

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System )  
Operator Corporation ) Docket No. ER98-3760-000  
)  
)

California Independent System )  
Operator Corporation ) Docket Nos. EC96-19-000 and  
) ER96-1663-000  
)

[Not Consolidated]

**ANSWERING BRIEF OF THE CALIFORNIA INDEPENDENT  
SYSTEM OPERATOR CORPORATION**

**I. INTRODUCTION AND SUMMARY OF POSITIONS**

In accordance with the Commission's orders of April 28, 1999, and January 20, 2000,<sup>1</sup> the California Independent System Operator Corporation ("ISO") submits its Answering Brief responding to the arguments raised by the

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<sup>1</sup> 87 FERC ¶ 61,102 ("April 1999 Order") and 90 FERC ¶ 61,051, respectively. The Commission also extended the date for filing this Answering Brief in an order dated March 23, 2000.

proponents<sup>2</sup> in their initial briefs. This Answering Brief is organized by following the list of issues in the Joint Statement of Issues adopted by the parties.

A. INTRODUCTION

This proceeding was established by the Commission in an effort to resolve the issues<sup>3</sup> that were raised in connection with the ISO's Phase I and Phase II initial Tariff<sup>4</sup> filings, Amendments Nos. 1-7 thereto, the ISO's June 1, 1998 Compliance filing, and the ISO's July 15, 1998 Clarification filing.<sup>5</sup> The objections fall into two categories: (1) concerns regarding the structure of the Tariff, and (2) concerns regarding the timing of the ISO's efforts to modify its Tariff or implement agreed-upon programs.

As will be explained in the body of this Answering Brief, although there are over 100 issues under consideration in this proceeding, the actual number of issues truly in dispute in this proceeding is smaller. This is because in some instances the issues have been resolved in connection with other proceedings or are being examined in a separate docket. In those instances, there is no longer a need for Commission action here.

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<sup>2</sup> For purposes of this Answering Brief, the ISO refers to the parties supporting an issue as "Proponents," or else refers by name to the party or parties supporting an issue. Also, this Answering Brief contains citations in both the text and in footnotes. Where the word "*id.*" appears in the text, it indicates a reference to a previously citation in the text only; where "*id.*" appears in a footnote, it indicates a reference to a previous citation in the footnotes only.

<sup>3</sup> Referred to generically as "Unresolved Issues."

<sup>4</sup> Capitalized terms not otherwise defined in this Answering Brief are defined in the Master Definitions Supplement, ISO Tariff, Appendix A, as filed August 15, 1997, and subsequently revised.

<sup>5</sup> See the ISO's Report on Outstanding Issues, Docket Nos. ER98-3760-000, *et al.*, (Mar. 11, 1999), at 6-7, and Updated Report on Unresolved Issues, Docket Nos. ER98-3760-000, *et al.* (Jan. 4, 2000), at 9-11.

With respect to the remaining issues, the Commission should consider several overriding factors in its evaluation. First, despite the claims of many proponents that their proposed solution is the only acceptable result, the proper legal standard is whether the ISO's Tariff is just and reasonable under Section 205 of the Federal Power Act ("FPA").<sup>6</sup> The question to be resolved is not what is the perfect result, but whether the Tariff provision produces a just and reasonable result. If it does so, the fact that there may be another equally reasonable solution – or even a better solution – does not mean that the existing provision is unacceptable. For many of the issues there is no single just and reasonable result; rather, the Commission has made clear that there is a zone of reasonableness within which a provision appropriately may fall.<sup>7</sup> As explained below, in most instances the ISO's existing Tariff provisions fall well within that zone of reasonableness.

The second factor that the Commission should consider is that the question of whether a particular Tariff provision is just and reasonable should not be evaluated in a theoretical vacuum. While certain modifications suggested by some proponents may appear on paper to be reasonable and perhaps superior, the Commission should take into account the practical effect of adopting such modifications on the ISO, on Market Participants, and on the actual operation of

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<sup>6</sup> 16 U.S.C. § 824d (1994).

<sup>7</sup> See, e.g., *New England Power Co.*, 52 FERC ¶ 61,090, at 61,336 (1990), *aff'd*, *Town of Norwood v. FERC*, 962 F.2d 20 (D.C. Cir. 1992) (rate design proposed need not be perfect, it merely needs to be just and reasonable), *citing Cities of Bethany, et al. v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir.), *cert. denied*, 469 U.S. 917 (1984) (utility needs to establish that its proposed rate design is reasonable, not that it is superior to all alternatives).

the market.<sup>8</sup> Those effects will in many cases mean that the proponents' alternative must be rejected.

Third, the ISO's accomplishments in the short amount of time it has been in operation have been significant. Relying on competitive markets to maintain reliability, the ISO offers a larger menu of markets and has produced more market activity than any of its domestic counterparts. These accomplishments have been achieved in the face of significant challenges, such as the extraordinary price spike in the first summer of operation in 1998, the record peak electricity demand that summer, the Commission's staggered approval of market-based rates, and the development and redesign of the Ancillary Services market. The success of the ISO in light of these extraordinary challenges must be taken into account both in evaluating the ISO's performance with respect to the Unresolved Issues and as a demonstration of the overall capability of the ISO's existing structure to facilitate a competitive market and produce just and reasonable results.

Fourth, although the ISO believes that its existing structure has enabled it to function well and produce the results that were intended, the ISO remains fully committed to improving its real-time operations, its Tariff, and the overall operation of its markets. The ISO has many significant projects currently underway. It is seeking to automate communication between the ISO and Generators – with regard to real-time data from and control signals to Generating Units (the Generator Communications Project), and with regard to Dispatch

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<sup>8</sup> See, e.g., *Texas Eastern Transmission Corp.*, 37 FERC ¶ 61,260, at 61,709 (1986) (rates must reflect administrative feasibility).

instructions to Scheduling Coordinators for Generators (Automatic Dispatch System) – in order to improve reliability and the efficiency of the market. The ISO and all Market Participants engaged in difficult negotiations to revise the transmission Access Charge, both to facilitate regional coordination, consistent with the framework adopted by the Commission in its Order No. 2000,<sup>9</sup> and to ensure a fair and equitable distribution of costs and benefits. The ISO is also engaged in a stakeholder process to review and reform its Congestion Management processes. In addition, the ISO is engaged in a study of its Grid Management Charge (“GMC”) to determine the extent to which it may be unbundled. The ISO has a capital budget of almost \$100 million for the next two years. These funds will be used to develop the software improvements and implement the revised programs that will result from these projects as well as other initiatives. The Commission should recognize that even if additional expenditures above this planned level could improve the structure marginally, the corresponding increase in the GMC necessary to fund these additional expenditures may not be justified.

Finally, the ISO fully recognizes that there is an identified need to refine, refocus, and modify certain of its operations and Tariff provisions. These include the need to develop a more economically efficient method of managing Congestion, improve the long-term grid planning process, and develop a more complete policy on new Generation interconnections. These specific revisions

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<sup>9</sup> *Retail Transmission Organizations*, Order No. 2000, 65 Fed. Reg. 809 (Jan. 6, 2000), FERC Stats. and Regs., Regs. Preambles ¶ 31,089 (Dec. 20, 1999), *order on reh’g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (Mar. 8, 2000), FERC Stats. and Regs., Regs. Preambles ¶ 31,092 (Feb. 25, 2000).

will be undertaken as part of the overall reexamination of the structure of the ISO in light of the requirements of Order No. 2000 and the new challenges that will arise from other changes in the industry, such as the growth of distributed Generation.

