

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator Corporation)	Docket Nos. ER06-615-000,
)	ER07-1257-000,
)	ER08-1178-000,
)	EL08-88-000

**ANSWER TO COMMENTS OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

On May 15, 2009, as corrected on May 18, 2009, the California Independent System Operator Corporation (“ISO”)¹ submitted a report in these proceedings (“May 2009 Report”) that included information on Exceptional Dispatches that occurred during the time period from April 1 through April 15, 2009.² In response, four parties in the proceedings filed comments on the May 2009 Report.³

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure,⁴ the ISO hereby files its answer to the parties’ comments. As explained below, the Commission should accept the May 2009 Report as

¹ The ISO is also referred to as the CAISO. Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the CAISO Tariff.

² The May 2009 Report also included information on Market Disruptions. As explained below, the ISO submitted the information on Exceptional Dispatches in the May 2009 Report pursuant to the following: Paragraph 263 of the Commission’s “Order on Section 206 Investigation, Technical Conference, Accepting in Part and Rejecting in Part Tariff Provisions, and Implementing Transitional Measures,” issued in Docket Nos. ER08-1178-000 and EL08-88-000 on February 20, 2009, 126 FERC ¶ 61,150 (“February 20 Order”); Section 34.9.4 of the CAISO Tariff; and an answer the ISO filed in Docket Nos. ER08-1178-003 and EL08-88-004 on April 28, 2009 (“April 28 Answer”), in response to comments and protests regarding a filing the ISO submitted on March 23, 2009, to comply with directives in the February 20 Order.

³ The following parties filed comments: J.P. Morgan Ventures Energy Corporation and BE CA LLC (together, “J.P. Morgan”); NRG Power Marketing LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo Power LLC, and Long Beach Generation LLC (collectively, “NRG”); Powerex Corp. (“Powerex”); and Western Power Trading Forum (“WPTF”).

⁴ 18 C.F.R. § 385.213.

submitted by the ISO. The May 2009 Report contains all of the relevant and applicable information on Exceptional Dispatches that the February 20 Order required, other than certain categories of information identified by the ISO as unavailable or inapplicable at the time of the May 2009 Report. This information will be included in subsequent Exceptional Dispatch reports once it becomes available. The May 2009 Report also contains additional categories of information concerning Exceptional Dispatches that were not required by the February 20 Order but that the ISO proposed, in its April 28 Answer, to include in its Exceptional Dispatch reports.

The Commission should reject the arguments of parties in these proceedings that the ISO should report information on Exceptional Dispatches that the Commission did not require in the February 20 Order. To the extent parties believed the ISO should report information on Exceptional Dispatches beyond the level of information required by the February 20 Order, those concerns should have been raised in a request for rehearing of the February 20 Order. The additional information requested by the parties also is not justified for the reasons discussed below.

The Commission should also reject the parties' arguments regarding the nature of the ISO's use of Exceptional Dispatch. To the extent parties suggest that the ISO is issuing Exceptional Dispatches in a manner inconsistent with the CAISO Tariff or Commission orders, any request for Commission action based on such claims should be raised in a Section 206 complaint rather than in comments on an informational filing. Moreover, for the reasons discussed below,

such claims are without merit, as the Exceptional Dispatches identified in the May 2009 Report were issued in a manner wholly consistent with the ISO's Exceptional Dispatch authority.

Finally, the ISO is devoting resources to improving the quality of the Exceptional Dispatch data as it gains experience with new markets. The ISO is in the process of developing a list of more discrete reasons that will be available to ISO operators in a drop-down menu. This will provide more information – and more accurate information – in an automated fashion and will improve the quality of the reports.

I. BACKGROUND

Under Section 34.9 of the CAISO Tariff, the ISO can issue Exceptional Dispatch instructions – *i.e.*, dispatches issued outside the standard dispatches issued pursuant to the ISO's market software – for specified purposes.⁵

In the February 20 Order, the Commission conditionally accepted in part and rejected in part a revised Exceptional Dispatch proposal filed by the ISO, effective upon the implementation of the ISO's Market Redesign and Technology Upgrade ("MRTU").⁶ Also, in response to comments submitted by parties regarding what obligations the ISO should be under to report Exceptional Dispatches, the Commission directed the ISO to file, on compliance, tariff provisions requiring the ISO to submit periodic reports that detail the "frequency,

⁵ CAISO Tariff, Section 34.9; *id.*, Appendix A, definition of Exceptional Dispatch.

