UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	))	**Docket No. ER06-615**

REQUEST FOR CLARIFICATION AND REHEARING OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

Pursuant to Section 313(a) of the Federal Power Act, 16 U.S.C. § 251 (a) (2001), and Rules 212 and 713 of the Commission's Rules of Practice and Procedure 18 C.F.R. §§ 385.212 and 385.713 (2006), the California Independent System Operator Corporation ("CAISO")[1] hereby submits this Request for Clarification and Rehearing of the Commission's order issued on September 21, 2006, 116 FERC ¶ 61,274 (2006) ("September 21 Order") in the above captioned docket. The CAISO would like to thank the Commission for a comprehensive and well-reasoned order. Consistent with the strong support the Commission has provided for each of its conclusions in the September 21 Order, the CAISO has identified only a small number of issues that require clarification or rehearing. Moreover, these clarification and rehearing issues generally involve matters relating to pragmatic or implementation concerns, rather than the Commission's policy directives.

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

I. REQUESTS FOR CLARIFICATION AND SPECIFICATION OF ERROR

The CAISO respectfully submits that the September 21 Order erred in the following respects:

- The Commission erred by directing the CAISO to modify the MRTU Tariff to allocate Real-Time Bid Cost Recovery costs in a two-tier method similar to the method for allocating Day-Ahead Bid Cost Recovery amounts.[2]
- The Commission erred in finding it reasonable that the CAISO should honor multi-hour constraints Bids as a bidding parameter of System Resources under the Residual Unit Commitment ("RUC") process.[3]
- The Commission erred in requiring the CAISO to modify its competitive screen analysis requirement by removing the 50 percent limitation applicable to the Locational Marginal Price ("LMP") option for the Default Energy Bid.[4]

The CAISO also respectfully requests that the Commission clarify the following with respect to the September 21 Order:

- The CAISO requests that the Commission clarify that its directive that the CAISO file negotiated Default Energy Bids with the Commission[5] will be satisfied by a monthly informational filing, and that Commission review and approval of the negotiated Default Energy Bids will not be required prior to those Bids taking effect. If the Commission declines to provide this clarification, then the CAISO

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[2] *See* September 21 Order at P 539.
[3] *See id*. at P 143.
[4] *See id*. at PP 1051-52.
[5] *See id*. at P 1057.

respectfully submits that the Commission erred in its decision to require the CAISO to file with it the negotiated Default Energy Bids.

- The CAISO requests that the Commission clarify several items with respect to the timing of compliance requirements regarding Congestion Revenue Rights("CRRs"): (1) that it is acceptable for the CAISO to file the results of the CRR dry run in March of 2007;[6] (2) that the CAISO will be permitted, to file, if necessary, any changes to the amount of intertie capacity set aside for CRR auctions after the completion of the CRR dry run;[7] and (3) that it is appropriate for the CAISO to conclude that it may file additional details concerning the allocation of CRRs to sponsors of merchant transmission projects[8] on a schedule consistent with the timing requirements set forth in the Commission's Final Rule on long-term firm transmission rights ("LT FTR Final Rule").[9]
- The CAISO requests that the Commission clarify the requirement that the CAISO modify the Tariff to allow all non-CPUC jurisdictional Load Serving Entities ("LSEs") to use coincident peak demand for their monthly and annual demand forecasts.[10] Specifically, the Commission should clarify that information and analysis relating to coincident peak demand must come from the California Energy Commission and not the LSEs themselves. In the alternative, to the extent the September 21 Order would permit non-CPUC LSEs to utilize a coincident peak demand forecast developed by the non-CPUC LSE itself, the

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6 *See id*. at P 741.
7 *See id*. at P 830.
8 *See id*. at PP 873, 1357.
9 *Long-Term Firm Transmission Rights in Organized Electricity Markets*, 116 FERC ¶ 61,077 at P 214 (2006).
10 *See* September 21 Order at P 1325.

CAISO respectfully submits that the Commission erred and should reverse this finding.

- The CAISO requests that the Commission clarify that it is reasonable for the CAISO to post its next draft of Business Practice Manuals on or about January 19, 2007, and for the CAISO to provide proposed tariff changes related to the development of Business Practice Manuals within 30 days of this date.[11]
- The CAISO requests that the Commission clarify that there is no need for the CAISO to modify the MRTU Tariff to ensure that all provision of Ancillary Services are subject to the same regional constraints, because the MRTU Tariff already ensures that all Ancillary Services are subject to regional constraints.[12]
- The CAISO requests that the Commission clarify that the CAISO should include, in its 60-day compliance filing, modifications to the MRTU Tariff that it committed to make in its reply comments in this proceeding but were not expressly ruled on by the Commission in the September 21 Order.

II. BACKGROUND

On February 9, 2006 the CAISO filed with the Commission its proposed MRTU Tariff, along with supporting expert testimony and other documentation ("MRTU Tariff Filing"). This filing represents the culmination of several years of conceptual filings and Commission orders on those filings, and addresses every aspect of the new MRTU market design.

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[11] *See id*. at P 1370.
[12] *See id*. at P 326.