B. SUMMARY OF POSITIONS

- Issue A.1 (Unresolved Issue No. 73)

Proponents apparently want Scheduling Coordinators to be able to get the credit for Operating Reserves they have purchased within the ISO Control Area without actually making them available for Dispatch by the ISO. This approach would be inefficient, unfair, and impractical in light of Control Area responsibilities. The Commission should uphold the current method through which the ISO credits Scheduling Coordinators for Operating Reserves.

- Issue A.2 (Unresolved Issue No. 585)

Dynegy's argument has nothing to do with the relevant provision in the ISO Tariff. Moreover, objections to the "rational buyer" approach to the procurement of Ancillary Services are not appropriately a part of this proceeding. Any party desiring to pursue such objections was required to raise them on rehearing of the Commission's order accepting Amendment No. 14 to the ISO Tariff. An objection that was not reflected in a timely rehearing requested is waived and cannot be resuscitated by grafting it onto an unrelated issue in this proceeding.

- Issue A.3.a (Unresolved Issue No. 96)

The Commission should approve the revision to the ISO Tariff supported by Dynegy and the ISO. However, the additional requested relief sought by EPUC/CAC is untimely, unfounded, and unnecessary. Contrary to EPUC/CAC's assertions, the ISO Tariff does recognize Qualifying Facility ("QF") obligations in existing Interconnection Agreements. In *Pacific Gas and Electric Co., et al.*, 81 FERC ¶ 61,122 (1997) (the "October 1997 Order"), the Commission rejected the concerns raised by EPUC/CAC, and EPUC/CAC failed to seek rehearing. Finally, EPUC/CAC's claim that this issue is pending in Docket Nos. ER98-997-000, *et al.* is incorrect.

- Issue A.3.b (Unresolved Issue No. 326)

This issue has been withdrawn.

- Issue A.3.c (Unresolved Issue No. 353)

Two proponents, EPUC/CAC and DWR, raise different concerns regarding Sections 2.5.3.4 and 2.5.18 of the ISO Tariff. EPUC/CAC's concerns are without merit. The ISO explained in regard to Issue A.3.a that the ISO Tariff does accommodate QFs and respects the obligations contained in existing Interconnection Agreements. Moreover, EPUC/CAC's claim that Section 2.5.3.4 imposes unreasonable burdens on QFs and other Generators was rejected by the Commission in the October 1997 Order; and EPUC/CAC never sought rehearing on this issue.

With regard to DWR's concerns, the ISO agrees that entities that do not meet the VAR requirement should not be permitted to lean upon those that do. The ISO has not authorized any exemption from the Voltage Support provisions under Section 2.5.3.4 of the ISO Tariff. Moreover, the ISO is committing to post information regarding any exemptions if they are granted in the future, thereby addressing DWR's informational concerns. DWR's additional proposed modifications to Section 2.5.18 of the Tariff are unwarranted. The Commission specifically rejected DWR's suggestions in the October 1997 Order and DWR has provided no basis for modifying that Commission determination.

- Issue A.4 (Unresolved Issue Nos. 189 and 319)

Contrary to Proponents' assertions, the October 1997 Order appropriately recognized that the ISO must have the ability to procure necessary Voltage Support as needed, and should not be constrained to only those resources that have submitted Adjustment Bids. Moreover, the ISO never intended to procure, on an indefinite basis, Voltage Support or Black Start services from Reliability Must-Run ("RMR") units.

- Issue A.5 (Unresolved Issue No. 283)

This issue has been withdrawn.



- Issue A.6 (Unresolved Issue No. 491)

The ISO's Dispatch of Generation out of bid sequence is just and reasonable. Enron proposes to eliminate out-of-sequence Dispatch, but fails to justify such an extreme proposal, particularly in light of improvements that the ISO plans to institute.

- Issue B.1.a (Unresolved Issue No. 489)

Enron's contention that the ISO is improperly managing Path 15 is baseless. Enron ignores the ISO's clearly established role with respect to the interpretation and implementation of Existing Contracts. It also ignores the fact that Market Participants already have been provided with ample information, both in FERC filings and in Operating Procedures posted on the ISO Home Page, about how Path 15 is managed. Moreover, as Enron itself recognizes, it has made the same arguments in another proceeding, and the Commission has declined to act on those arguments. The Commission should reject these same arguments in the instant proceeding.

- Issue B.1.b (Unresolved Issue No. 488)

Enron is incorrect in its assertion that the ISO has deferred the day-to-day calculation of Available Transfer Capacity for new firm uses to Pacific Gas and Electric Company ("PG&E"). All the arrangements described in the operating instructions for Path 15 accepted by the Commission are consistent with the ISO Tariff and all applicable Commission orders. Moreover, none of these

arrangements alter the fact that it is the ISO that maintains Operational Control over Path 15. Nothing in Enron's initial brief provides any evidence to the contrary. The Commission should therefore reject Enron's arguments on this issue.

- Issue B.2.a (Unresolved Issue No. 537)

The ISO has posted the algorithm it employs for Inter-Zonal Congestion Management on the ISO Home Page, together with additional explanatory material. Claims that it should also publish the proprietary software it uses to implement that algorithm, databases, and additional material are unfounded, especially in light of the pending comprehensive review of the ISO's Congestion Management processes, which may result in material changes to the existing proprietary algorithm.

- Issue B.2.b (Unresolved Issue No. 116)

The ISO Tariff and protocols include substantial detail describing the calculation of Usage Charges for the recovery of Inter-Zonal Congestion costs. There is no basis for complaints that the ISO should be required to repeat all of this material or explicitly cross-reference all of this material in a single section of the Scheduling Protocol.

- Issue B.2.c (Unresolved Issue No. 461)

Proponents are mistaken in asserting that the ISO's protocols formerly provided that Adjustment Bids left standing after Congestion Management would be converted to Supplemental Energy bids, and that the ISO subsequently reversed that policy without explanation. The ISO plans to review the role of Adjustment Bids during its comprehensive redesign of the Congestion Management market.

- Issue B.2.d (Unresolved Issue No. 398)

At the March 2000 ISO Governing Board meeting, the Board authorized ISO management to implement inter-Scheduling Coordinator trades of Adjustment Bids as soon as possible. Thus, TURN/UCAN's proposal on this issue has been approved by the ISO.

- Issue B.2.e (Unresolved Issue No. 298)

Proponents have proposed changes to the ISO's Congestion Management methodology. However, the changes requested relate to areas regarding which the Commission has already called for a stakeholder process to assess a comprehensive redesign of the ISO's Congestion Management approach. Consequently, Proponents' proposals should be rejected pending the outcome of the stakeholder process.

- Issue B.3.a (Unresolved Issue No. 535)

The ISO has complied with the Commission's directive regarding the filing of specific practices and procedures the ISO uses to manage Intra-Zonal Congestion by filing complying Tariff amendments. Moreover, even assuming *arguendo* that the ISO has not complied properly, this issue is now moot due to the Commission's order requiring the ISO to undertake a comprehensive redesign of its Congestion Management approach.

- Issue B.3.b (Unresolved Issue No. 536)

Proponents' argument that the ISO failed to comply with the October 1997 Order, in that the ISO did not delete sections of the ISO Tariff relating to Intra-Zonal Congestion Management, fails to take into account the full context of the Commission's order and exalts form over substance. Moreover, contrary to Proponents' assertions, Section 2.5.22.8 of the ISO Tariff confers on the ISO no additional authority to Redispatch resources. The ISO already has the authority to direct Participating Transmission Owners ("TOs") to take action to maintain system reliability including, but not limited to, the control of non-Participating Generators.