⁶ The MRTU market structure is referred to hereafter as the "ISO's new market." The ISO's new market became effective on March 31, 2009, for the Day-Ahead Market for the April 1, 2009, Trading Day.

volume, costs, causes, and degree of mitigation of exceptional dispatches.”⁷ The Commission explained that the purposes of these periodic reports are to enable the Commission and stakeholders to “remain informed about the use of Exceptional Dispatch” and to “help facilitate any stakeholder processes concerning the development of additional market mechanisms to address situations that frequently give rise to exceptional dispatches.”⁸

Pursuant to the directives in the February 20 Order, the ISO submitted a compliance filing on March 23, 2009, that included new Section 34.9.4 of the CAISO Tariff. Section 34.9.4 requires the ISO to submit periodic reports on the “frequency, volume, costs, causes, and degree of mitigation of Exceptional Dispatches” during the time periods covered by the reports.⁹

In its April 28 Answer addressing comments and protests on the March 23 compliance filing, the ISO explained that it intended to include in its Exceptional Dispatch reports information that “strikes a balance between the need for transparency and the imposition of an excessive burden on the ISO.”¹⁰ In particular, the ISO proposed to include the following information in its Exceptional Dispatch reports:

- The frequency of Exceptional Dispatches (*i.e.*, the ISO will identify each Exceptional Dispatch and the date or dates on which it occurred);
- The gross volume of the Exceptional Dispatch;

⁷ February 20 Order at P 263. The timing of the ISO’s periodic Exceptional Dispatch reports is discussed in footnote 13, below.

⁸ *Id.*

⁹ Commission action on the compliance filing is pending.

¹⁰ April 28 Answer at 9.

- The cause of the Exceptional Dispatch (e.g., transmission outages on a particular line) and the reason that an Exceptional Dispatch was necessary;
- The cost of the Exceptional Dispatch, which would include Exceptional Dispatch Energy, Excess Cost Payments for Exceptional Dispatches, Exceptional Dispatch ICPM payments, and supplemental revenues;
- The degree of mitigation achieved by the Exceptional Dispatch, *i.e.*, whether any Exceptional Dispatch Bids are mitigated;
- The location of the exceptionally dispatched resources at the level of Local Reliability Area if relevant and applicable and to the extent such information is readily determinable; and
- The market in which the Exceptional Dispatch occurred.¹¹

Pursuant to the February 20 Order, Section 34.9.4, and consistent with the details proposed in the April 28 Answer, the ISO filed the May 2009 Report as the first periodic report in these proceedings, in order to provide information on Exceptional Dispatches that occurred during the initial 15 days after implementation of the ISO's new market (*i.e.*, the time period from April 1 through April 15, 2009).¹²

On June 15, 2009, the ISO filed its second periodic report in these proceedings ("June 2009 Report").¹³ The June 2009 Report provided information

¹¹ *Id.* at 9-10.

¹² The May 2009 Report also provided information on Market Disruptions that occurred during that same time period. The ISO provided the information on Market Disruptions pursuant to Paragraph 29 of the Commission's "Order Conditionally Accepting Tariff Provisions, Subject to Modification," issued in Docket Nos. ER06-615-023 and ER07-1257-005 on March 9, 2009, 126 FERC ¶ 61,211, and Section 7.7.15.4 of the CAISO Tariff. None of the parties in these proceedings raised any issues regarding the Market Disruptions component of the May 2009 Report, and therefore the ISO does not discuss it further in this answer.

