congestion experienced on Path 26 to date has been in the north-to-south direction. Once Path 26 becomes an Inter-Zonal Interface, any Scheduling Coordinators that schedule counter to the flow of Congestion on Path 26 will not be assessed Usage Charges for their schedules, but will instead be compensated for, in effect, creating transmission capacity through their counter-schedules.[67] However, if the

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63 Redding Amend. at 10.
64 October 30 Order, 81 FERC at 61,484.
65 Redding Amend. at 11.
66 *Id.* at 8-9.
67 *See* Section 7.3.1.1 of the ISO Tariff.

ISO ever experiences south-to-north Congestion on Path 26 once it becomes an Inter-Zonal Interface, it would be appropriate for the ISO to assess Usage Charges for such Congestion as it would for any other Inter-Zonal Interface. Redding's request should be rejected.

Redding requests that ETC holders be exempted from all Congestion charges on Path 26 once it becomes an Inter-Zonal Interface.[68] Redding offers no support for this request, and nothing in Amendment No. 22 alters the ISO's treatment of ETC holders with respect to Inter-Zonal Congestion. This request is therefore unjustified and beyond the scope of this proceeding. It should be rejected.

Another intervenor, DWR, requests that the ISO's creation of the new Zone be conditioned on subsequent operating experience, once the new Zone goes into effect.[69] DWR claims that this is request is justified simply because DWR operates facilities "in tandem" on either side of Path 26. This fact is not a valid basis for establishing conditions on the new Zone. Numerous entities currently operate facilities on both sides of the existing Active Inter-Zonal Interface on Path 15 without adverse effect. If DWR experiences any specific concerns once the new Zone goes into effect, the ISO commits to work with DWR to address their concerns.

Finally, one intervenor that expressly does not oppose the creation of the new Zone raises issues concerning the allocation of Congestion revenues.[70]

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68 Redding Amend. at 10.
69 DWR at 3-4.
70 NCPA at 4-5.

This comment concerns a proposal which NCPA acknowledges has been rejected by the Commission. The instant proceeding is not the proper forum to revisit such an issue.

F. The Proposed Changes to the Calculation and Allocation of Transmission Losses Should Not Be Conditioned Upon the Resolution of Any Other Proceeding and Should Be Applied Prospectively

Since November of 1998, the ISO's Settlement Improvements Team has been meeting with stakeholders to investigate a variety of issues related to the settlement process. A number of the Tariff revisions proposed in Amendment No. 22 were developed through that process. Two of those proposals concern the calculation and allocation of Transmission Losses in the Imbalance Energy and UFE settlements.

In Amendment No. 22, the ISO proposes to reduce the potential for inaccuracy in calculating Transmission Losses by implementing a new Transmission Loss model that will calculate Transmission Losses in the Imbalance Energy and UFE settlements through the use of real time power flows instead of the forward schedules submitted by Scheduling Coordinators. This approach will correct a potential for error in Transmission Loss calculations which can occur under the current approach if a Scheduling Coordinator's forward schedules either underschedule or overschedule Load relative to real time operations. As noted by the ISO on repeated occasions, Scheduling Coordinator loads frequently vary be large amounts from forward schedules.

Only one intervenor opposes this proposal. Enron contends that the ISO's proposal prejudges concerns it had raised which are currently set to be

addressed in the Unresolved Issues proceeding pending in Docket No. ER98-3760. [71] In comments previously submitted in Docket Nos. EC96-19-029 and ER96-1663-030, Enron had contended that the use of *ex post* Generator Meter Multipliers ("GMMs"), as is contemplated in the ISO's Amendment No. 22 proposal, would be harmful to the market. Enron specifically expressed concern that real time transmission line outages could subject transmission customers to additional costs due to circumstances beyond their control.[72]

First, the ISO notes that the fact that an issue is pending in the Unresolved Issues proceeding does not mean that the ISO must wait to address that issue. Requiring the ISO to defer addressing all issues assigned to that proceeding would prevent the ISO from addressing in a timely manner many outstanding concerns of Market Participants. Numerous issues designated as unresolved in the ISO's March 11, 1999 Report on Outstanding Issues in that proceeding have since been resolved in subsequent Tariff amendments. For example, Issue 433, concerning the charges to Scheduling Coordinators for Ancillary Services was resolved by the ISO's Tariff Amendment Nos. 13 and 14. Forcing the ISO to wait to address issues simply because there are among the hundreds listed in the March 11 Unresolved Issues report would be inefficient and would effectively foreclose any action by the ISO and stakeholders to resolve outstanding issues.

