

April 27, 2012

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

**Re: California Independent System Operator Corporation  
Filing of Service Agreement No. 2502 and Notice of  
Termination of Service Agreement No. 1965  
Docket No. ER12-\_\_\_\_-000**

Dear Secretary Bose:

The California Independent System Operator Corporation submits for Commission filing and acceptance a Dynamic Transfer Balancing Authority Operating Agreement (“Dynamic Transfer Agreement”) between the ISO and the Balancing Authority of Northern California (“BANC”).<sup>1</sup> The ISO submits the instant filing to replace an interim contractual arrangement, the Balancing Authority Area Pilot Pseudo-Tie Continuation Agreement (“Continuation Agreement”), between the ISO and BANC.<sup>2</sup> Replacement of this arrangement is necessary to continue dynamic transfers between the ISO and BANC consistent with the dynamic transfer provisions of the ISO tariff.<sup>3</sup> The ISO proposes that the Dynamic Transfer Agreement be made effective on June 28, 2012, concurrent with the requested termination of the Continuation Agreement.

## **I. Background**

The Continuation Agreement obligates the ISO and BANC to maintain a pilot pseudo-tie exchange program in honor of prior commitments made by the Sacramento Municipal Utility District (“SMUD”) and the ISO following the transfer

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO tariff. The ISO submits the Dynamic Transfer Balancing Authority Operating Agreement pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d and Part 35 of the Commission’s regulations, 18 C.F.R. Part 35, and in compliance with Order No. 714, *Electronic Tariff Filings*, FERC Stats. & Regs. ¶ 31,276 (2009).

<sup>2</sup> The Continuation Agreement was accepted by Commission letter order dated June 7, 2011 in FERC Docket ER11-3388-000.

<sup>3</sup> The dynamic transfer provisions of the ISO tariff were accepted by Commission order dated September 30, 2011 in ER11-4161-000 (136 FERC ¶ 61,239).

of balancing authority responsibilities from SMUD to BANC.<sup>4</sup> The ISO and BANC now intend these commitments to be replaced following the recent Commission authorization for a tariff-based pseudo-tie program. Accordingly, the ISO and BANC have entered into the Dynamic Transfer Agreement included as Attachment A to this filing.

## II. The Dynamic Transfer Agreement

The Dynamic Transfer Agreement addresses both dynamically scheduled resources and pseudo-tie resources, collectively referred to as dynamic transfers. Both forms of dynamic transfer are made available either to or from the ISO and BANC balancing authority areas. At this time there are two pseudo-ties between the ISO and BANC, one from the ISO to BANC with respect to the New Melones hydroelectric generating facility owned, operated and marketed by the United States through the Bureau of Reclamation and Western Area Power Administration – Sierra Nevada Region (“Western”), and one from BANC to the ISO with respect to the Sutter Energy Center owned and operated by Calpine Construction Finance Company, L.P. (“Calpine”).<sup>5</sup> There are no dynamically scheduled resources between the ISO and BANC at this time. Additional pseudo-tie resources or dynamically scheduled resources could be supported with agreement of the parties.<sup>6</sup>

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<sup>4</sup> See California Independent System Operator Corporation transmittal letter filed April 19, 2011 in FERC Docket ER11-3388-000.

<sup>5</sup> Separate agreements with resource owners are also required for pseudo-ties. See, e.g., ISO Tariff Section 4.15 (requiring a pseudo-tie to the ISO balancing authority area to enter into a pseudo-tie participating generator agreement with the ISO); and ISO Tariff Section 4.16 (requiring a pseudo-tie from the ISO balancing authority area to enter into an operating agreement with the ISO). Currently, both the Calpine and Western pseudo-ties operate pursuant to Commission approved pseudo-tie agreements. See, FERC Docket No. ER06-58-000 (designating the Calpine Pilot Pseudo Participating Generator Agreement as ISO Service Agreement No. 630); and FERC Docket No. ER06-1470-000 (designating the Western Pilot Pseudo-Tie Implementation Agreement as ISO Service Agreement No. 676). The replacement Western operating agreement and termination of the pilot operating agreement has been filed concurrently with this filing. The Calpine pseudo-tie pilot agreement is expected to be replaced with the Commission approved *pro forma* pseudo-tie participating generator agreement, which would be filed for acceptance in accordance with the Commission’s electronic quarterly reporting requirements. Notice of termination of the Calpine pilot agreement would be filed with the Commission for acceptance after the *pro forma* agreement becomes effective.