¹³ The timing of the submittal of the May 2009 Report and the June 2009 Report satisfied the Commission's directives in the February 20 Order. In that Order, the Commission directed the ISO to file its first report on Exceptional Dispatches within 60 days of the implementation of MRTU and to file each subsequent Exceptional Dispatch report every 60 days thereafter. February 20 Order at P 263. The ISO filed the May 2009 Report within 60 days after MRTU implementation as required by the February 20 Order. Also, as the ISO explained both in the April 28 Answer and in the May 2009 Report, the ISO proposes to file each subsequent report on

on Exceptional Dispatches that occurred during the time period from April 16 through May 15, 2009. The June 2009 Report also explained that the ISO would include in its July 2009 Exceptional Dispatch report certain information for the time period from April 1-15 that was not included in the May 2009 Report.¹⁴

II. ANSWER

A. The May 2009 Report Contains All of the Available and Relevant Information that Was Required by the February 20 Order and Section 34.9.4 and that the ISO Proposed to Provide in the April 28 Answer.

Commenters argue that the May 2009 Report does not include all of the information regarding Exceptional Dispatches for the April 1-15 time period that the ISO is required to provide. The May 2009 Report details all of the categories of information (the frequency, volume, and causes of Exceptional Dispatches) that the February 20 Order and Section 34.9.4 require, with the exception of two categories of information (the costs and degree of mitigation of Exceptional Dispatches) that the ISO has deferred providing because it is not available to date or not applicable during the initial months of the ISO's new market, as explained in the May 2009 Report. Indeed, the May 2009 Report more than satisfies the Commission's directives and the ISO's obligations under Section 34.9.4, because the report also contains information that the ISO proposed to provide in the April 28 Answer (the locations of the resources that were

a monthly basis rather than every 60 days. April 28 Answer at 7-8; May 2009 Report at 1-2. Filing on a monthly basis means that each subsequent report will be submitted well within the 60-day time period stated in the February 20 Order. Further, in the April 28 Answer and the May 2009 Report, the ISO explained that it proposes to file its monthly reports on the fifteenth day of each month to cover the time period ending on the fifteenth day of the prior month. *Id.*

¹⁴ See *infra* Sections II.A.4 and II.C.

exceptionally dispatched, including the local capacity requirements area, if relevant, and the markets in which the Exceptional Dispatches occurred).

The information provided in the May 2009 Report is more than sufficient to satisfy the purposes of the ISO's reporting obligation stated in the February 20 Order, which are to enable the Commission and stakeholders to "remain informed about the use of Exceptional Dispatch" and to "help facilitate any stakeholder processes concerning the development of additional market mechanisms to address situations that frequently give rise to [E]xceptional [D]ispatches."¹⁵ Some of the categories of information requested by some commenters (*e.g.*, on the duration of specific Exceptional Dispatches or more specific data on locational needs that must be addressed by Exceptional Dispatches) will provide no useful information for the purposes of determining how best to reduce the number of Exceptional Dispatches or considering potential market enhancements but could allow Market Participants to anticipate specific Exceptional Dispatches and modify their bidding behavior. The Commission should not direct the ISO to expand the scope of Exceptional Dispatch reports to include information that could create market power concerns. For these reasons and all the reasons set forth below, the Commission should reject the parties' arguments.¹⁶

¹⁵ February 20 Order at P 263.

¹⁶ Even if the Commission were to direct the ISO to provide more information than is included in the May 2009 Report, the Commission should require the ISO to provide such information on a prospective basis only. As explained below, the ISO gathers the data for and prepares its Exceptional Dispatch reports using manual processes. Therefore, it would require significant time and effort for the ISO to provide the information prospectively, and it may be impossible to provide some categories of requested information for a prior time period.

1. Frequency of Exceptional Dispatches

Attachment A to the May 2009 Report lists each Exceptional Dispatch and the date or dates on which it occurred. Thus, the ISO has identified the frequency of the Exceptional Dispatches, as required by the February 20 Order and Section 34.9.4, and has identified each Exceptional Dispatch and the date or dates on which it occurred, as proposed in the April 28 Answer.