In addition, concerns that the use of *ex post* GMMs in calculating Transmission Losses would subject transmission customers to inappropriate costs were addressed in the SIT process. The consensus attained through the

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71 Enron at 3-5.

72 *Id.* at 5.

SIT process nonetheless supported the proposal for Transmission Loss calculation included in Amendment No. 22. That consensus was based on two conclusions. First, the participants in the SIT noted that real time outages were very infrequent, thus the risk of improper cost-shifting to transmission customers would be rare. A far more substantial risk of cost-shifting exists where forward GMMs are used to calculate Transmission Losses. Transmission Loss costs are allocated to owners of Generation. If forward GMMs are used to calculate Transmission Losses, the difference between the real time losses and those calculated based on forward GMMs will be a component of UFE, which is allocated to Load and Exports. This results in an inappropriate shifting of costs to Loads and Exports. The SIT participants and the ISO Governing Board determined that this far greater risk of cost-shifting should be addressed through the ISO's proposal. Concerns of the type expressed by Enron were therefore amply considered in developing the ISO's proposal. The Commission should respect the reasoned decision reached through the ISO's stakeholder SIT process.

Another intervenor offers two small modifications to the Tariff revisions proposed to implement this change.[73] These modifications are unnecessary. MWD first suggests that Section 7.4.2.1.2 should be revised to describe when the ISO will calculate *ex post* GMMs and how this information will be communicated to Market Participants. Detail of that level can be found in operating instructions which are available on the ISO Home Page. MWD also

[73] MWD at 7.

suggests that either Section 7.4.3 or the Master Definitions Supplement of the ISO Tariff be modified to indicate that "Default GMMs" will be based on historical data utilizing the real time Power Flow Model. Amendment No. 22 already specifies that Default GMMs are based on pre-calculated GMMs, which now will be calculated utilizing the real time Power Flow Model.

Another proposal developed through the SIT process concerns how Transmission Losses are allocated to each Utility Distribution Company ("UDC") as part of the UFE calculations under the ISO Tariff. The Transmission Loss factor in UFE calculations is currently determined by applying the sum of all GMMs and Tie Meter Multipliers ("TMMs") for the ISO Control Area to the individual Generators and net import interties attributable to the UDCs. Although this approach accurately reflects total Transmission Losses for the Control Area, it may result in some transfer of UFE responsibility among UDCs. In Amendment No. 22, the ISO proposes to adopt the use of a UDC branch group loss apportionment methodology for UFE calculations which utilizes actual transmission conductor loss values by UDC branch group, and would therefore more accurately reflect Transmission Losses associated with each UDC.

This proposal is supported by several intervenors and opposed by none. The intervenors supporting the proposal, however, also request that these changes be made retroactive to the start of ISO Operations.[74] PG&E claims that, because the ISO's current method for allocating Transmission Losses was an "interim methodology," the Commission has held that any revisions to that

[74] PG&E at 5-7; SDG&E at 7.

methodology should result in retroactive adjustments to the allocation of UFE responsibilities among UDCs back to the start of ISO Operations.[75] The only order PG&E cites to support this claim is a July 28, 1999 letter order which notes that, in a filing in an unrelated docket, the PX -- not the ISO -- had stated that "changes associated with transmission losses are subject to the outcome of the Commission's final disposition of the ISO's submittal of its loss methodology."[76] This recitation of a PX pleading is far from a dispositive indication of the Commission's policy on this issue.

Far more relevant is the Commission's October 30 Order, in which the Commission accepted the ISO's proposal for calculating and assigning Transmission Losses.[77] The Commission directed the ISO to conduct a study and file a report with respect to its methodology for calculating and assigning Transmission Losses, but accepted the ISO's Transmission Loss proposal to be applicable in the interim. As explained above, the ISO has requested an extension of the time permitted to submit the results of this study to the Commission, and is currently completing this study.[78] The Commission indicated that it would "reevaluate the ISO's proposal for Transmission Losses" once it received this report.[79] Nothing in the October 30 Order suggests, however, that

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[75] PG&E at 6.

[76] *California Power Exchange Corp.*, 88 FERC ¶ 61,103 (1999).

[77] October 30 Order, 81 FERC at 61,522. PG&E is plainly incorrect when it suggests that there has been a "lack of Commission review and approval" of the current method. As explained above, the Commission has simply reserved the right to revisit issues related to the ISO's Transmission Loss methodology prospectively once more information is available.