- Issue B.3.c (Unresolved Issue No. 530)

As discussed in connection with Issue B.3.b, Section 2.5.22.8 of the ISO Tariff provides the ISO with the appropriate level of authority to manage Intra-Zonal Congestion. It may be that Proponents are contending that the ISO's

authority under Section 5.1.3 of the Tariff to Redispatch in the case of an emergency does not extend to addressing real-time Intra-Zonal Congestion. If this is the case, adoption of their position would, at a minimum, require the definition of Redispatch to be amended, and would also significantly threaten the reliability of the ISO Controlled Grid.

- Issue B.4.a (Unresolved Issue No. 213)

The ISO agrees to delete a provision of the ISO Tariff authorizing it to direct Scheduling Coordinators to implement pro rata reductions in their Generation and exports to relieve Overgeneration conditions.

- Issue B.4.b (Unresolved Issue No. 437)

The ISO has included procedures for the management of Inter-Zonal Congestion in its Scheduling Protocol in full compliance with the Commission's directive in the October 1997 Order.

- Issue B.4.c (Unresolved Issue Nos. 198, 199, and 266)

The implicit preference afforded to Load in the ISO's Congestion Management process is no longer part of the ISO Tariff. That preference, moreover, reasonably reflects the ISO's experience that Loads are relatively less flexible than Generating Units and therefore less reliable for purposes of Congestion Management.

- Issue B.5.a (Unresolved Issue No. 245)

Turlock's contention that Section 5 of the ISO Tariff is unduly discriminatory because it requires a Participating Generator Agreement ("PGA") for those who would sell Ancillary Services to the ISO from within the ISO Controlled Grid, but not for those who sell Ancillary Services from outside the ISO's Control Area, is without merit. Contrary to Turlock's assertion, the ISO's requirements are appropriate for *all* Generating Units in the ISO's Control Area that desire to participate in the ISO's markets, regardless of their ownership. They are necessary to enable the ISO to fulfill its Control Area obligations and to maintain safety and reliability on the ISO Controlled Grid. Further, Turlock's claim that this requirement prohibits them from participating in the ISO's Ancillary Services and Imbalance Energy markets is unfounded and is refuted by the fact that other full-service municipal utilities are currently participating in the ISO's markets under executed PGAs.

Commission precedent recognizes that it is not undue discrimination to impose different responsibilities on differently situated entities. Moreover, if Turlock truly wants to be treated on par with resources in other Control Areas, it has the option to establish its own Control Area, and fulfill all of the associated responsibilities.

Based on the pleadings submitted in this matter, the Commission should determine that Turlock's complaint is without merit and suspend the need for further action in Docket No. EL99-93-000.

- Issue B.5.b (Unresolved Issue Nos. 228 and 443)

Proponents have failed to demonstrate that the provisions in Sections 2.3.1.2.1 and 2.3.1.2.2 of the ISO Tariff are unjust or unreasonable. On the contrary, these provisions are necessary and are consistent with the Commission's recognition that Regional Transmission Organizations ("RTOs") must have "some control over generation." The ISO Tariff provides appropriate protections respecting the Existing Contracts, operating instructions, and bids of Market Participants.

- Issue B.5.c (Unresolved Issue Nos. 444 and 448)

The ISO believes that the Commission's decision with respect to Amendment No. 23, and Participants' recognition that "the ISO should not be limited to being able to call on *Participating* Generators to respond to potential or actual emergencies," have essentially resolved the issue in dispute. Therefore, no further clarifications are necessary.

- Issue B.5.d (Unresolved Issue No. 593)

This issue was consolidated with Issue B.9.

- Issue B.5.e (Unresolved Issue No. 254)

SMUD's proposed revisions to Section 7.2.5.2.7 of the ISO Tariff are unnecessary. The ISO must have a means to resolve Inter-Zonal Congestion constraints in situations where market bids are insufficient. The ISO's approach

respects priorities under Existing Contracts and its pro rata curtailment of the scheduling of new firm uses of the transmission system are consistent with Order No. 888.

- Issue B.5.f (Unresolved Issue No. 494)

WPTF and Enron propose that the ISO be permitted to Dispatch resources out-of-market only in response to actual System Emergencies, and that the ISO pay resources thus Dispatched a price that includes variable production costs plus a number of indirect and consequential costs. WPTF and Enron argue that out-of-market Dispatch interferes with the free operation of the electricity market, and that the ISO's current pricing mechanism creates a risk of under-compensation of resources Dispatched out of market.

The Commission should reject these proposals. First, the issues raised by WPTF and Enron are beyond the scope of the Unresolved Issues case, which deals only with the original ISO Tariff filings, Amendments 1 through 7, the June 1, 1998 Compliance filing, and the July 15, 1998 Clarification filing. The issues raised here relate to Amendment No. 23, and were resolved by the Commission's acceptance of the relevant portions of that amendment. Second, forcing the ISO to wait to exercise its out-of-market authority until system conditions have deteriorated to the point of a full-fledged System Emergency places the California transmission system at unnecessary risk. The ISO should have the authority to correct system problems before they rise to emergency proportions. Third, the ISO's pricing mechanism is a compromise, which the



Commission found to be reasonable, that balances the risks of under-compensation identified by WPTF and Enron, the risks of overpayment identified by a number of other parties, and market power concerns.

- Issue B.5.g (Unresolved Issue No. 621)

Dynegy contends that the ISO should be required to disseminate information explaining the reasons for all System Warnings or System Emergencies called by the ISO either in regular reports to the Commission or in postings on the ISO Home Page. ISO declarations of System Warnings or System Emergencies are already disseminated to all Market Participants by electronic mail. No additional purpose would be served by requiring the ISO to compile a report for the Commission. For purposes of seeking a resolution of this issue, the ISO will agree to publish on the ISO Home Page a summary of out-of-market calls made during the previous month.

- Issue B.5.h (Unresolved Issue No. 595)

This issue has been withdrawn.

- Issue B.5.i (Unresolved Issue No. 611)

The ISO does not believe the proposed revisions to Section 8.1.1 of the Dispatch Protocol are appropriate. The Commission has already addressed this issue in its order on Amendment No. 23. Moreover, Market Participants are expected to protect their interests by means of the values specified in their bids.

This provides optimum flexibility as those values may change on an hourly basis. In addition, QFs, like all other Generators, are able to submit operating instructions to the ISO designed to address exactly the type of safety concern identified by EPUC/CAC.

- Issue B.5.j (Unresolved Issue Nos. 335 and 617)

The revisions suggested by Proponents are unwarranted. Sections 9.1.1 and 9.1.5 of the Dispatch Protocol operate in conjunction with Section 5.1.3 and other provisions of the ISO Tariff to give the ISO necessary authority to manage real-time operations and maintain the reliability of the ISO Controlled Grid, with due respect given to Existing Contracts. Proponents' contention that ISO's authority to issue Dispatch orders to avoid or relieve a System Emergency should not extend to the relief of Congestion, even in the absence of available market bids, is unfounded and contrary to the Commission's order on Amendment No. 23. If Generation and Loads were not adjusted to relieve the overloading, such Congestion can create the type of "real-time system problem" that the ISO has been directed and empowered to remedy.

- Issue B.5.k (Unresolved Issue No. 618)

The ISO respectfully requests that the Commission find that the revision to the ISO Tariff supported by Dynegy and the ISO is reasonable. The ISO further requests that the Commission conclude that the additional requested relief

sought by EPUC/CAC is untimely and unnecessary. The existing Tariff and *pro forma* agreements address the safety concerns expressed by EPUC/CAC.