<sup>6</sup> The ISO would administer additional requests consistent with the dynamic transfer provisions of the ISO tariff. However, implementation of any additional dynamic transfer arrangements require agreement of both balancing authorities.

The Dynamic Transfer Agreement is consistent with the requirements of the ISO tariff and has been agreed to by BANC.<sup>7</sup> The ISO to date has not entered into a form agreement with balancing authority areas with respect to pseudo-ties or dynamic scheduling, instead having negotiated individual agreements that were filed with the Commission for acceptance, often as an amendment to an existing interconnected balancing authority area operating agreement.<sup>8</sup> This prompted the ISO not to file a form host balancing authority agreement with respect to pseudo-ties for Commission acceptance.<sup>9</sup> In the Dynamic Transfer Agreement, the ISO and BANC have built upon the existing form host balancing authority agreement for dynamically scheduled resources included in the ISO tariff to provide for both dynamically scheduled resources and pseudo-tie resources, consistent with the dynamic transfer provisions of the ISO tariff. Specifically:

- Section 1 provides for the effective date and termination
- Section 2 includes definitions referenced in the agreement
- Section 3 describes the purpose of the agreement
- Section 4 outlines the requirements for dynamic scheduling
- Section 5 outlines the requirements for pseudo-ties
- Section 6 establishes limitations on the parties' liability
- Section 7 covers miscellaneous provisions of the agreement
- Schedule 1 identifies dynamic scheduled resources
- Schedule 2 identifies pseudo-tie resources
- Schedule 3 contains notice provisions

### **III. Effective Date**

The ISO requests that the Dynamic Transfer Agreement be made effective on June 28, 2012.

### **IV. Notice of Termination of the Continuation Agreement**

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<sup>7</sup> See CAISO Tariff, Appendix M, Sections 1.2.1 and 2.2.1 (requiring a balancing authority area operating agreement for dynamic scheduling); and CAISO Tariff, Appendix N, Sections 1.3.1 and 2.3.1 (requiring a balancing authority operating agreement for pseudo-ties).

<sup>8</sup> See, e.g., FERC Docket No. ER12-381-000 (accepting an amendment to the Interconnected Control Area Operating Agreement between the ISO and the Salt River Project Agricultural Improvement and Power District to facilitate a pseudo-tie from SRP to the ISO).

<sup>9</sup> See, e.g., CAISO Tariff, Appendix B.9 (providing a form of agreement for host balancing authorities with respect to dynamically scheduled resources, which to date has not been executed by the ISO and a host balancing authority area).

The Continuation Agreement is no longer necessary following its replacement by the Dynamic Transfer Agreement. Section 2.3 of the Continuation Agreement contemplates termination upon consummation of an agreed upon replacement agreement. The Dynamic Transfer Agreement constitutes such an agreement and, therefore, the ISO hereby requests termination of the Continuation Agreement between the ISO and BANC effective June 28, 2012.

## **V. Expenses**

No expense or cost associated with this filing has been alleged or judged in any judicial or administrative proceeding to be illegal, duplicative, unnecessary, or demonstratively the product of discriminatory employment practices.

## **VI. Service**

The ISO has served copies of this filing upon SMUD, BANC, PG&E, Western, Calpine, the California Public Utilities Commission, and the California Energy Commission. In addition, the ISO has posted the filing on the ISO website.

Enclosed for filing is each of the following:

- (1) This letter of transmittal; and
- (2) Dynamic Transfer Balancing Authority Operating Agreement (Attachment A).

## **VI. Correspondence**

The ISO requests that all correspondence, pleadings, and other communications concerning this filing be served upon the following:

John C. Anders\*  
Senior Counsel  
California Independent System  
Operator Corporation  
250 Outcropping Way  
Folsom, CA 95630  
Tel: (916) 608-7287  
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\* Individual designated for service pursuant to Rule 203(b)(3),  
18 C.F.R. § 203(b)(3).