Because of the complexity of this filing, the Commission provided parties with 60 days to file comments on the MRTU Tariff Filing, and an additional five weeks to file reply comments. A number of parties filed both initial and reply comments and protests concerning the MRTU Tariff Filing. On September 21, 2006, the Commission accepted for filing the MRTU Tariff to become effective November 1, 2007, subject to a number of modifications, as addressed in that order. The Commission directed the CAISO to make a number of compliance filings in different timeframes.

III. REQUESTS FOR REHEARING

A. The Commission Should Reverse its Decision Directing the CAISO to Allocate Real-Time Bid Cost Recovery Costs in Two Tiers.

In its description of the Bid Cost Recovery ("BCR") provisions of the MRTU Tariff, the CAISO explained that it would allocate the BCR uplifts associated with the Integrated Forward Market ("IFM") and RUC in two tiers, while BCR uplifts associated with the Real-Time Market ("RTM") would be allocated to Measured Demand. In the September 21 Order, in response to an argument raised by the California Department of Water Resources, State Water Project ("SWP"), the Commission concluded that the CAISO had not "justified the socialized allocation of real-time uplift costs," and directed the CAISO to allocate real-time BCR costs "in a two tier method similar to the day-ahead."[13]

The Commission should reverse this decision. There is no meaningful way in which the CAISO can allocate RTM BCR uplift costs in two tiers, similar to Day-Ahead BCR costs. The purpose of having a two-tier allocation is to allocate costs based on the

[13] September 21 Order at P 539.

principle of cost causation as much as possible, while avoiding imposing unduly severe cost impacts on parties when total costs exceed the amount that can be meaningfully assigned using cost causation principles. Thus, the first tier of a two-tier cost allocation mechanism assigns a per-MWh charge to those entities whose behavior caused the cost to be incurred, whereas the second tier recovers any additional amount that cannot clearly be attributed to any party's behavior. The basic rule in establishing a Tier 1 rate (the per-MWh rate used for attribution to cost causation) is to ensure that this rate does not exceed the per-MWh purchase price associated with the uplift in question. Determination of the per-MWh purchase price requires identification of the MWh purchase volume associated with the uplift.

In the case of both the IFM and RUC there is a natural cost causation rationale for a two-tier approach, because it is possible to associate a "purchase" volume with each of the IFM and RUC uplifts. In the RTM, however, there is no meaningful cost causation rationale for such an approach. To illustrate, suppose the RUC process procures 200 MW of capacity in anticipation of 200 MW of Real-Time CAISO Demand that was not scheduled in the IFM, but in the actual operating hour only 150 MW of demand above the IFM schedule is realized. In the first tier cost allocation process, the 150 MW of unscheduled demand is charged for 150 MW of RUC capacity based on cost causation. The cost of the other 50 MW of RUC capacity cannot meaningfully be allocated using principles of cost causation, however, because it is due to a difference between the CAISO Forecast of CAISO Demand and the actual Real-Time Demand, so this cost is allocated in the second tier to all metered CAISO Demand.[14] If the total

[14] Note that the CAISO had filed to allocate the RUC net BCR uplift to Measured Demand, which includes metered CAISO Demand plus Real-Time Interchange export schedules. In compliance with P

amount of RUC uplift charge is $600 for an hour, the associated purchase rate is $600 / 200 = $3/MW/h. This is the Tier 1 rate for RUC cost allocation in this example. The 150 MW of underscheduled load is thus charged $3 * 150 = $450. The remaining uplift ($600 - $450 = $150) is allocated in Tier 2 to all metered CAISO Demand.

A similar rationale applies to the IFM uplift cost. As Dr. Farrokh Rahimi explained in his testimony in support of the MRTU Tariff filing, the first tier of IFM uplift costs for each Trading Hour is capped at the ratio of the hourly IFM uplift in the Trading Hour divided by the sum of all generation scheduled in the IFM and the Ancillary Services ("A/S") capacity awarded from CAISO-committed generation in that hour.[15] In the case of the RTM, however, there is no obvious divisor comparable to the sum of all scheduled generation and A/S capacity awarded in the IFM. For instance, the CAISO could choose to use total Real-Time generation as the divisor, but the resulting formula would produce a very small Tier 1 rate, as compared to the amount that would be allocated in the second tier, negating the purpose of allocating RTM uplifts in two tiers in the first place. On the other hand, the CAISO could elect to use a much smaller divisor, such as the net dispatched generation eligible for BCR, which might result in an excessively high Tier 1 rate (possibly orders of magnitude above the bid cap). In any event, the choice of divisor to use in determining a tier one allocation of RTM BCR costs would be entirely arbitrary – none of the possible choices are inherently more or less appropriate than any other, and none are more or less consistent with the principle of cost causation. Rather than force the CAISO to make an arbitrary choice that is in no way guaranteed to result in an allocation consistent with cost causation, the CAISO

171 of the September 21 Order, the CAISO will be filing revised sheets to reflect that the net RUC BCR uplift will be allocated to metered CAISO Demand only.

[15] Exh. ISO-4 at 218.

requests that the Commission reverse its decision, and affirm the CAISO's proposal to allocate all real-time BCR uplifts to Measured Demand.[16]

B. The Commission Should Reverse its Conclusion that it is Reasonable for the CAISO to Honor Multi-Block Constraint Bids as a Bidding Parameter of System Resources Under RUC.