- Issue B.6.a (Unresolved Issue No. 541)

This issue has been withdrawn.

- Issue B.6.b (Unresolved Issue No. 586)

This issue has been settled.

- Issue B.6.c (Unresolved Issue No. 607)

Dynegy is incorrect in asserting that Section 3.4.4 of the DP is “superfluous and irrational.” That section serves the necessary function of providing for the imposition of penalties against Scheduling Coordinators in the appropriate circumstances. Dynegy’s concerns are also premature in that the ISO has yet to file for Commission approval in order to assess any penalties beyond what is already contemplated in Section 2.5.26 of the ISO Tariff.

- Issue B.7 (Unresolved Issue Nos. 615 and 629)

Dynegy has asked the ISO to agree to remove market bids from the software used by ISO Dispatchers or agree to release information and explanations to Market Participants whenever it makes an out-of-sequence or out-of-market trade, or Dispatches a RMR unit when bids in the same local Load Zone remain outstanding. There is no reason for the Commission to take any

action with respect to this issue. First, the ISO already notifies Market Participants whenever it makes an out-of-sequence or out-of-market Dispatch. Second, the ISO is planning to increase the amount of information it provides in these notifications. Finally, Amendment No. 26 to the ISO Tariff, which the Commission recently approved, will eliminate most of the concerns associated with Dispatch of RMR units.

- Issue B.8 (Unresolved Issue No. 397)

As the Commission is aware, a significant outstanding issue in the Congestion Management reform process is whether the ISO should retain the Market Separation Constraint. The ISO agrees with TURN/UCAN that as part of the ongoing stakeholder process it should provide Market Participants with historical information regarding the impact on Usage Charges that would have resulted in the absence of the requirement that Scheduling Coordinators keep their Schedules balanced. This will be a time-intensive effort requiring the collection of a large amount of data. The ISO disagrees with TURN/UCAN that the ISO should also provide this data on a real-time, going-forward basis. The development and analysis of this data in real time would require a significant amount of staff resources to be devoted to the task but would add little to the historical analysis. Moreover, to the extent that the ISO ultimately decides to remove the Market Separation Constraint as part of its Congestion Management redesign initiative, the ISO will no longer need to perform such an analysis on a going-forward basis. Therefore, the ISO respectfully requests that the

Commission defer ruling on this aspect of the Commission's directive until the ISO's Congestion Management reform process is complete.

- Issue B.9 (Unresolved Issue No. 591)

Pending the conclusion of the Congestion Management redesign process, the ISO believes that the Commission should accept the proposed deletions concerning Tariff Sections 7.2.1.1 and 7.2.5.2.6, and should defer any determination on this Unresolved Issue. This will allow the ISO to implement the most effective solution for the California market.

- Issue B.10 (Unresolved Issue Nos. 436 and 503)

The Commission issued the requirement in the October 1997 Order that the ISO and the PX develop Generating Unit availability standards in the context of PG&E, Southern California Edison Company ("SCE"), and San Diego Gas & Electric Company ("SDG&E") being the owners of extensive Generating Units in California. Since late 1997, those companies have divested themselves of significant numbers of their Generating Units. Moreover, the Market Monitoring and Information Protocol ("MMIP") requires the ISO's Department of Market Analysis to monitor the activities of Market Participants to detect "anomalous market behavior" including "withholding of Generation capacity." In addition, the Commission recently accepted the ISO's proposal in Amendment No. 25 to publish individual bid data with a six-month delay measured from the Trading

Day to which the data corresponds. This should facilitate third-party review of market behavior.

Nevertheless, the ISO agrees with Proponents that unit availability standards can be an effective tool in market power monitoring. In this Answering Brief, the ISO discusses conceptual approaches for utilizing availability standards in monitoring whether generating capacity is being purposefully withheld from the market. The ISO has not yet had an opportunity to review these approaches with Market Participants through an ISO stakeholder process. The ISO anticipates such discussions will need to take place in the immediate future in the context of the expiration of the ISO's price-capping authority. The ISO respectfully requests that the Commission defer further consideration of this issue until that stakeholder process is complete.

- Issue B.11 (Unresolved Issue No. 516)

This issue has been settled.

- Issue B.12 (Unresolved Issue No. 371)

The ISO understands that no initial brief was filed with respect to this issue.

- Issue B.13 (Unresolved Issue Nos. 597, 598, 599, 600, and 601)

The ISO's time frame for the submission and withdrawal of Supplemental Energy bids is reasonable and should be upheld. Requiring firm bids into the

Supplemental Energy market 45 minutes before the hour, rather than 30 minutes, provides the ISO with an expanded market for Supplemental Energy, which in turn reduces the cost and uncertainty involved in the provision of Supplemental Energy. Moreover, the ISO Tariff provisions regarding the use of Regulation units are reasonable, and they require no further changes at this time. Further, the current standard in the ISO Tariff concerning the Dispatch instructions issued by BEEP Software provides the ISO with a reasonable amount of judgment to make appropriate changes necessary for the efficient operation of the ISO's Control Area and the protection of the reliability of the ISO Controlled Grid. Finally, the ISO's current process for correcting and updating errors relating to the calculation and posting of 10-minute ex post prices is reasonable.

- Issue C.1 (Unresolved Issue No. 546)

The ISO is not in a position to be required to net Access Charges to Scheduling Coordinators that schedule the use of Existing Contracts. Instead, this responsibility properly rests with the parties to the Existing Contract.

- Issue C.2 (Unresolved Issue No. 317)

This issue has been consolidated with Issue C.7.

- Issue C.3 (Unresolved Issue No. 318)

The ISO Tariff's specification that the ISO will not interject itself into issues that may arise between parties to an Existing Contract regarding the allocation of

responsibility assessed by the ISO for Transmission Losses and Ancillary Services is consistent with the ISO's commitment to honor Existing Contracts. The ISO assigns responsibility for Transmission Losses on the ISO Controlled Grid among Scheduling Coordinators. It is then the responsibility of the Scheduling Coordinators to allocate that responsibility among the entities they represent, including those with Existing Contracts, and to settle any discrepancies in accordance with the terms of the Existing Contract or, if applicable, the relevant TO Tariff. This approach ensures that costs arising in the context of a bilateral contractual arrangement are not shifted to other Market Participants.

- Issue C.4 (Unresolved Issue Nos. 79 and 507)

The ISO Tariff appropriately allocates responsibility for the costs of mitigating Intra-Zonal Congestion among Scheduling Coordinators based principally on the Loads they serve in the Zone experiencing Congestion. A Scheduling Coordinator's allocation is not reduced to the extent that a portion of the Load it represents is served under an Existing Contract, nor should it be. Insofar as a party with Existing Rights has a contractual basis for escaping responsibility for such costs, that factor may appropriately be taken into account by the Scheduling Coordinator in allocating its share of Intra-Zonal Congestion costs among the entities it represents. It should not, however, serve as a basis for increasing shares of Intra-Zonal Congestion costs borne by other Scheduling Coordinators.



- Issue C.5 (Unresolved Issue Nos. 124 and 125)

The ISO Tariff provides that the ISO will not interpret Existing Contracts. Parties to an Existing Contract are to attempt to jointly agree on the operating instructions that are to be submitted to the ISO. If the parties to the Existing Contract do not agree, the dispute resolution provisions in such contract are used to settle the issue. Claims that the ISO protocols do not give Existing Rights holders direct participation in the implementation of their Existing Contracts are unfounded. The Commission has found it to be reasonable for the ISO to implement the Participating TO's instructions until the dispute is resolved.