Respectfully submitted,

**By: /s/ John C. Anders**

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Attorneys for the California Independent  
System Operator Corporation

**Attachment A**

**Dynamic Transfer Balancing Authority Operating Agreement**

**April 27, 2012**

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**CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR CORPORATION**

**AND**

**BALANCING AUTHORITY OF  
NORTHERN CALIFORNIA**

**DYNAMIC TRANSFER BALANCING  
AUTHORITY OPERATING AGREEMENT**

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## Dynamic Transfer Balancing Authority Operating Agreement

**THIS DYNAMIC TRANSFER BALANCING AUTHORITY OPERATING AGREEMENT ("AGREEMENT")** is established this 9<sup>th</sup> day of APRIL, 2012 and is accepted by and between:

**Balancing Authority of Northern California ("BANC")**, a joint powers authority established pursuant to the laws of the State of California,

and

**California Independent System Operator Corporation ("CAISO")**, a California nonprofit public benefit corporation having a principal executive office located at such place in the State of California as the CAISO Governing Board may from time to time designate, currently 250 Outcropping Way, Folsom, California 95630.

The BANC and the CAISO are hereinafter referred to as the "Parties".

**Whereas:**

- A. The Parties named above operate Balancing Authority Areas.
- B. The CAISO has determined that the pilot Pseudo-Tie program successfully demonstrated the dynamic transfer of generating resources between adjacent Balancing Authority Areas and that this Agreement, and the associated CAISO Tariff revisions and additions, implement the features of the pilot pseudo-tie program.
- C. The Parties wish to coordinate operation of dynamic transfers to satisfy North American Electric Reliability Corporation ("NERC") and Western Electricity Coordinating Council ("WECC") reliability standards and criteria and Good Utility Practice.
- D. The Parties desire to implement an agreement to facilitate dynamic transfers from resources in their respective Balancing Authority Area.
- E. The Parties wish to enter into this Agreement to establish the terms and conditions for the operation of the dynamic transfer functionality to include

Dynamic Schedules and Pseudo-Tie arrangements between the Parties' Balancing Authority Areas.

- F.** The Parties have certain statutory obligations under California law to maintain power system reliability.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, **THE PARTIES AGREE** as follows:

**1. Term and Termination**

**1.1 Effective Date**

This Agreement shall be effective as of the date set forth above, unless this Agreement is accepted for filing and made effective by the Federal Energy Regulatory Commission ("FERC") on some other date, if FERC filing is required, and shall continue in effect until terminated.

**1.2 Termination**

This Agreement may be terminated by either Party upon two (2) years written notice to the other Party or upon mutual consent of both Parties. For entities subject to FERC jurisdiction, termination will be effective upon acceptance by FERC of notice of termination, if this Agreement has been filed with FERC, or two (2) years after the date of the notice of termination by a Party, if terminated in accordance with the requirements of FERC Order No. 2001 and related FERC orders. The CAISO shall timely file any required notice of termination with FERC. The filing of the notice of termination by the CAISO with FERC will be considered timely if: (1) the filing of the notice of termination is made after the preconditions for termination have been met, and the CAISO files the notice of termination with FERC within sixty (60) days after issuance of the notice of termination by a Party; or (2) the CAISO files the notice of termination with FERC in accordance with the requirements of FERC Order No. 2001.

**2. Definitions**

**2.1 NERC/WECC Definitions**

Except as defined below, terms and expressions used in this Agreement shall have the same meanings as those contained in the NERC Glossary of Terms Used in NERC Reliability Standards and the WECC Glossary of

WECC Terms and Acronyms.

## 2.2 Specific Definitions

- 2.2.1 Attaining Balancing Authority Area:** The Balancing Authority Area where the output of a Pseudo-Tie generating unit is fully included for purposes of calculation of Area Control Error and meeting Balancing Authority Area load responsibilities.
- 2.2.2 CAISO Dynamic Transfer Protocols:** The CAISO's Dynamic Transfer Protocols, which are set forth in Appendix M (Dynamic Scheduling Protocol) and Appendix N (Pseudo-Tie Protocol) of the CAISO Tariff.
- 2.2.3 CAISO Tariff:** CAISO Operating Agreement, Protocols, and Tariff as amended from time to time, together with any appendices or attachments thereto.
- 2.2.4 Good Utility Practice:** Any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry in the WECC region during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.
- 2.2.5 Native Balancing Authority Area:** The Balancing Authority Area where a Pseudo-Tie generating unit is physically interconnected to the electric grid.
- 2.2.6 Point of Contact:** A person or entity having the authority to receive and act upon scheduling or dispatch communications from the other Balancing Authority and available through a communications device mutually agreed upon on a 24-hour, 7-day basis.
- 2.2.7 Scheduling Coordinator:** An entity certified by the CAISO for the purposes of undertaking the functions of: submitting bids or schedules for energy, generation, transmission losses, and ancillary services; coordinating generation; tracking, billing, and settling trades with other Scheduling Coordinators; submitting forecast information; paying the CAISO's charges; and ensuring compliance with CAISO protocols.