In response to an argument raised by Southern California Edison ("SCE") that the MRTU proposal does not honor all bidding parameters of System Resources, the Commission, in the September 21 Order, concluded that it was reasonable for the CAISO to honor multi-block constraints as a parameter of System Resources under RUC.[17] The Commission directed the CAISO to examine and report in its 60-day compliance filing whether the required software changes could be implemented by Release 1, and if not, when.

The Commission's conclusion that it is reasonable for the CAISO to honor multi-block constraint in Bids of System Resources in RUC is in error. The Commission should therefore reverse this finding. Essentially, because such resources are not dispatched in Real-Time (*i.e*. in the Hour Ahead Scheduling Process or "HASP") on a multi-hour basis, enforcing multi-hour block Bids from System Resources in RUC does not make sense. RUC is a market for capacity, not energy. Unlike the IFM, RUC only designates capacity to be available in Real-Time, but does not actually dispatch Energy. Therefore, a resource whose capacity has been accepted in RUC is obligated to submit an Energy Bid for the RUC capacity into the RTM. However, there is no guarantee that

[16] The CAISO has explained to a representative from SWP that RTM BCR costs cannot be allocated in a manner analogous to how IFM and RUC BCR costs are allocated consistent with cost causation principles. The CAISO and SWP have agreed to engage in further discussions on this subject.

[17] September 21 Order at P 143.

the Energy from that RUC capacity will be needed and dispatched in the RTM. In the case of System Resources this determination is made in the HASP. Because the RTM processes including the HASP do not dispatch Energy on a multi-hour basis, and should not since the RTM is a real-time balancing market, multi-hour block constraints will not be observed in the HASP dispatch. Therefore, enforcing such constraints in RUC would provide no practical benefit. It would potentially increase RUC costs without achieving the underlying objective of the block constraint in the IFM, *i.e.*, to award the System Resource a constant Energy schedule over the block time period. The Commission should therefore reverse its finding that such constraints should be honored in RUC.

C. The Commission Erred in Requiring the CAISO to Modify its Competitive Screening Analysis Requirement by Removing the 50 Percent Limitation Applicable to the LMP Option for the Default Energy Bid.

The September 21 Order directed the CAISO to modify its competitive screening analysis requirement by removing the 50 percent limitation applicable to the LMP Option for Default Energy Bids.[18] The Commission's rationale for eliminating the 50 percent screen is based on the assumption that:

> We expect that the LMPs during the previous 90-day reference period [used in calculating the default energy bid under the LMP-based option] would reflect competitive conditions, regardless of the extent to which the resource was mitigated. Even when a resource has the potential to exercise market power (and thus is subject to market power mitigation for most of its operating hours), the mitigation of the resource's bid would ensure that the resource does not exercise market power in its bidding.[19]

18 September 21 Order at PP 1051-52.
19 *Id*. at P 1052.

The Commission disagreed with the CAISO's concern that a unit in a load pocket might submit high-priced Bids in hours when it does not have market power in order to increase the LMP at its location, which would in turn increase its LMP-based Default Energy Bid. The Commission reached this conclusion "because, in hours when a unit lacks market power, it will not be able to significantly increase the LMP through its bidding; market power involves the ability to influence market prices, and sellers without market power lack the ability to influence prices."[20]

The CAISO agrees with the Commission's reasoning that, to the extent there is "effective competition" in hours where a resource is not subject to local market power mitigation, its ability to influence prices through bidding high will be very limited. However, whether the market would be sufficiently competitive in such situations is uncertain and the 50 percent competitiveness screen was intended to guard against this uncertainty. Even under the CAISO's current zonal market design, market power conditions can arise – albeit of limited impact given the small market volumes. In fact, the limited market volume serves as a deterrent to exercising market power, as it is typically not a profitable strategy to withhold economic generation given the limited gain that would be earned from the small amount of energy that actually clears the CAISO real-time market. However, if a secondary benefit from exploiting market power opportunities is that it produces a longer term and potentially significant benefit in the form of a higher Default Energy Bid, such opportunities are more likely to be exploited. The 50 percent screen was designed to address the fact that unit owners that are frequently subject to Local Market Power Mitigation under an LMP-based Default Energy Bid have a strong incentive to find ways to increase the LMP at their location –

[20] *Id*.

so as to increase their Default Energy Bid – and therefore should not be eligible for this option. In addition to the strong incentive and potential for raising LMPs during unmitigated hours, there are two other important aspects of this issue which the CAISO believes warrant reconsideration of this issue.

First, it is important to recognize that the CAISO's offered rationale for the 50 percent screen, as well as the Commission's rationale for rejecting it, was based on examining the bidding of a single generating unit. As such, these arguments do not take into account the subtle but significant ability that a unit owner with several units in a load pocket could have in manipulating LMP-based Default Energy Bids. For example, assume a unit owner has two generating units in a load pocket: a high cost unit and a low cost unit. Under MRTU local market power mitigation, the supplier could economically withhold a portion of the low cost unit's output by submitting Bids for the upper output range of this unit at a higher price than the Bids submitted for the high cost unit. Under the MRTU local market power mitigation procedures, this practice would result in having the higher cost unit: 1) dispatched up in the All Constraints Run ("ACR") of the Local Market Power Mitigation process, 2) mitigated to its Default Energy Bid, and 3) setting the LMPs in the load pocket. In this scenario, the lower cost unit would have the high LMP counted towards its LMP-based Default Energy Bid for that portion of the unit's output that cleared the IFM (*i.e.*, the lower output range that was bidding at a relatively low price or Self-Scheduled). Because Default Energy Bids must be monotonically increasing, the high LMP-based Default Energy Bid established over the lower output range of the unit would be extended over its entire output range.