[78] MWD requests that the Commission require the ISO to submit its report on Transmission Losses by November 30, 1999. The ISO is preparing the report to be submitted within that timeframe.

[79] October 30 Order, 81 FERC at 61,522.

calculations and allocations of Transmission Losses would have to be retroactively recalculated based on the Commission's reevaluation of this issue. Such an undertaking would involve a massive commitment of resources on the part of the ISO. There is no basis in the Commission's order for the retroactive application of Amendment No. 22, as requested by these two intervenors.[80]

In addition, the request that the ISO make massive retroactive adjustments to UFE allocations is contrary to the ISO's "Look Back" policy, which was recently reaffirmed by the ISO Governing Board through the same SIT process that resulted in the development of the Amendment No. 22 changes to Transmission Loss calculation and allocation. Under the ISO's existing policy, the ISO seeks to resolve all "on-time" disputes but does not provide an opportunity for Scheduling Coordinators to pursue outdated settlement issues.[81] In response to some stakeholder requests, the ISO developed a proposal under which Scheduling Coordinators could pursue past settlement issues for the period from ISO start-up through the end of 1998, subject to certain conditions that would ensure that these disputes not be pursued *ad infinitum*. Through a survey conducted in August of this year, the ISO determined that interested Market Participants favored the ISO's existing policy over this proposal. ISO management reported on this issue at the same August Board meeting where the Transmission Loss revisions were approved. By a resolution approved on

[80] For the same reasons, the request of two other intervenors that the Amendment No. 22 Tariff revisions relating to Transmission Losses be conditioned as interim, subject to the Commission's reevaluation of this issue, should also be rejected. DWR at 3; MWD at 8.

[81] Under this policy, the ISO will also exercise its discretion to correct errors with a large financial impact, in the order of hundreds of thousands of dollars a day, irrespective of whether a valid dispute was filed.

August 26, 1999, the ISO Governing Board explicitly reaffirmed the ISO's "policy on retroactive adjustments and existing provisions requiring that timely disputes be submitted to preserve dispute and other rights under Article III of the Tariff."[82] PG&E and SDG&E seek to benefit from certain results of the SIT stakeholder process -- the revisions to Transmission Loss calculation and allocation -- while attempting to circumvent the consensus of stakeholders on other issues -- retroactive adjustments. The Commission should not permit them to so do. The Commission should approve the Amendment No. 22 revisions which would modify the methods used to both calculate and allocate Transmission Losses in the Imbalance Energy and UFE settlements to become effective prospectively.

G. Amendment No. 22 Appropriately Provides Market Participants a Prospective Opportunity To Dispute Incremental Changes on Final Settlement Statements

Amendment No. 22 would also implement a process by which Scheduling Coordinators may dispute new or modified charges or credits that appear for the first time on the Final Settlement Statement. Again, all intervenors commenting on this proposal support it, but several seek to expand this mechanism well beyond the scope of the ISO's proposal. PG&E again argues that the change should be given retroactive effect.[83] PG&E notes that the Commission addressed a similar issue in a June 1998 order concerning the PX,[84] and contends that the Commission's action there should justify retroactive application

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82 *See* the August 20, 1999 Memorandum to the ISO Governing Board's Market Issues/ADR Committee, provided as Attachment B to this Answer.

83 PG&E at 4-5.

84 *California Power Exchange Corp.*, 83 FERC ¶ 61,241 (1998).

of the Amendment No. 22 change. PG&E suggests that the fact that the ISO has not had a formal mechanism for disputing "incremental changes" on Final Settlement Statements may have resulted in the addition of unjust and unreasonable charges to settlement statements for well over a year. PG&E does not explain, however, why it did not pursue its rights to present that issue to the Commission during that period. Insofar as PG&E states that millions of dollars of charges were added on Final Settlement Statements for certain periods, the ISO notes that its current "Look Back" policy permits the correction of errors concerning sums of that magnitude, irrespective of whether a valid dispute was filed.

PG&E also makes no attempt to reconcile its arguments with the ISO Governing Board's recent affirmation of the ISO's "Look Back" policy. That policy is designed to avoid exactly the kind of backward-looking revisitation of minor settlement issues which PG&E's comments would permit. The Commission should deny the request to make these changes applicable on anything other than a prospective basis.