**2.2.8 System Resource:** "System Resource" is defined in the CAISO Tariff and, in the context of this Agreement, may include combinations of resources as described in the CAISO Dynamic Transfer Protocols.

### **3. General**

#### **3.1 Purpose**

This Agreement sets forth the requirements that must be satisfied by the Parties to support Scheduling Coordinators' and generating unit owners' requests for implementation of dynamic transfer functionality and delivery of energy and energy associated with ancillary services to the respective Balancing Authority Area. The requirements encompass technical (energy management system ("EMS"), automatic generation control ("AGC"), and communications), interchange scheduling, telemetry, and aspects of Balancing Authority Area operations. Nothing in this Agreement is intended to interfere with the rights of an affected transmission owner or transmission operator in the BANC Balancing Authority Area to determine its own terms of service associated with the facilitation of dynamic transfer by BANC.

#### **3.2 NERC/WECC Operating Standards Observed**

Nothing in this Agreement is intended to change, supersede, or alter either Party's obligations to abide by NERC and WECC reliability standards and policies and WECC criteria.

#### **3.3 Applicable Standards**

This Agreement incorporates, by reference, the CAISO Dynamic Transfer Protocols and Standards for Imports of Regulation. Where there is an inconsistency between the CAISO's Dynamic Transfer Protocols and Standards for Imports of Regulation and this Agreement, this Agreement will prevail to the extent of the inconsistency.

#### **3.4 Communication**

The Parties shall each operate and maintain a 24-hour, 7-day control center with real-time scheduling and control functions. Appropriate control center staff will be provided by each Party who shall be responsible for operational communications and who shall have sufficient authority to

commit and bind that Party. The Parties shall jointly develop communication procedures necessary to support scheduling and dispatch functions relative to dynamic transfers. The Parties agree to exchange operational contact information in a format to be provided by the CAISO and completed as of the effective date of this Agreement. Each Party shall provide the other Party ten (10) calendar days advance notice of updates to its operational contact information for known changes, and as soon as practical, for unplanned changes.

#### **4. Dynamic Schedules of Imports and Exports**

Should the Parties elect to support a Scheduling Coordinators' request to implement dynamic scheduling functionality, all applicable operating, technical and business requirements set forth in Appendix M of the CAISO Tariff shall be satisfied, including but not limited to the following:

##### **4.1 Telecommunications Requirements**

The Parties shall establish and maintain real-time, redundant, diversely routed, communications links between the CAISO EMS and the BANC EMS, with the primary link utilizing the standard inter-control center communications protocol ("ICCP") in accordance with the Applicable Standards for the for the dynamically scheduled resources listed in Schedule 1.

##### **4.2 Telemetry**

For each operating hour for which a dynamically scheduled resource is delivering energy, and/or energy associated with ancillary services to the receiving Balancing Authority Area, the Host Balancing Authority shall provide, via the ICCP communication links to the receiving Balancing Authority EMS, the data for each dynamically scheduled resource, as set forth in the Applicable Standards.

##### **4.3. Interchange Scheduling Requirements**

###### **4.3.1 Dynamic Schedules**

The Parties shall coordinate the arrangements for dynamic interchange schedules for the delivery of energy to the respective Balancing Authority Area reflecting the dynamically scheduled resource's instantaneous

energy production or allocation level and taking into account available transmission capacity and, in the case of BANC, the impact of dynamic interchange schedules on transmission owner(s) and transmission operator(s) within the BANC Balancing Authority Area.