Second, the Commission should consider that once an excessive LMP-based Default Energy Bid is established, it will have a strong potential to be self-perpetuating. Specifically, once a high Default Energy Bid is established under the LMP-based option, suppliers with local market power will be mitigated to these levels, which in turn will set the LMP (assuming the unit is marginal) and perpetuate the high LMP-based Default Energy Bid indefinitely. The self-perpetuating nature of a high LMP-based Default Energy Bid creates an even stronger incentive for suppliers to attempt to influence LMPs, even if it involves a one-time financial loss of withholding some economic generation from the market, because the high potential pay-off – in terms of higher LMP-based DEBs -- could last in perpetuity. The more frequently a unit is subject to local market power mitigation, the greater its incentive to influence its LMP-based Default Energy Bids. It is for this reason that the CAISO proposed the 50 percent competitiveness screen as an eligibility criterion to receive an LMP-based Default Energy Bid.

For these reasons, the CAISO believes the Commission erred in rejecting the 50 percent competitiveness screen for Default Energy Bids, and respectfully requests that the Commission grant rehearing on this issue and reinstate the 50 percent screen.

IV. REQUESTS FOR CLARIFICATION

A. The Commission Should Clarify the Requirement That the CAISO File Negotiated Default Energy Bids With the Commission or, In the Alternative, Eliminate This Requirement.

In the September 21 Order, the Commission conditionally accepted, subject to modification, the CAISO's proposal to provide generators four options for calculating

Default Energy Bids as part of the MRTU Tariff's "PJM-style" local market power mitigation procedures.[21] One of these options is the Negotiated Option, under which the Default Energy Bid is determined through consultation between the generator and the CAISO or an alternative independent entity selected by the CAISO. The Commission accepted the Negotiated Option, but directed the CAISO to modify the MRTU Tariff to provide that, "at the time the CAISO and market participants negotiate a bid price, the CAISO must file the negotiated default energy bid with the Commission."[22] The Commission further directed the CAISO to make a compliance filing clarifying the procedures a market participant must follow to exercise this option (including the information to be provided to the CAISO) and clarifying that, if parties cannot reach agreement on a negotiated Default Energy Bid after at least 60 days of negotiations, the parties may bring the dispute to the Commission.[23]

The CAISO takes no issue with the requirement to clarify the procedures to exercise the Negotiated Option or the clarification that disputes concerning such negotiations can be taken to the Commission after at least 60 days of discussion. Moreover, the CAISO does not oppose the Commission's requirement that the CAISO file negotiated Default Energy Bids with the Commission. However, the CAISO requests that the Commission clarify that this filing requirement will be satisfied by *ex post* informational filings made on a regular time interval basis (the CAISO believes that every 30 days is reasonable), and that the negotiated Default Energy Bids need not be reviewed and approved by the Commission prior to becoming effective. If the Commission declines to issue such a clarification, the CAISO requests rehearing on this

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21 September 21 Order at P 1033.

22 *Id.* at P 1057.

23 *Id.* at P 1059.

issue. Requiring the CAISO to file the negotiated Default Energy Bids for Commission approval prior to implementation would be inconsistent with Commission precedent and would limit the flexibility of generators and the CAISO to make timely modifications to Default Energy Bids in response to changing conditions. Moreover, the CAISO intends to develop and file with the Commission as part of its 60-day compliance filing a list of factors that it will consider in establishing negotiated Default Energy Bids.

As explained in the February 9, 2006 MRTU Tariff filing, the Negotiated Option was added to the MRTU market power mitigation procedures in order to make those procedures more consistent with the PJM approach to local market power mitigation.[24] This addition was made in large part in response to a January 18, 2005 guidance letter from Commission staff urging the CAISO, among other things, to offer generators the additional default bid options available to generators in PJM.

Section 6.4.2 of the PJM Operating Agreement sets forth the options for offer price caps under the PJM local market power mitigation procedures. Although these provisions do include the option to submit disputes concerning negotiated offer price caps to the Commission, they do not require PJM to submit all negotiated offer price caps to the Commission.[25] Thus, adoption of an option that does not require *ex ante* filing of and approval of negotiated Default Energy Bids is wholly consistent with Commission staff's guidance that the CAISO offer generators in California default bid options comparable to those offered in PJM.

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[24] *See, e.g.*, Exh. ISO-6 at 39.

[25] Section 6.4.2(a)(iv) provides that, "The offer price cap shall be one of the amounts specified below, as specified in advance by the Market Seller for the affected unit: . . . (iv) An amount determined by agreement between the Office of the Interconnection and the Market Seller, provided that, if the Office of the Interconnection and the Market Seller cannot reach agreement after 60 days from the commencement of negotiations, then the Market Seller may submit the rates, terms, and conditions of its proposed offer cap to the Commission for resolution."