The Commission should similarly deny Redding's attempt to eliminate any limitation on the time permitted to raise disputes with respect to settlement statements. Redding would have the ten-Business Day period for raising disputes of incremental changes on final Settlement Statements be treated as nothing more than a guideline for "efficient performance under the ISO Tariff."[85] Redding claims that all parties subject to the ISO Tariff should have some form of

[85] Redding at 10.

ill-defined rights to assert disputes and raise claims for an undefined period of time ('the applicable limitations period").[86] Redding ignores the fact that the ISO Tariff has always required Scheduling Coordinators to provide the ISO with timely notification of settlement disputes in order to preserve their rights under the ISO's settlement process.[87] Redding's comments suggest that it believes parties should be permitted to raise disputes about settlement statements months or even years after those statements are issued. Such an approach would be antithetical to the principles of finality which are necessary for the ISO's settlement process to operate efficiently. Such an approach would also be contrary to the ISO's "Look Back" policy, as discussed above.

In its comments on Amendment No. 17 to the ISO Tariff, Redding made similar arguments that the deadlines for raising settlement disputes set forth in the ISO Tariff, and approved by the Commission, should not be enforceable.[88] The Commission did not act on such arguments in that docket; it should likewise reject them in the instant proceeding.

H. The ISO's Proposals for Allocating Awards Payable By or to the ISO Pursuant to Good Faith Negotiations or Procedures and for a Placeholder Mechanism Are Reasonable.

In the Amendment No. 22 transmittal letter, the ISO explained that its primary role in the settlement process is to serve as a clearinghouse for Market

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[86] *Id.* at 11.

[87] For example, Section 11.6.1.2, as in effect at the start of ISO Operations, required Scheduling Coordinators to notify the ISO of any errors on Preliminary Settlement Statements within ten Calendar Days.

[88] *See* July 22, 1999 Answer of the California Independent System Operator submitted in Docket No. ER99-3289.

Participants. Consistent with this role, changes in a charge to one Scheduling Coordinator require offsetting changes in charges or credits to other Scheduling Coordinators. In most cases, when a Scheduling Coordinator disputes a Preliminary Settlement Statement and the dispute is granted, the ISO adjusts for the disputed amount in all Scheduling Coordinator Final Settlement Statements for the applicable period. If a dispute is denied and the Scheduling Coordinator pursues the options of good faith negotiation or initiation of the ISO's Alternative Dispute Resolution ("ADR") procedures, however, the ISO may find itself in the position of owing additional monies to that Scheduling Coordinator, to be paid for by other Scheduling Coordinators, or of receiving additional revenue from that Scheduling Coordinator, to be credited to other Scheduling Coordinators. Prior to the revisions proposed in Amendment No. 22, the ISO Tariff did not specifically address how to allocate amounts payable by or to the ISO pursuant to good faith negotiations or the ADR process to other Scheduling Coordinators.

Two intervenors submit comments on the ISO's proposal for such allocation. PG&E suggests that the ISO's proposal may not be comprehensive enough to take into account the possibility of an ADR award against a seller to the ISO, such as an RMR Owner.[89] The revisions proposed in Amendment No. 22 expressly apply to "awards payable *by or to* the ISO pursuant to good faith negotiations or the ISO ADR Procedures" (emphasis added). This language would address the circumstance identified by PG&E.

[89] PG&E at 5.

PG&E also requests that the ISO be required to notify all Market Participants which may be affected by an ADR proceeding and to take steps necessary to ensure that such participants are kept updated on the status of ADR proceedings. The mechanisms for such notice are already contained in the ISO Tariff and the ISO's ADR Procedures. Section 13.2.2 of the ISO Tariff requires the submittal of a statement of claim as a prerequisite for commencing ADR Procedures. This statement must 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 each claim." Such statements of claim are posted on the Dispute Resolution page of the ISO web site.[90] Updated information about the progress of ADR proceedings is also posted on that page. The ISO's ADR Procedures also permit other interested parties to submit their own statements or counterclaims in an ADR proceeding.[91] These documents are also published on the Dispute Resolution page. Thus, with minimal monitoring of this publicly available information, all interested Market Participants should have no difficulty remaining informed about ADR proceedings which could result in additional assessments of costs to Scheduling Coordinators.

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[90] This page can be accessed at the following URL: http://foliweb7.caiso.com/clientserv/adr.

[91] *See* Section 13.2.2.