#### **4.3.2 Treatment of Area Control Error (“ACE”)**

For Dynamic Scheduling, the Host Balancing Authority shall instantaneously compensate its AGC for the dynamically scheduled resource's energy output that is generated or allocated for establishing the dynamic schedule to the receiving Balancing Authority such that the dynamically scheduled resource energy production or allocation changes have an equal in magnitude and opposite in sign effect on the Host Balancing Authority's ACE.

#### **4.3.3 Integration of Dynamic Schedules**

For each operating hour during which energy was dynamically scheduled for delivery to the receiving Balancing Authority Area, the Host Balancing Authority shall compute an integrated amount of interchange based on the dynamically scheduled resource's integrated energy production, by integrating the instantaneous dynamically scheduled resource production levels. Such integrated MWH value shall be agreed to hourly by the real-time schedulers.

#### **4.3.4 Regulation Obligation**

The Host Balancing Authority shall be responsible for regulation obligation for the portion of the dynamically scheduled resource's output not dynamically scheduled into the receiving Balancing Authority Area in accordance with WECC and NERC reliability standards.

#### **4.3.5 Access to Information**

The Parties agree to exchange information related to telemetry sent and received with respect to the delivery of energy (i) at the request of the other Party for purposes of after-the-fact interchange accounting or (ii) on demand for any other purpose.

### **4.3.6. Other Balancing Authority Responsibilities**

#### **4.3.6.1 Operational Jurisdiction**

The Host Balancing Authority will have, at a minimum, the level of operational jurisdiction over the dynamically scheduled resource and the associated dynamic schedule that NERC and WECC vest in Host Balancing Authorities. Such level of operational jurisdiction shall not exceed that necessary to meet applicable reliability standards.

#### **4.3.6.2 E-Tagging**

The Parties must support associated e-tagging as described in the CAISO Dynamic Transfer Protocols and deemed to be consistent with NERC and/or WECC requirements.

#### **4.3.6.3 Real-Time Adjustments**

The Host Balancing Authority Area for a dynamically transferred resource must have a means to manually override and/or otherwise adjust the dynamic signal for a dynamic schedule in real-time, if needed.

#### **4.3.6.4 Coordination with Other Balancing Authorities**

The Balancing Authority Area hosting a dynamic resource must provide in real-time the instantaneous value of each dynamic schedule to every intermediary Balancing Authority Area through whose systems such dynamic schedule may be implemented to the receiving Balancing Authority.

### **4.4. Other**

#### **4.4.1 Losses**

The Parties shall not be responsible for transmission losses caused by transmitting energy dynamically within or across the other Parties Balancing Authority Area.

#### **4.4.2 Certification**

Only CAISO-certified System Resource/Host Balancing Authority arrangements will be allowed to bid or self provide ancillary services in the

CAISO's ancillary services market through a CAISO-certified Scheduling Coordinator.

#### **4.4.3 No Guarantee of Award**

Certification of a System Resource/Host Balancing Authority arrangement allows for bidding of energy and/or certain ancillary services into the CAISO market; it does not, however, guarantee selection of such bid.

#### **4.4.4 Performance Assessment**

The CAISO will monitor and measure dynamically imported ancillary services, whether bid or self-provided, against the performance benchmarks described in the CAISO Dynamic Scheduling Protocol.

#### **4.4.5 Description of System Resources**

Each dynamically scheduled System Resource permitted pursuant to this Agreement is described in Schedule 1.

#### **4.4.6 Notifications**

The Parties shall jointly develop methods for coordinating the notification of all affected scheduling entities within their respective Balancing Authority Areas regarding schedule changes in emergency or curtailment conditions.

### **5. Pseudo-Ties**

Should the Parties elect to support a Pseudo-Tie generator's request to implement a Pseudo-Tie arrangement, the Parties shall comply with the applicable provisions of the Pseudo-Tie Protocol in Appendix N of the CAISO Tariff, including but not limited to the following:

- 5.1** Operation of Pseudo-Tie functionalities must comply with all applicable NERC and WECC reliability standards, policies, requirements, and guidelines regarding inter-Balancing Authority Area scheduling. A Pseudo-Tie must be registered as a "Point Of Delivery" (POD) on NERC's Transmission Service Information Network (TSIN). All (off-system) static scheduling associated with Pseudo-Tie functionality must be consistent with NERC Reliability Standards for interchange scheduling and coordination.