Other ISOs also are not required to file negotiated bid levels used for market power mitigation. The New York Independent System Operator ("NYISO") Market Power Mitigation Measures permits the NYISO to establish reference levels for generator bids based on negotiations with the bidding party and without any requirement to first submit such negotiated reference levels to the Commission.[26]

There are also pragmatic reasons why the Commission should not depart from its prior precedent and require the CAISO to submit negotiated Default Energy Bids for Commission review prior to implementing them. There may be a variety of circumstances that require quick changes to the bid curves in negotiated Default Energy Bids. One example of such a scenario is a sudden and dramatic increase in the spot market availability or cost of gas that is not sufficiently reflected in other options for setting the Default Energy Bid, such that it may be simply uneconomical for a resource to operate or acquire fuel without modification of the Default Energy Bid. Another scenario involves any resource facing energy limitations that make the opportunity cost of generating significantly high than the unit's Default Energy Bid. Without the ability to quickly establish an appropriate Default Energy Bid through the Negotiated Option, the resource's limited energy may not be available for use during the highest value hours. In addition, the unit's ability to maintain the energy generating capacity necessary to continue providing Ancillary Services may be impaired. Resources that could face

[26] Section 3.1.4(d)(2) of Attachment H to the NYISO Market Services Tariff provides that, "Notwithstanding the foregoing provisions, a reference level for a Generator's start-up costs Bid shall be calculated on the basis of the following methods, listed in the order of preference subject to the existence of sufficient data: . . . (2) A level determined in consultation with the Market Party submitting the Bid or Bids at issue and intended to reflect the costs incurred by the bidding Generator to achieve its specified minimum operating level from an offline state, including, where appropriate, costs incurred to meet minimum run time and minimum downtime requirements, provided such consultation has occurred prior to the occurrence of the conduct being examined by the ISO, and provided the Market Party has provided data on a Generator's operating costs in accordance with specifications provided by the ISO."

energy limitations warranting changes to bid curves under the Negotiated Option include hydro resources, resources subject to environmental restrictions, and any resource facing a disruption to or limitation on its fuel supply. Finally, in other cases, it may be necessary to establish a Default Energy Bid on an expedited basis simply because no other basis for establishing a Default Energy Bid may exist, due to insufficient data or the ineligibility of a unit for other options.

The CAISO also plans to develop and file, as part of its 60-day compliance filing, factors that it will consider in establishing negotiated Default Energy Bids. The current CAISO Tariff already provides the CAISO with the authority to establish reference bid levels based on "the ISO's estimated costs of an Electric Facility, taking into account available operating costs data, opportunity cost, and appropriate input from the Market Participant, and the best information available to the ISO; or . . . an appropriate average of competitive bids of one or more similar Electric Facilities."[27] The CAISO plans to model the considerations for developing negotiated Default Energy Bids on the language of this existing Tariff section. The addition of Tariff language setting forth factors that the CAISO will consider in establishing negotiated Default Energy Bids should help ensure that these rates are just and reasonable in the first instance.

For these reasons, the CAISO respectfully requests that the Commission clarify that the September 21 Order's directive to file the negotiated Default Energy Bids will be satisfied with a regular *ex post* informational filing of these Bids, and that Commission review and approval is not necessary prior to the CAISO implementing the negotiated Default Energy Bids.

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[27] CAISO Tariff, Appendix P, Attachment A, Section 3.1.1.1.

B. The Commission Should Clarify Several Issues Relating to the Implementation of Congestion Revenue Rights.

1. The Commission Should Clarify that the CAISO Will be Permitted to File the Results of its CRR Dry Run in March of 2007.

In the September 21 Order, the Commission directed the CAISO to file with the Commission, within 30 days of its completion, the complete results of the CAISO's CRR dry run.[28] The Commission also noted that it understood that the CAISO would make a report on the dry run available "by the end of January 2007."[29] Between the submission of reply comments and the issuance of the September 21 Order, the CAISO has modified the dates for the CRR dry run. The CAISO currently plans to conclude the CRR dry run on or about February 19, 2007. Therefore, consistent with the Commission's mandate, the CAISO intends to file with the Commission the results of the CRR dry run no later than one month following the conclusion of the CRR dry run (on or about March 21, 2007). The CAISO requests that the Commission clarify that this schedule is acceptable. The CAISO notes that it will be sharing the results of the dry run with stakeholders as they become available during the course of the dry run. Moreover, the CAISO anticipates holding a meeting with stakeholders in November/early December 2006 to discuss the preliminary results of the dry run.

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28 September 21 Order at P 741.
29 *Id*.

2. The Commission Should Clarify that the CAISO Will Be Permitted, if Necessary, to Modify the Amount of Intertie Capacity Set Aside for the CRR Auction after the Completion of the CRR Dry Run.