Additionally, the ISO must retain its discretion to reject revised operating instructions if the information submitted is incomplete. Since it is the ISO that must implement the instructions, it should be up to the ISO to determine if it has the necessary information. In addition, seven days is a reasonable amount of time to allow the ISO to implement operating instructions.

- Issue C.6 (Unresolved Issue No. 251)

The ISO Tariff preserves the within-the-hour scheduling flexibility that some Existing Rights holders possess under the terms of their Existing Contracts. When it coordinates the scheduling of transactions that rely on Existing Rights with other uses of the ISO Controlled Grid in the Hour-Ahead scheduling process and in real-time operations, the ISO reserves transmission capacity to accommodate the exercise of those flexible scheduling rights. It is

appropriate, moreover, that responsibility for the schedule deviations that result when those rights are exercised be assigned to the Scheduling Coordinator that represents the Existing Rights holder. Failure to do so would inappropriately spread the costs of parties' exercise of their contractual rights to other Market Participants.

- Issue C.7 (Unresolved Issue No. 351)

DWR's concerns either have been addressed in prior Commission orders, are related to the recent transmission Access Charge filing, or pertain to issues discussed later in this brief. First, DWR fails to mention in its initial brief that the Commission considered certain of these issues in the context of DWR's rehearing request of the Commission's order on Amendment No. 9. Second, the ISO's filing of a successor transmission Access Charge in its proposed Amendment No. 27 includes consideration of whether FTRs should be given to converting Existing Rights holders without interposing an auction process and whether distinctions should be made in the amount of FTRs reflecting different priorities on Path 15. Third, the ISO discusses the appropriateness of the priority for Reliability Must-Run Generation in connection with Issue O.13, below.

- Issue C.8 (Unresolved Issue No. 558)

DWR is incorrect in its belief that Existing Rights holders that do not currently have transmission customers will continue to lack transmission customers after the ISO assumes control of the Existing Rights. Once an entity

joins the ISO, its rights to revenues and its access to the ISO are indistinguishable from those of owners of physical transmission facilities. Such an entity should be required to develop a Transmission Revenue Requirement (“TRR”), a Transmission Revenue Balancing Account (“TRBA”), or an equivalent, to receive Usage Charge and Wheeling revenues pursuant to the ISO Tariff.

- Issue D.1 (Unresolved Issue No. 631)

Proponents are incorrect in their contention that the activities of the ISO’s Department of Market Analysis (“DMA,” which was formerly known as the Market Surveillance Unit, or “MSU”) should be limited to the gathering of information voluntarily provided by Market Participants and the reporting of findings to the Commission. Nothing in the enforcement provisions of the MMIP constitutes an impermissible grant of authority to the ISO, and the ISO is in full compliance with the Commission’s directives in this regard.

- Issue D.2 (Unresolved Issue No. 64)

Proponents are incorrect in their assertion that the market monitoring provisions of the ISO Tariff violate the filed rate doctrine and fail to define improper market behavior clearly and narrowly. The market monitoring provisions authorize sanctions against Market Participants only for very specific conduct and are fully consistent with Commission policy.

- Issue D.3 (Unresolved Issue No. 65)

Proponents' assertion that Section 2.3.2 of the MMIP violates Commission policy is incorrect. Proponents misread Commission precedent on the subject of publishing findings of market abuse or gaming. Further, Proponents' position lacks any policy justification.

- Issue D.4 (Unresolved Issue No. 66)

Proponents fail to show that the ISO's information collection procedures violate Commission policy. Moreover, Proponents do not sufficiently take into account the opportunity to respond that is granted to a Market Participant that has allegedly failed to provide market information.

- Issue E.1 (Unresolved Issue Nos. 2, 71, and 377)

Issues E.1 through E.5: The provisions in the ISO Tariff relating to Metered Subsystems and System Units have never taken effect because efforts to agree on the parameters of the Metered Subsystem concept have not been successful, although a number of proposals have been evaluated by the ISO and by various stakeholders. The various challenges raised with respect to certain aspects of the Metered Subsystem provisions of the current ISO Tariff, and to provisions concerning System Units, have been discussed by the ISO Governing Board and Market Participants as part of the ISO's revised transmission Access Charge. The ISO's March 31, 2000 filing of the revised Access Charge and the

Metered Subsystem concept in the ISO's proposed Amendment No. 27 provides the appropriate forum for consideration of this issue.

- Issue E.2 (Unresolved Issue Nos. 70 and 75)

See summary for Issue E.1, above.

- Issue E.3 (Unresolved Issue No. 2)

See summary for Issue E.1, above.

- Issue E.4 (Unresolved Issue No. 248)

See summary for Issue E.1, above.

- Issue E.5 (Unresolved Issue No. 295)

See summary for Issue E.1, above.

- Issue F.1 (Unresolved Issue No. 473)

The ISO believes that the June 1, 1998 Compliance filing properly limited grandfathering only to the meters of End-Use Customers and that Southern Cities failed to preserve this issue by seeking rehearing of this determination. Given the ISO's market administration responsibilities as well as its role as the Control Area operator, it is reasonable to require uniform, non-discriminatory data acquisition processes. The ISO metering standards are reasonable. Moreover, if they present undue hardship for a particular Market Participant, that entity is

free to seek an exemption from compliance. Furthermore, the ISO notes its understanding that the current metering arrangements of Southern Cities are in compliance with the ISO's metering requirements.

- Issue F.2 (Unresolved Issue Nos. 40 and 53)

While the ISO believes that Section 10.2.2 of the ISO Tariff and Section 5.1.1 of the ISO Metering Protocol are just and reasonable as filed and that no changes are necessary, the ISO continues to support the compromise reached with Southern Cities. The additional relief requested by EPUC/CAC is unwarranted. EPUC/CAC's assertion that the ISO's right to monitor Generator performance should not extend beyond the Interconnection point between the Generator and the ISO Controlled Grid was explicitly rejected by the Commission in the October 1997 Order as "inappropriate and unworkable." EPUC/CAC never sought rehearing of this determination and should not be able to reargue this issue.

- Issue F.3 (Unresolved Issue No. 140)

The ISO does not oppose TANC's request that penalties and sanctions associated with the failure of an entity to comply with the ISO audit and test requirements should be delineated in the ISO Tariff as opposed to the individual Meter Service Agreements.

- Issue G.1 (Unresolved Issue No. 409)

This issue has been withdrawn.

- Issue G.2 (Unresolved Issue No. 446)

Contrary to Proponents' assertions, proposed Section 2.3.3.5.3 of the ISO Tariff is consistent with Commission direction in the October 1997 Order.

Further, an entity that questions the validity of an ISO order under this Tariff section is free to pursue available remedies under the ISO Tariff or before the Commission.

- Issue G.3 (Unresolved Issue No. 519).

This issue has been settled.

- Issue H (Unresolved Issue No. 294)

Proponents propose that the ISO allow portfolio bidding. Portfolio bidding relates to areas regarding which the Commission has called for a stakeholder process to assess a comprehensive redesign of the ISO's Congestion Management approach. Moreover, the Commission has itself identified potential reliability and market power concerns that are to be addressed. Consequently, Proponents' proposals should be rejected pending the outcome of the stakeholder process.

- Issue I.1 (Unresolved Issue No. 267).

This issue has been withdrawn.