- 5.2** The Parties will establish the terms of any Pseudo-Tie between the two Balancing Authority Areas, will specify the location of that Pseudo-Tie point, and will register that location as a point of delivery to the Attaining Balancing Authority Area.
- 5.3** All Energy transfers associated with a Pseudo-Tie generating unit must be electronically tagged (E-tagged).
- 5.4** Unless a particular service is procured by the Pseudo-Tie generator from some other source, the Attaining Balancing Authority shall provide to a Pseudo-Tie generating unit all Balancing Authority services available to other generating units in the Attaining Balancing Authority Area, which may include the auxiliary load equipment needs of the Pseudo-Tie generating unit, provided firm transmission service is reserved across the transmission path from the CAISO Intertie to the Pseudo-Tie generating unit.
- 5.5** The Parties, in conjunction with the affected Participating Transmission Owner, or, in the case of BANC, affected transmission owner(s) and transmission operator(s) within the BANC Balancing Authority Area and the owner of the Pseudo-Tie generating unit will develop a coordinated operating procedure outlining the agreed upon framework among all parties for the operation of a Pseudo-Tie of the generating unit out of the CAISO Balancing Authority Area, and to facilitate the continued delivery of Energy and Ancillary Services from a Pseudo-Tie generating unit into the CAISO Balancing Authority Area to the desired delivery points in the event the primary contract path is unavailable or curtailed.
- 5.6** All applicable communication and telemetry requirements of the WECC, the CAISO, and a Pseudo-Tie generating unit's Native Balancing Authority Area regarding generating units and inter-Balancing Authority Area Interties must be satisfied. These requirements include the requirements of Appendix M applicable to Dynamic Schedules of imports and the requirements of the CAISO Tariff applicable to generating units in the CAISO Balancing Authority Area.
- 5.7** Proper incorporation of the dynamic signal into all involved Balancing Authority Areas' ACE equations will be required.

- 5.8** Should there be any need or requirement, whether operational or procedural, for the CAISO or the Balancing Authority for the Attaining Balancing Authority Area to make real-time adjustments to the CAISO's inter-Balancing Authority Area schedules at the pre-existing CAISO Intertie associated with the Pseudo-Tie generating unit (including curtailments), the dynamic transfer from the Pseudo-Tie generating unit shall be treated in the same manner as any CAISO Interchange Schedule at that pre-existing CAISO Intertie, and in accordance with any applicable operating instructions from any affected Participating Transmission Owner.
- 5.9** Each Pseudo-Tie generating unit permitted pursuant to this Agreement is described in Schedule 2.

## **6. Liability**

### **6.1 Uncontrollable Forces**

An Uncontrollable Force means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm, flood, earthquake, explosion, any curtailment, order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond the reasonable control of a Balancing Authority which could not be avoided through the exercise of Good Utility Practice.

Neither Party will be considered in default of any obligation under this Agreement or liable to the other for direct, indirect, and consequential damages if prevented from fulfilling that obligation due to the occurrence of an Uncontrollable Force. Neither Party will be considered in default of any obligation under this Agreement to the extent caused by any act, or failure to act, of any intermediary Balancing Authority.

In the event of the occurrence of an Uncontrollable Force, which prevents either Party from performing any obligations under this Agreement, the affected entity shall not be entitled to suspend performance of its obligations in any greater scope or for any longer duration than is required by the Uncontrollable Force. The Parties shall each use its best efforts to mitigate the effects of such Uncontrollable Force, remedy its inability to perform, and resume full performance of its obligations hereunder.

## **6.2 Liability To Third Parties**

Except as otherwise expressly provided herein, nothing in this Agreement shall be construed or deemed to confer any right or benefit on, or to create any duty to, or standard of care with reference to any third party, or any liability or obligation, contractual or otherwise, on the part of the CAISO or the BANC.

## **6.3 Liability Between the Parties**

The Parties' duties and standard of care with respect to each other, and the benefits and rights conferred on each other, shall be no greater than as explicitly stated herein. Neither Party, its directors, officers, employees, or agents, shall be liable to the other Party for any loss, damage, claim, cost, charge, or expense, whether direct, indirect, or consequential, arising from the Party's performance or nonperformance under this Agreement, except for a Party's gross negligence, or willful misconduct.