SDG&E suggests that the ISO Tariff should be revised to provide that potentially affected parties will have the opportunity to review resolutions of settlement disputes achieved through good faith negotiations.[92] This suggestion is contrary to the fundamental nature of such good faith negotiations, as reflected in Section 13.2.1 of the ISO Tariff. Under that provision, the ISO and Market Participants are to attempt to resolve outstanding disputes through negotiations that are not subject to the more formal requirements of the ADR before such ADR Procedures are commenced. The ISO has found that this approach allows it to resolve most disputes before they proceed to ADR. Establishing a formal process by which other parties can review a resolution negotiated between the ISO and individual Market Participants would formalize such negotiations in a way which would limit their usefulness. Nor is such a requirement necessary to protect the interests of other Market Participants. Under Section 13.5 submitted in Amendment No. 22, any adjustments to other Scheduling Coordinators arising out of good faith negotiations would be reflected as a credit or debit in a subsequent Preliminary Settlement Statement. Scheduling Coordinators will have the opportunity to dispute such adjustments when they receive those Preliminary Settlement Statements.

SDG&E proposes certain modifications to Tariff language which implements the ISO's proposal. First, SDG&E proposes alternative language for Section 13.5.3.1.[93] The ISO does not agree to make these changes. The version of Section 13.5.3.1 proposed in Amendment No. 22 already reflects

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92 SDG&E at 4-5 n.2.

93 *Id.* at 5.

certain modifications added to address concerns expressed by SDG&E. Specifically, the ISO modified language originally proposed to clarify that, in making the allocation, the ISO must (as opposed to "may") consider the extent of a Market Participant's participation in affected markets and the ISO Tariff in effect on the applicable Trading Day or Days. The language, as proposed, retains the ISO's discretion to consider other relevant factors, such as applicable contracts. Since the source of all disputes cannot be known up front, the mix of required and discretionary considerations set forth in the proposed language best balances the need to establish clear criteria with the need to allow the ISO to tailor the allocation in a particular case to the specific relevant facts.

Moreover, SDG&E proposes to eliminate the concept of "best efforts" included in the ISO's proposal. Again, the ISO considers that this language is necessary to allow the ISO to balance the need for accuracy with cost of its achievement and to make clear that any determination to be made under Section 13.5.3.1 must take into account the reasonable limits of the ISO's resources. For example, it would not be cost effective to require the ISO to expend hundreds of hours attempting to very precisely allocate awards which will have a minimal financial impact on Scheduling Coordinators.

SDG&E also proposes certain modifications to Section 11.2.9(e) in order to clarify that the allocation of such awards through Neutrality Adjustments, if necessary, will be done over a specific interval to be determined by the IS, and on a *pro rata* basis.[94] The ISO agrees that the proposed modification is

[94] *Id.* at 6.

reasonable, and agrees to make such changes in a compliance filing to be submitted in this docket.

Lastly, Amendment No. 22 includes a proposal to establish a "placeholder" mechanism for disputes that are recurring in nature, which would allow Scheduling Coordinators to submit a dispute a single time and preserve their rights for similar disputes on subsequent statements. PG&E supports the proposed change, but argues that any resolution that terminates the "placeholder" status of a dispute should be "to the mutual satisfaction of the ISO and the disputing party."[95] The ISO does not agree with this modification. A dispute may be resolved in the context of ADR, in which case the resolution might not be viewed as "mutually" satisfactory. Nonetheless, once a dispute has been resolved through ADR or any other legitimate manner, it is appropriate for the ISO to no longer treat that dispute as recurrent in nature and no longer subject to a special placeholder mechanism. Moreover, the ISO notes that the fact that a dispute is not afforded "placeholder" status does not in any way limit the rights of a party to continue to dispute similar issues in subsequent settlement statements. In practice, of course, the ISO is unlikely to consider a dispute resolved in most cases where the disputing party continues to raise similar disputes.

[95] PG&E at 5.

IV. CONCLUSION

For the foregoing reasons, the Commission should accept Amendment No. 22 to the ISO Tariff with only such minor modifications as the ISO has agreed to make in this Answer.

Respectfully submitted,

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N. Beth Emery
Vice President and General Counsel
Roger E. Smith
Senior Regulatory Counsel
The California Independent
System Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630

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Edward Berlin
Kenneth G. Jaffe
Michael E. Ward
Sean A. Atkins
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W.
Washington, D.C. 20007-5116

Dated: November 1, 1999

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all parties on the official service list compiled by the Secretary in the above-captioned proceeding, 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 Washington, D.C. this 1st day of November, 1999.

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Sean A. Atkins