In the September 21 Order, the Commission noted the CAISO's acknowledgement that its proposal to set aside 50 percent of the residual intertie capacity for the CRR auction may need to be adjusted based on the result of additional CRR analysis. The Commission therefore directed the CAISO to further evaluate whether the 50 percent set aside proposal needs to be modified, and to make a compliance filing within 60 days of the date of the Order, if necessary.[30] The CAISO is not confident that it will have sufficient information to be able to evaluate and determine whether any adjustment to the 50 percent set aside proposal is necessary in the 60-day time period provided by the Commission. The CAISO will, however, provide to the Commission, within the 60-day timetable, a summary of the data collected during the CAISO's CRR dry run that bear on this matter. But, as noted above, the CRR dry run is scheduled to end on or about February 19, 2007, and the CAISO believes it is most prudent to fully evaluate the CRR dry run results in developing a proposal regarding the appropriate level of the set-aside of intertie capacity for the auction. Therefore, the CAISO requests that the Commission clarify that the CAISO may provide an interim report on the intertie set-aside within 60 days based on data collected during the CRR dry run to-date, and then submit its proposal for any needed modification to the 50 percent set aside at the time it submits its final report on the CRR dry run, *i.e.*, on or about March 21, 2007, as requested above.

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[30] September 21 Order at P 830.

3. The Commission Should Clarify that the CAISO Will Be Permitted to File Additional Details Concerning the Allocation of CRRs to Sponsors of Merchant Transmission in the Time Frame Required by the Commission's Final Rule on Long-Term Firm Transmission Rights.

The Commission concluded, in the September 21 Order, that the CAISO's proposal to allocate CRRs to merchant transmission sponsors lacks sufficient detail, and stated that the MRTU Tariff must specify how CRRs will be provided for sponsors of merchant transmission projects. However, the September 21 Order provides two different due dates for a compliance filing containing such additional detail. Paragraph 873 of the September 21 Order directs the CAISO to submit new tariff language regarding CRRs for merchant transmission sponsors within 90 days of the date of the Order, while Paragraph 1357 directs the CAISO to provide this additional detail in a compliance filing made within 60 days of the date of the Order.

The Commission's LT FTR Final Rule also addresses the issue of transmission rights for project sponsors. Therein, the Commission adopted, as one of the guidelines for providing LT FTRs that rights "made feasible by transmission upgrades or expansions must be available upon request to any party that pays for such upgrades or expansions in accordance with the transmission organization's prevailing cost allocation methods for upgrades or expansions."[31] The Commission directed transmission organizations with organized electricity markets to develop and file tariff sheets and rate schedules addressing LT FTRs relating to such upgrades and expansions "by the time that they award long-term rights for existing capacity."[32]

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[31] *Id*. at P 210.
[32] *Id*. at P 214.

Given that the CAISO will need to develop LT FTRs for transmission project sponsors in accordance with the LT FTR Final Rule, the CAISO submits that it would be premature to file tariff language detailing the allocation of CRRs to transmission project sponsors before it completes the development of its LT FTR methodology. Therefore, the CAISO respectfully requests that the Commission permit the CAISO to file tariff language containing additional details on the allocation of CRRs to sponsors of merchant transmission in a time frame consistent with the requirements of the LT FTR Final Rule, that is, by the time it awards LT FTRs for existing capacity.

C. The Commission Should Clarify that the Requirement that the CAISO Modify the MRTU Tariff to Allow All Non-CPUC LSEs to Use Coincident Peak Demand For Their Monthly and Annual Demand Forecasts to Make Clear that Information and Analysis Relating to Coincident Peak Demand Must Come from the Energy Commission and not the LSEs Themselves.

In Paragraph 1325 of the September 21 Order, the Commission directed the CAISO to modify section 40.2.1(3), to permit Non-CPUC LSEs to use coincident peak demand data for their monthly and annual demand forecasts. The CAISO respectfully requests clarification or, in the alternative, rehearing of this issue to the extent that it would permit Non-CPUC LSEs to utilize a coincident peak demand forecast developed by the Non-CPUC LSE itself.

As proposed by the CAISO, Section 40.2.1(3) already provides that a Non-CPUC LSE may use a coincident peak demand for its Service Area if “the Non-CPUC Load Serving Entity agrees to utilize coincident peak Demand determinations provided by the California Energy Commission for such Non-CPUC Load Serving Entity.” The CAISO included this requirement to ensure that one consistent coincident peak demand forecast is used for all entities whether CPUC or Non-CPUC LSEs. In its protest, the City of Vernon alleged that the California Energy Commission does not currently determine the monthly coincident peak load for Non-CPUC LSEs.[33] To the extent Paragraph 1325 of the September 21 Order is based on Vernon's protest, the Commission's finding is misplaced for two reasons.

First, the California Energy Commission possesses authority to obtain demand forecast data and can produce the coincident peak demand forecast for all LSEs in the State. (*See*, Public Utilities Code § 9620(c) [authority to obtain data necessary to evaluate progress in meeting resource adequacy requirements], Public Resources Code § 25320 [authority to obtain data necessary to conduct assessments of, *inter alia*, electricity demand].) This latter fact is inherent in the California Energy Commission's present responsibility to provide coincident peak Demand forecasts for CPUC-jurisdictional LSEs. In this regard, the California Energy Commission has exercised its authority to obtain demand forecast data from LSEs, including publicly owned utilities, and, in fact, has commenced a proceeding to revise its data collection regulations to clarify the scope of Demand-related information that must be submitted by entities such as Vernon.[34] Thus, while the CAISO admittedly cannot direct California Energy Commission activities, it does anticipate coordinating with the California Energy Commission to ensure that the regulatory efforts of the respective entities are fully

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33 Vernon Protest at 4.