## **7. Miscellaneous**

### **7.1 Assignments**

Either Party to this Agreement may assign its obligations under this Agreement, with the other Party's prior written consent. Such consent shall not be unreasonably withheld.

Obligations and liabilities under this Agreement shall be binding on the successors and assigns of the Parties. No assignment of this Agreement shall relieve the assigning Party from any obligation or liability under this Agreement arising or accruing prior to the date of assignment.

### **7.2 Notices**

Any notice, demand, or request which may be given to or made upon either Party regarding this Agreement shall be made in writing and unless otherwise stated or agreed shall be made to the representative of the other Party indicated in Schedule 3 and shall be deemed properly served, given, or made: (a) upon delivery if delivered in person, (b) five (5) days after deposit in the mail if sent by first class United States mail, postage prepaid, (c) upon receipt of confirmation by return facsimile if sent by facsimile, or (d) upon delivery if delivered by prepaid commercial courier service. A Party must update the information in Schedule 3 relating to its address as that

information changes. Such changes shall not constitute an amendment to this Agreement.

### **7.3 Waivers**

Any waiver at any time by either Party of its rights with respect to any default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or matter arising in connection with this Agreement. Any delay short of the statutory period of limitations, in asserting or enforcing any right under this Agreement, shall not constitute or be deemed a waiver of such right.

### **7.4 Governing Law and Forum**

Subject to Section 7.4, this Agreement shall be deemed to be a contract made under and for all purposes shall be governed by and construed in accordance with the laws of the State of California. The Parties irrevocably consent that any legal action or proceeding arising under or relating to this Agreement shall be brought in any of the following forums, as appropriate: a court of the State of California or any federal court of the United States of America located in the State of California or, where subject to its jurisdiction, before the Federal Energy Regulatory Commission. No provision of this Agreement shall be deemed to waive the right of any Party to protest, or challenge in any manner, whether this Agreement, or any action or proceeding arising under or relating to this Agreement, is subject to the jurisdiction of the Federal Energy Regulatory Commission.

### **7.5 Consistency with Federal Laws and Regulations**

(a) Nothing in this Agreement shall compel any person or federal entity to: (1) violate federal statutes or regulations; or (2) in the case of a federal agency, to exceed its statutory authority, as defined by any applicable federal statutes, regulations, or orders lawfully promulgated thereunder. If any provision of this Agreement is inconsistent with any obligation imposed on any person or federal entity by federal law or regulation to that extent, it shall be inapplicable to that person or federal entity. No person or federal entity shall incur any liability by failing to comply with any provision of this Agreement that is inapplicable to it by reason of being inconsistent with any federal statutes, regulations, or orders lawfully promulgated thereunder; provided, however, that such person or federal entity shall use its best

efforts to comply with the CAISO Tariff to the extent that applicable federal laws, regulations, and orders lawfully promulgated thereunder permit it to do so.

(b) If any provision of this Agreement requiring any person or federal entity to give an indemnity or impose a sanction on any person is unenforceable against a federal entity, the CAISO shall submit to the Secretary of Energy or other appropriate Departmental Secretary a report of any circumstances that would, but for this provision, have rendered a federal entity liable to indemnify any person or incur a sanction and may request the Secretary of Energy or other appropriate Departmental Secretary to take such steps as are necessary to give effect to any provisions of this Agreement that are not enforceable against the federal entity.

## **7.6 Severability**

If any term, covenant, or condition of this Agreement or the application or effect of any such term, covenant, or condition is held invalid as to any person, entity, or circumstance, or is determined to be unjust, unreasonable, unlawful, imprudent, or otherwise not in the public interest by any court or government agency of competent jurisdiction, then such term, covenant, or condition shall remain in force and effect to the maximum extent permitted by law, and all other terms, covenants, and conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect and the parties shall be relieved of their obligations only to the extent necessary to eliminate such regulatory or other determination unless a court or governmental agency of competent jurisdiction holds that such provisions are not separable from all other provisions of this Agreement.

## **7.7 Section Headings**

Section headings provided in this Agreement are for ease of reading and are not meant to interpret the text in each Section.