- Issue I.2 (Unresolved Issue No. 296)

Enron's claims that the ISO treats the PX more favorably than other Scheduling Coordinators are procedurally defective and substantively without merit. The Commission approved the use of a Generation Meter Multiplier ("GMM") of 1.0 for scheduling purposes as put forth in Amendment No. 5 to the ISO Tariff. Moreover, this factor has been utilized by all Scheduling Coordinators, as well as the PX. The Commission found that cooperation between the ISO and PX market monitoring units was "critical to successful market surveillance" and Enron never sought rehearing of this determination. Finally, Enron should not be permitted to use this proceeding to collaterally attack the out-of-market payment provisions approved by the Commission in its order on Amendment No. 23.

- Issue J.1 (Unresolved Issue No. 197)

In Amendment No. 6 to the ISO Tariff, the ISO proposed a temporary Section 24 requiring Scheduling Coordinators for Generators to schedule and bid within the physical capability of the Generating Unit concerned. The ISO stated it was concerned about the lack of adequate economic incentives against imbalances that may result from staging implementation of the sub-hour Settlement Period. Initial briefs concerning this provision were filed by MWD and



the PX. These parties, however, take diametrically opposite views. MWD argues that this Tariff section should be made a permanent feature of the ISO Tariff. The PX contends that the provision should be eliminated. At the February 24, 2000 ISO Governing Board meeting, the ISO's stakeholder Board passed a resolution instructing the ISO management to move forward regarding the development of a 10-minute settlement period for uninstructed deviations, with a scheduled implementation date of August 1, 2000. At the March 22, 2000 ISO Governing Board meeting, the Governing Board voted to continue with its February 24, 2000 resolution. Accordingly, the ISO believes that further consideration of this issue should take place in the context of its upcoming filing with respect to its 10-minute settlement proposal.

- Issue J.2 (Unresolved Issue No. 504)

The ISO market structure anticipates competition between Scheduling Coordinators for the right to secure Eligible Customers. This competition may be thwarted if the ISO Tariff dictates *pro forma* terms such as the ones that MWD recommends. Further, the relationship between Scheduling Coordinators and End-Use Customers is a matter for the state public utilities commission to determine, not the ISO.

- Issue J.3 (Unresolved Issue Nos. 90 and 383)

The ISO continues to believe that the significant costs required to develop the software modifications to allow Market Participants to utilize more than one

Scheduling Coordinator at a single meter do not justify the potential benefits. There are other, more cost-effective ways to associate the Dispatch of a Generating Unit with two or more accounts, including contractual agreements, inter-Scheduling Coordinator trades, and utilization of separate channels on a single meter. The ISO respectfully requests that the Commission deny the relief requested by Proponents. Instead, the Commission should permit the ISO to (1) continue with other, high-priority modifications instead of diverting resources to the multiple Scheduling Coordinator modification, which has been assigned a low priority by Market Participants; and (2) evaluate the best approach for achieving the results desired by Proponents, with a report due to the Commission on the results of the ISO's evaluation.

- Issue J.4 (Unresolved Issue No. 374)

The limit in the ISO Tariff on the capability of Market Participants to withdraw Supplemental Energy bids is reasonable. The proposal of the Los Angeles Department of Water and Power ("LADWP"), under which entities would be able to withdraw their bids and associated resources at any time prior to their Dispatch, would transform the balancing Energy mechanism into a risky operation. Therefore, this proposal should not be adopted.

- Issue K.1 (Unresolved Issue No. 59)

There is no reasonable basis for Cities/M-S-R's fears that parties will be prevented from asserting just claims concerning ISO service subsequent to the

initial period. In the Amendment No. 22 proceeding, the Commission approved a parallel ISO Tariff provision and found that it did not present any of the dangers which Cities/M-S-R mention here.

- Issue K.2 (Unresolved Issue No. 309)

Southern Cities is incorrect in asserting that the ISO's method of collecting on defaulted debts is not just and reasonable. The relevant protocol section calls for the ISO to debit the Reserve Account when necessary to effect payment to the ISO Creditors. This being the case, it is not unreasonable that the ISO, after it has taken reasonable action as described in the protocol section, yet has been unable to recover the default amount in any other manner, charges the default amount to ISO Creditors, for whose benefit the amount was removed from the Reserve Account in the first place.

- Issue L.1 (Unresolved Issue No. 493)

WPTF and Enron object to the ISO's use of what they characterize as hour-ahead and Ex Post GMMs for estimating and calculating Transmission Losses. WPTF and Enron allege that this approach subjects transmission users to commercial uncertainties over which they have no control, and renders such users unable to determine their loss obligations in advance of making their purchasing decisions. They also allege that the ISO's losses methodology violates the filed rate doctrine.

The ISO believes that WPTF and Enron both exaggerate the potential for harm beyond what Scheduling Coordinators can reasonably accommodate in their management of risk, and fail to recognize the legitimate interests of other Market Participants. The Commission has approved Ex Post Losses pricing, and has approved a similar proposal made by the New York ISO. The ISO's losses methodology also comports with the filed rate doctrine. Moreover, the ISO posts on the ISO Home Page its best estimates of GMMs for each bus in its Control Area beginning two days before each Trading Day, and regularly updates these estimates based on changing system conditions. In addition, the ISO's use of Ex Post GMMs to calculate losses allows it to take into account, in its calculations, system conditions closer to the actual operating hour. This ex post approach is more accurate than one that calculates losses based only on assumed system conditions two days prior to the Trading Day, and also minimizes Unaccounted for Energy ("UFE"). This approach to Transmission Losses was arrived at through the full Settlement Improvement Team ("SIT") stakeholder process, and thus represents the consensus of a wide range of Market Participants.

- Issue L.2 (Unresolved Issue No. 205)

The ISO's Default Usage Charge is a reasonable method for establishing the price for the use of congested transmission paths when economic Adjustment Bids are not available. Moreover, the ISO plans to implement inter-Scheduling Coordinator trades of Adjustment Bids by late August 2000. Further, the

alternative methods of calculating the Default Usage Charge that Proponents have proposed should not be adopted.

- Issue L.3 (Unresolved Issue Nos. 204, 208, 229, and 304)

Proponents' criticisms fail to withstand scrutiny. The neutrality adjustment is a reasonable means of settling cash imbalances. Moreover, in the ISO's revised transmission Access Charge filing, the ISO is proposing that total annual charges levied under the neutrality adjustment, as described in Section 11.2.9 of the ISO Tariff, will not exceed \$0.095/MWh, applied to gross Loads in the ISO's Control Area and total exports from the ISO Controlled Grid, unless approved by the ISO Governing Board. In addition, the ISO has already committed to study potential actions that can be taken to reduce the neutrality adjustment. Finally, the question of the proper allocation of UFE costs is discussed in connection with Issue L.5, below.

- Issue L.4 (Unresolved Issue Nos. 80 and 347)

The ISO Tariff already includes provisions to address appropriately the calculation of Transmission Losses associated with Energy produced by Generating Units located within a Metered Subsystem. They specify that, in appropriate circumstances, a GMM can be calculated at the point of interconnection between the ISO Controlled Grid and the transmission facilities of an entity operating as a Metered Subsystem. Any particular issues relating to these provisions are appropriately addressed in the context of the

comprehensive Metered Subsystem proposal contained in Amendment No. 27. Nor is there any need to interject the ISO into questions relating to the allocation of responsibility for Transmission Losses between the parties to an Existing Contract. As discussed in connection with Issue C.3, those questions are appropriately resolved bilaterally, without involving the ISO or affecting the interests of other Market Participants.