34 *In the Matter of Proposed Adoption, Amendment, and Repeal of Regulations Governing the Commission's Data Collection System for the Integrated Energy Policy Report and Regulations Governing Disclosure of Commission Records,* Docket No. 05-DATA-01; see also, Integrated Energy Policy Report Committee Draft Proposed Changes to the California Energy Commission's Regulations on Data Collection and Related Matters, CEC-700-2006-004-CTD (August 2006) at p. 67.

harmonized, including the preparation of coincident Demand Forecasts for publicly owned utilities.

Second, and more importantly, Vernon ignores the necessity of utilizing a single comprehensive process. The CAISO is unaware how an entity, without knowledge of demand data from other LSEs, could calculate a coincident peak that intrinsically depends on such unrevealed data. Accordingly, absent a single party producing the peak demand forecast, LSEs would be able to base their resource adequacy requirements on periods other than their own non-coincident peaks simply by claiming that some other period selected represented a coincident peak. The inconsistency would inevitably lead to inequities among LSEs. Therefore, the CAISO respectfully requests that the Commission grant clarification or in the alternative rehearing in recognition that the tariff already permits Non-CPUC LSEs to use coincident peak demand forecasts in developing their annual and monthly resource adequacy plans on the same basis as Scheduling Coordinators for all other LSEs – by using data prepared by the California Energy Commission. Moreover, any disputes regarding the California Energy Commission determination and its application under Section 40 of the CAISO Tariff can be addressed by the CPUC for entities under its jurisdiction or under the dispute resolution provisions of the CAISO Tariff for Non-CPUC LSEs.

If and only if the California Energy Commission formally refuses to generate a coincident peak Demand forecast for Non-CPUC LSEs, then the CAISO will propose that, as a second-best alternative, the CAISO would serve as the entity that generates the comprehensive coincident peak Demand forecast.

D. The Commission Should Clarify that the CAISO's Proposed Timeline for Posting the Next Draft of the Business Practice Manuals, and Filing Associated Tariff Modifications, is Reasonable.

In the September 21 Order, the Commission directed the CAISO to continue to work with stakeholders to develop the Business Practice Manuals ("BPMs"), and, within 30 days of completing this process, but no later than 180 days before the effective date of MRTU Release 1, to file any necessary additions to the MRTU Tariff.[35] The CAISO seeks clarification and guidance from the Commission that the proposed timeline described below is consistent with this requirement.

The CAISO has been working with its stakeholders over the past several months to develop and improve the Business Practice Manuals. The CAISO has already posted the primary four BPMs twice since May and received two sets of comments from stakeholders and has held two sets of stakeholder meetings on these four primary BPMs. In July, the CAISO posted nine additional BPMs and has received additional comments from stakeholders. In addition, the CAISO held a series of stakeholder meetings on the BPMs consisting of six days during the weeks of September 10 and 17 as well as a meeting on October 5.

Although the CAISO had previously noticed its intention to post a further set of draft BPMs in November 2006, the CAISO did not intend for this set of draft BPMs to be the final draft before going live in November 2007. The November drafts were intended for the purpose of providing stakeholders guidance while they participate in the market simulation to be held early in 2007. The CAISO contemplated the need for a continued stakeholder process to address the BPMs subsequent to that November posting.

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35 September 21 Order at P 1370.

In light of comments received from its stakeholders, and in light of compliance activities the CAISO is undertaking during the fourth quarter of this year, the CAISO is proposing to revise the stakeholder process and to publish the next draft set of BPMs on or about January 19, 2007. This will allow the CAISO to ensure that the BPMs are consistent with the September 21 Order and to continue to incorporate the comments received by participants. Although the January 19, 2007 date does not constitute the completion of the BPM stakeholder process,[36] the CAISO proposes that this date be used for purposes of assessing what additional detail from the BPMs might more properly be included in the Tariff. Based on this date, the CAISO would make its filing on or about February 20, proposing additions to the MRTU Tariff based on the comments provided by stakeholders and its own assessment in consideration of the rule of reason. This time frame would allow for the technical conference to be held in March or early April and comments and reply comments following the conference, consistent with the Commission's directive to file additional tariff language in early May (180-days prior to the November effective date of MRTU). In proposing this timetable, the CAISO does not rule out the need for further changes to the BPMs after May 2007 that may be appropriate in light of market simulation and testing. Accordingly, the CAISO seeks clarification that the process outlined herein is consistent with the Commission's directive.

[36] The results of the market simulation and testing process could result in the need for additional changes to the BPMs. In addition, the CAISO intends to update and improve the BPMs based on stakeholder comments as well as internal efforts to improve the BPMs on an ongoing basis.

E. The Commission Should Clarify That There is No Need to Modify the MRTU Tariff to Ensure that All Provisions of Ancillary Services Are Subject to the Same Regional Constraints.