## **7.8 Amendments**

This Agreement and the Schedules attached hereto may be amended from time to time by the mutual agreement of the Parties in writing. Amendments that are subject to FERC approval shall not take effect until FERC has accepted such amendments for filing and has made them effective. Nothing

contained herein shall be construed as affecting in any way the right of the Parties to unilaterally make application to FERC for a change in the rates, terms and conditions of this Agreement under Section 205 of the FPA and pursuant to FERC's rules and regulations promulgated thereunder; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under Sections 205 or 206 of the FPA and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

## **7.9 Counterparts**

This Agreement may be executed in one or more counterparts at different times, each of which shall be regarded as an original and all of which, taken together, shall constitute one and the same Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be duly executed on behalf of each by and through their authorized representatives as of the date first written above.

**California Independent System Operator Corporation**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Balancing Authority of Northern California**

By: James C. Feider

Name: James C. Feider

Title: General Manager

Date: 4-5-12

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be duly executed on behalf of each by and through their authorized representatives as of the date first written above.

**California Independent System Operator Corporation**

By:  \_\_\_\_\_

Name: Eric J. Schmitt  
Vice President, Operations

Title: \_\_\_\_\_

Date: April 9, 2012

**Balancing Authority of Northern California**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **SCHEDULE 1**

### **DESCRIPTION OF DYNAMIC SCHEDULING RESOURCES**

#### **[Section 4.4.5]**

There are no Dynamic Scheduling System Resources at this time.

## SCHEDULE 2

### PSEUDO-TIE GENERATING UNIT, PSEUDO TIE Technical Information

### NATIVE and ATTAINING BALANCING AUTHORITY AREA Information

#### [Section 5.9]

#### A. Pseudo-Tie Out of CAISO Balancing Authority Area

Pseudo Tie Location	Registered TNAME: NML230  Location: New Melones Substation, 230 kV
Pseudo Generating Unit	Generator Name: New Melones Power Plant  Capacity: 384 MW at 1.00 pf  Pmax <sup>1</sup> : 384 MW
Attaining Balancing Authority Area	BANC Balancing Authority Area
Native Balancing Authority Area	CAISO Balancing Authority Area
Existing Contract	United States Department of Energy Western Area Power Administration Central Valley Project, California Contract with Pacific Gas and Electric Company For Transmission Service For New Melones, Western Contract No. 8-07- 20-P0004, PG&E First Revised Rate Schedule FERC No. 60.

<sup>1</sup> This value is the unity power factor and represents the maximum amount of power that can be scheduled by the Pseudo-Tie Generating Unit or into the CAISO Balancing Authority Area, and is subject to limitation pursuant to existing contracts regarding transmission service rights on the scheduling path due to System Emergencies, or to provide necessary voltage support, which could temporarily reduce the ability to generate and transfer power to amounts less than Pmax.

### Pseudo-Tie Into the CAISO Balancing Authority Area

Pseudo Tie Location	Registered TNAME: OBN230 Location: Sutter Substation 230kV
Pseudo-Tie Generating Unit	Generator Name: Sutter Energy Center Combined Cycle Capacity: 572 MW, Pmax <sup>2</sup> : 525 MW Resource ID: Sutter_2_PL1X3
Attaining Balancing Authority Area	CAISO Balancing Authority Area
Native Balancing Authority Area	BANC Balancing Authority Area
Intertie	TRCYPP_2_TESLA

<sup>2</sup> This value is the unity power factor and represents the maximum amount of power that can be scheduled by the Pseudo-Tie Generating Unit or into the CAISO Balancing Authority Area, and is subject to limitation pursuant to existing contracts regarding transmission service rights on the scheduling path due to System Emergencies, or to provide necessary voltage support, which could temporarily reduce the ability to generate and transfer power to amounts less than Pmax.

**SCHEDULE 3****NOTICES****[Section 7.2]****Balancing Authority of Northern California**

Name of Primary Representative: James Feider  
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Name of Primary Representative: Vicken Kasarjian  
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Name of Primary Representative: C. Anthony Braun  
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Name of Alternative Representative: Richard Buckingham  
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**Name of Alternative**

**Representative:** Mark Willis

**Title:** Supervisor, Power Operations Engineering.

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**CAISO**

## Name of Primary

Representative: Ms. Roni L. Reese  
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## Name of Alternative

Representative: Christopher J. Sibley  
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