- Issue L.5 (Unresolved Issue Nos. 321, 402, 423, 459, and 550)

The ISO's UFE charges are made in accordance with its Tariff. The calculation and allocation of UFE has been improved since the ISO Operations Date. Little, if any, distribution-level UFE costs are in today's UFE charges. The ISO Tariff clearly requires UFE to be calculated for each Utility Distribution Company ("UDC") Service Area. Any entity meeting the definition of a UDC can qualify for a separate UFE calculation for its Service Area by signing a UDC agreement with the ISO. This approach to the allocation of UFE costs is just, reasonable, not unduly discriminatory, and should not be changed.

- Issue L.6 (Unresolved Issue No. 89)

Appendix A to the Settlement and Billing Protocol appropriately uses the term "metered consumption" because that Appendix provides details of the calculation of the Grid Management Charge, which is derived through a formula (contained in Appendix F, Schedule 1 to the ISO Tariff) that was agreed upon and was approved by the Commission.

- Issue L.7 (Unresolved Issue No. 356)

DWR raised this issue to explore the implementation of Section 3.2.1.2 of the ISO Tariff concerning less costly alternatives to transmission expansion.

DWR admits that the issue has been overtaken by the comprehensive review of long-term grid planning that will result from the withdrawal of Amendment No. 24 to the ISO Tariff, and should be deferred for consideration in that review. The ISO agrees with DWR's assessment. DWR, however, also seeks to have the Commission issue "guidance" to the ISO, emphasizing that time-of-use rates are the best solution. DWR effectively seeks to have the Commission limit the stakeholder process and dictate the resolution of the issue. Limiting the stakeholder process as requested by DWR is inappropriate. It would defeat the primary purpose of a stakeholder process and would be directly contrary to the Commission's desire to allow RTOs to retain flexibility in developing solutions that best fit their markets. Having the Commission rule would also be inefficient, forcing a decision when the stakeholder process may make the issue moot. DWR's request to have the Commission issue guidance should be denied.

- Issue L.8 (Unresolved Issue No. 492)

The Commission has never required transmission providers to offer discounted transmission rates for a particular service. The ISO's current rate structure gives all Market Participants access to the entire ISO Controlled Grid through the payment of owner-specific transmission Access Charges. The

Commission has found this structure to be reasonable. Furthermore, no support is offered for the claim that the ISO's rate structure traps Generation in California.

- Issue M.1 (Unresolved Issue No. 534)

Section 2.3.1.3.2 of the ISO Tariff already complies with the Commission's directive in the October 1997 Order concerning this section. Moreover, contrary to the assertion of Cities/M-S-R, the Commission did not require that the ISO Tariff incorporate a specific reference to Section 5.1.5 of the Transmission Control Agreement ("TCA"), as opposed to all applicable provisions of that agreement.

- Issue M.2 (Unresolved Issue No. 379)

Section 4.7.1 of the TCA reasonably permits the ISO, under clearly prescribed circumstances and in accordance with reasonable procedures, to relinquish Operational Control over facilities no longer necessary to its responsibilities as Control Area operator. Nevertheless, the ISO is willing to adopt LADWP's proposal that facilities accepted by the ISO after the ISO Operations Date will not be released under Section 4.7.1(i) of the TCA unless the ISO determines that the function served by the facilities has changed.



- Issue N.1.a (Unresolved Issue No. 49)

Contrary to the proposal of Southern Cities, the ISO should not have to provide for public access to ISO voice recordings. The information contained in those recordings is considered secure and confidential under the ISO Tariff.

- Issue N.1.b (Unresolved Issue No. 305)

Southern Cities is incorrect in asserting that Section 13.3.5.1 of the ISO Tariff gives too much discretion to an arbitrator of a dispute among parties concerning ISO documents. When considering this Tariff section, it is important to recall that the arbitrator's power to determine the terms of the document in question is not triggered except in certain specified circumstances. Moreover, if parties are concerned that the arbitrator will wrest control over the pertinent ISO Document from them, they have one sure protection: they can agree upon the terms themselves.

- Issue N.2 (Unresolved Issue No. 608)

Dynegy's assertion that Sections 3.8.1 and 3.9.1 of the Dispatch Protocol are unduly discriminatory is based on a fundamental misunderstanding of the general requirement that the transmission function be unbundled from the wholesale sales function. Consequently, the information described in those sections need not be provided to the market at large.

- Issue N.3 (Unresolved Issue No. 404)

The ISO does not oppose the suggestion by PG&E and SDG&E that there be a new Section 2.2.6.11 in the ISO Tariff providing that a Scheduling Coordinator will continue to schedule power and provide Meter Data for a limited period following notice to the ISO and the UDC that it will stop scheduling for an Eligible Customer.

- Issue N.4 (Unresolved Issue No. 399)

The ISO is willing to propose bylaws amendments to incorporate the institutional aspects of its market monitoring plan. However, the additional relief sought by TURN/UCAN is unwarranted. TURN/UCAN has provided no persuasive evidence in favor of its request to change the present reporting obligations of the DMA.

- Issue O.1.a (Unresolved Issue No. 637)

Proponents challenge the concept of differential pricing for congested and uncongested transmission service, which the Commission has upheld in previous ISO orders and other recent transmission cases. Proponents argue that this pricing approach violates the Commission's "and" pricing rules, causes improper cost shifts, is non-comparable and discriminatory, and violates Transmission Pricing Policy Statement principles mandating fairness and practicality. As the Commission has found previously, none of these contentions have merit.

While the Commission has directed the ISO to reevaluate its approach to Congestion Management, the concept of differential pricing for congested and uncongested transmission service is a cornerstone of any workable Congestion Management methodology.

Further, as the Commission has recognized, the ISO's differential pricing approach does not violate the "and" pricing proscription, which was formulated to deal with subsidization by individual utility companies of their native Load by overpricing third-party transmission service, a context entirely different from that faced by the parties here. Pricing Congestion costs explicitly avoids the improper cost shifts and subsidization that would take place in the absence of the ISO's Congestion pricing approach. The ISO's Congestion pricing approach is applied comparably. While compatible retail pricing policies would strengthen the Congestion price signals sent to Load by the ISO's pricing approach, appropriate pricing by the ISO should not await a change in state policies.

Acceptance of Proponents' objections to the concept that transmission prices should reflect Congestion costs would preclude *any* equitable, nondiscriminatory, and economically efficient Congestion Management methodology. Consequently, Proponents' invitation to the Commission to "correct" the ISO's current pricing methodology pending the reevaluation ordered by the Commission should be rejected. Instead, the Commission should leave the current methodology in place until the reevaluation process is complete.

- Issue O.1.b (Unresolved Issue No. 655)

DWR and MWD are incorrect in asserting that the allocation of UFE is unjust, unreasonable, and unduly discriminatory. The ISO Tariff requires the ISO to calculate UFE charges separately for each UDC Service Area. The Commission has approved the ISO Tariff's assignment of UFE losses. Further, the cost of differentiating transmission-related UFE from distribution-related UFE was found to be prohibitive.

DWR and MWD also incorrectly assert that UFE costs are largely caused by distribution-level functions. Rather, the UFE charges that ran substantially higher than expected in 1998 and 1999 were largely caused by transmission-level errors. As a result of an investigation concerning the unexpectedly high UFE, the calculation and allocation of UFE have been improved, such that little distribution-level UFE is now being incorporated into UFE charges. The current allocation of UFE is a reasonable one.