In the September 21 Order, the Commission directed the CAISO to modify the MRTU Tariff "to ensure that all provisions of ancillary services, self-provided or not, are subject to the same regional constraints."[37] The CAISO seeks clarification that no such modification is necessary because the MRTU Tariff already ensures that all A/S are subject to regional constraints, including self-provided A/S. For instance, Section 8.3.3 of the MRTU Tariff provides that "within the Expanded System Region, the System Region, and any Sub-Regions, the CAISO may establish limits on the amount of Ancillary Services that can be provided from each region or can be provided within each region. When used, these limits identify either a maximum or a minimum (or both a maximum and a minimum) amount of Ancillary Services to be obtained within the region." There is nothing in the text of this Section to suggest that these limitations do not apply to both A/S purchased by the CAISO as well as self-provided A/S.

More specifically, Section 8.6.2 explicitly states that "the CAISO will determine whether Submissions to Self Provide Ancillary Services are feasible with regard to . . . *regional constraints*" (emphasis added). That Section also provides a mechanism for allocating awards of self-provided A/S in situations when the total amount of otherwise qualifying self-provided A/S exceeds the applicable regional limitation for the specific service, and goes on to clarify that "submissions to Self Provide Ancillary Services in excess of the maximum regional requirement for the relevant Ancillary Service in an

[37] September 21 Order at P 326.

Ancillary Services Region will not be accepted and qualified by the CAISO as Self Provided Ancillary Services."

As these provisions demonstrate, the MRTU Tariff already provides that all A/S, including self-provided A/S, are subject to regional constraints. The Commission should therefore clarify that no further modification of the MRTU Tariff is necessary to address this concern.

F. The Commission Should Clarify That the CAISO Should Include in its 60-Day Compliance Filing Those Modifications to the MRTU Tariff that it Agreed to Make in its Reply Comments But That Were Not Addressed in the September 21 Order.

In its reply comments on the MRTU Tariff Filing, the CAISO agreed to make numerous modifications to the MRTU Tariff in order to address concerns raised by a number of parties. Almost all of these proposed changes were endorsed by the Commission in the September 21 Order. However, a small number of these proposed modifications were not addressed in the September 21 Order. The CAISO therefore respectfully requests that the Commission clarify that the CAISO should make the following modifications as part of its 60-day compliance filing, as the CAISO committed to do in its reply comments:

- The CAISO agreed with Southern California Edison ("SCE") that only the RMR quantities that actually clear the IFM and receive a Day-Ahead Schedule should be settled, in the financial sense, and agreed to make SCE's suggested change to Section 41.5.1 in order to clarify this.[38]
- The CAISO noted that there is an error in Section 8.3.2. The second sentence of that section states that "Each System Resource used to bid or

[38] CAISO Reply Comments at 277-278.

self-provide Regulation must comply with the Dynamic Scheduling Protocol in Appendix X." Scheduling Coordinators are permitted to bid, but not self-provide, Regulation, and therefore, the CAISO proposed to delete the term "self-provide" in Section 8.3.2.[39]

- The CAISO agreed with Pacific Gas & Electric Company that Section 12.3 erroneously references "RMR costs" as part of its list of charges included in the credit posting requirements, and therefore committed to delete this reference. [40]
- The CAISO agreed with SCE's concern that posting "Total Real-Time Dispatched Energy and Demand" every five minutes might signal Market Participants of market conditions in which the exercise of market power might prove favorable. The CAISO therefore committed to modify Section 6.5.5.2.4 to provide that this information will be released on a 24-hour delay.[41]
- The CAISO agreed that Section 39.2.1(f) should be clarified to more clearly define the conduct that may warrant mitigation. The CAISO therefore agreed to replace the text of this provision with the following language in a compliance filing: "Bidding practices that distort prices or uplift charges away from those expected in a competitive market."[42]

Additionally, several of the modifications agreed to by the CAISO in its reply comments were noted in the Order, but the Commission did not expressly rule on them.

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39 *Id*. at 147.
40 *Id*. at 305.
41 *Id*. at 307.
42 *Id*. at 119.

The CAISO requests that the Commission clarify that the CAISO should make the following such modifications in its 60-day compliance filing:

- The CAISO agreed to include a statement in Section 8.2.3.2 stating that additional Operating Reserves can be Spinning Reserves.[43]
- The CAISO concurred with SCE that if an MSS is unable to relieve congestion internal to its system, that any Exceptional Dispatches made by the CAISO to resolve this congestion should be allocated to the responsible MSS, and the CAISO agreed to make changes to implement this in its compliance filing.[44]
- In response to concerns expressed by CDWR and Sempra, the CAISO agreed to modify the definition of Trading Hub and to modify Section 28.l.6.4 (Inter-SC Trades of Energy at Aggregated Pricing Nodes) to clarify that only those aggregated pricing nodes that also meet the definition of Trading Hubs or LAPs will be subject to this section.[45] The Commission noted that the CAISO had agreed to both of these modifications, but only ruled on and accepted the proposal to modify the definition of Trading Hub.[46]

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43 CAISO Reply Comments at 167; September 21 Order at P 321.
44 CAISO Reply Comments at 295; September 21 Order at PP 263-264.
45 CAISO Reply Comments at 250-251.
46 September 21 Order at PP 461, 463.

V. CONCLUSION

Wherefore, for the reasons discussed above, the CAISO respectfully requests that the Commission grant the limited requests for clarification and rehearing of the September 21 Order described above.

Respectfully submitted,

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Dated: October 23, 2006

Certificate of Service

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

Dated this 23rd day of October, 2006 at Folsom in the State of California.

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