- Issue O.2.a (Unresolved Issue No. 644)

It is reasonable for the ISO to rely on the operating instructions provided by the Participating TO, as the Participating TO is the entity most familiar with the day-to-day implementation of the Existing Contract. Likewise, it is reasonable for the Participating TO to submit the instructions that the ISO will apply in validating the scheduled uses of Existing Contracts.

- Issue O.2.b (Unresolved Issue No. 646)

TANC has failed to provide any explanation or details in support of its claim that some provisions of the ISO Tariff and protocols, which it does not identify, conflict in an unspecified manner with certain undisclosed terms of some Existing Contracts, which it also does not identify. Its opaque request for unspecified relief is insufficient to apprise the Commission of the basis for TANC's claim or to permit the ISO effectively to respond.

- Issue O.2.c (Unresolved Issue No. 668)

The ISO has committed to honor the terms of Existing Contracts, including operating instructions provided by Participating TOs. However, in emergency situations, it is necessary for the ISO to assume temporary supervisory control over all Generating Units to maintain the reliability of the ISO Controlled Grid. Proponents' claims that the ISO's authority should be limited are without merit since the ISO's authority is already necessarily limited with respect to the terms of Existing Contracts, as expressed in operating instructions.

- Issue O.3 (Unresolved Issue No. 635)

This issue originated as a rehearing request of the Commission's October 1997 Order filed by BPA. BPA, however, did not seek to pursue this issue by filing an initial brief in this proceeding. Instead, EPUC/CAC seeks to utilize this issue to raise a new and unfounded assertion that QF facilities located within the State of California and directly interconnected to the systems of

Participating TOs are not part of the ISO's Control Area. However, outages at QF units have direct effects on the ISO Controlled Grid and on the operation of the ISO Control Area. The ISO must procure Ancillary Services to meet such outages. Accordingly, the ISO respectfully requests that the Commission reaffirm its finding that EPUC/CAC's assertion that the ISO Controlled Grid should not extend beyond the Interconnection point between the Generator and the ISO Controlled Grid is "inappropriate and unworkable."

- Issue O.4 (Unresolved Issue Nos. 12 and 659)

Proponents object to what they characterize as "punitive," "onerous," and "draconian" impacts of Scheduling Coordinator errors in submitting Schedules to the ISO. In fact, these impacts are not intended to inflict hardship upon Market Participants, but instead reflect the fact that the ISO's scheduling process is equipped only to deal with entire Schedules, and not fractions thereof, and that, due to concern about market involvement, the ISO is unable unilaterally to make changes in Schedules submitted by Scheduling Coordinators. In addition, Scheduling Coordinators can avoid the impacts of erroneous Schedule submittals by taking advantage of the ISO Tariff's procedure for validating their Schedules prior to submission to the ISO.

- Issue O.5 (Unresolved Issue No. 653)

The ISO disagrees with Proponents that the exemption from compliance with Section 5 of the ISO Tariff should be enlarged from 10 MW to 20 MW. It is

reasonable for the ISO to require execution of a Participating Generator Agreement for Generating Units whose power is utilizing the ISO Controlled Grid or sold into the ISO's markets. The communications requirements play an important role in the ISO's performance of its responsibilities as the Control Area operator. The ISO uses telemetry from Generating Units within the Control Area to determine its Operating Reserve requirements. Proponents' reference to the ISO's LARS process is inapposite. The fact that Generating Units must be of a sufficient size to provide local area reliability support does not diminish the ISO's need for timely and accurate information from smaller Generating Units within the ISO Control Area. The requirements of Section 5 of the ISO Tariff are reasonable.

- Issue O.6 (Unresolved Issue No. 639).

This issue has been withdrawn.

- Issue O.7 (Unresolved Issue No. 664)

Section 2.3.3 of the TCA, which limits the protection afforded tax-free debt to transmission facilities existing as of December 20, 1995, should not be changed. However, the phrase "existing as of December 20, 1995" can reasonably be interpreted to mean "existing but not necessarily in service as of December 20, 1995." This interpretation should be employed.

- Issue O.8 (Unresolved Issue No. 665)

Cities/M-S-R proposes that the definitions of “Regulatory Must-Take Generation” and “Eligible Regulatory Must-Take Generation” (the “Regulatory Must-Take definitions”) be expanded to include such things as non-QF take-or-pay fuel or Energy contracts. Cities/M-S-R contends that it is inequitable to deny a Market Participant with Generation-related obligations of any kind the benefits that Cities/M-S-R alleges are bestowed upon Generation falling within the Regulatory Must-Take definitions. Cities/M-S-R also proposes that not only existing but future contracts of this type should be included within the Regulatory Must-Take definitions.

Cities/M-S-R’s proposals appear to be based on factual and policy misunderstandings. The ISO demonstrates that: (1) the Regulatory Must-Take definitions do not confer the kind of advantages that Cities/M-S-R claims for them because of Commission-mandated changes in the Overgeneration management provisions of the ISO Tariff; (2) the types of contracts that Cities/M-S-R wishes to include in the definition of Regulatory Must-Take Generation do not implicate either the regulatory policies or the technical factors that justify the benefits bestowed by Regulatory Must-Take Generation status in the ISO Tariff; and (3) allowing new contracts to come under the Regulatory Must-Take definitions would interfere with the establishment of a competitive electricity market in California.



- Issue O.9 (Unresolved Issue No. 662)

The ISO respectfully requests that the Commission deny the request of Cities/M-S-R and Palo Alto that the ISO be directed to modify its approach to Zone creation. Proponents fail to even acknowledge the Congestion Management redesign stakeholder process the ISO has commenced in response to the Commission's order on Amendment No. 23. Cities/M-S-R and Palo Alto are free to participate in the stakeholder process and may further pursue their position when the outcome of that process is brought to the Commission.

- Issue O.10 (Unresolved Issue No. 645)

The current provisions of the ISO Tariff used to calculate the Wheeling Access Charge applicable to the transmission of Energy to a Scheduling Point with facilities owned by more than one Participating TO, and to allocate Wheeling Access Charge revenues among Participating TOs, are both reasonable. Because the provisions serve different purposes, there is no requirement that the same methodology be used in both cases.

- Issue O.11. (Unresolved Issue No. 643)

The provision of the ISO Tariff authorizing the ISO to make idle transmission capacity associated with Existing Rights available to Market Participants desiring to use it extends only to capacity reserved under Existing Contracts for the use of facilities comprising the ISO Controlled Grid. Complaints that this authority should not extend to the capacity of transmission facilities

owned by entities that have not elected to become Participating TOs are therefore unfounded.

- Issue O.12 (Unresolved Issue No. 634)

The ISO understands that no initial brief was filed with respect to this issue.

- Issue O.13 (Unresolved Issue Nos. 253, 641, 642, and 670)

The requests for rehearing on this issue fail to recognize that the fundamental purpose of the Dispatch of Reliability Must-Run Generation is to maintain the reliability of the ISO Controlled Grid, facilitating the deliveries called for by the Existing Contracts. If the output of Reliability Must-Run Generation could not be delivered, it could not serve its intended purpose: the maintenance of reliability for *all* those that rely on the ISO Controlled Grid. Accordingly, Reliability Must-Run Generation must have a higher priority of use than all other uses of congested transmission paths.

- Issue O.14 (Unresolved Issue No. 366)

Allowing Scheduling Coordinators to submit negatively priced bids for Supplemental Energy has practically eliminated the instances in which the ISO must manage Overgeneration by calling on neighboring Control Areas to take the excess Energy. Therefore, there is no need at this time to modify further the

ISO's scheduling system or the ISO Tariff provisions relating to the management of Overgeneration.