J.P. Morgan, WPTF, and Powerex argue that the ISO should be required to list the duration of each Exceptional Dispatch, including what these parties describe as “multi-day Exceptional Dispatches.”¹⁷ As an initial matter, the ISO wishes to clarify that it does not issue multi-day Exceptional Dispatches, *i.e.*, Exceptional Dispatches that are issued at the outset for a time period of more than one day. Under the relevant operating procedure, the ISO longest period of time for a single Exceptional Dispatch is a Day-Ahead Exceptional Dispatch for a 24-hour time period. If the ISO requires a resource to continue to be subject to Exceptional Dispatch for the following day (*e.g.*, to address a continuing outage), the ISO informs the resource of that need, generally on a day-to-day basis.¹⁸ Thus, what the parties call multi-day Exceptional Dispatches are actually consecutive daily Exceptional Dispatches.¹⁹ In some circumstances, to assist

¹⁷ J.P. Morgan at 3, 12; WPTF at 3-4, 5; Powerex at 2. The issue of whether the ISO should specifically indicate in its reports which Exceptional Dispatches are of the multi-day type is distinct from the issue of whether the ISO is authorized to issue “multi-day” Exceptional Dispatches, as raised by NRG and WPTF. The ISO explains why its Exceptional Dispatches to resources for multi-day periods are consistent with its authority in Section II.D, below.

¹⁸ In such a situation, the ISO issues the Exceptional Dispatch on the first day after the Integrated Forward Market runs, and for each subsequent day the Exceptional Dispatch appears as a Self-Schedule in the California ISO Market Results Interface (“CMRI”) and is inserted before the Integrated Forward Market runs.

¹⁹ See ISO Operating Procedure M-401, entitled “Day-Ahead Market,” at page 5 (“The following describes the process for extending units that were previously provided an Exceptional

resource operators, ISO staff may inform resource operators that they anticipate issuing multiple Exceptional Dispatches over a series of consecutive days.

The Commission should not require the ISO to provide information on the duration of individual Exceptional Dispatches or on consecutive Exceptional Dispatches to the same resource. The February 20 Order did not direct the ISO to identify the duration of Exceptional Dispatches or consecutive Exceptional Dispatches that extend over more than one day. Requiring the ISO to provide that information is not justified or appropriate because the existing reporting format highlights the frequency of Exceptional Dispatches on each day, consistent with the requirements of the February 20 Order. Moreover, the reasons provide additional information on the durations of Exceptional Dispatches for particular reasons.

Further, requiring the ISO to provide information on the duration of Exceptional Dispatches and consecutive Exceptional Dispatches would impose an onerous burden on the ISO. Currently, the data gathering for the ISO's Exceptional Dispatch reports involves manual review of individual logs, and the logging of that data is also a manual process.²⁰ Therefore, in order to determine the duration of Exceptional Dispatches, the ISO would have to manually review the individual entries in its logged data, extract the relevant information, and calculate and tabulate the duration of each Exceptional Dispatch – and the ISO would have to perform those tasks in time to include the information in the ISO's

Dispatch and it is desired to extend that Exceptional Dispatch into the next day.”). Operating Procedure M-401 is available on the ISO's website at:

<http://www.caiso.com/docs/2000/07/19/200007191535315040.pdf>.

²⁰

May 2009 Report at 3; June 2009 Report at 6.

monthly Exceptional Dispatch reports. All of that ISO effort would be for no benefit and might even cause harm.

Moreover, each generating resource already knows the duration of the Exceptional Dispatches that are issued to it. No useful purpose would be served by informing each resource of the duration of all of the Exceptional Dispatches that are issued to other resources. Indeed, if the ISO were to make such specific information available to all resources, that could make it easier for resources to anticipate Exceptional Dispatches and modify their bidding behavior accordingly, thus creating the risk that they could exercise market power. Because the costs and potential costs of providing the duration of Exceptional Dispatches would far outweigh any possible benefits, the Commission should not require the ISO to provide that information.

WPTF and Powerex argue that the ISO should indicate whether each Exceptional Dispatch was completed before or after a market run and indicate the time of day when each Exceptional Dispatch was ordered.²¹ The Commission should not direct the ISO to report that information, for the reasons explained above regarding the duration of Exceptional Dispatches. The February 20 Order did not require the ISO to provide these categories of information. Further, the ISO has modified its Exceptional Dispatch reporting tools to define Day-Ahead (“DA”) as having been included in the Day-Ahead Market run, and Real-Time (“RT”) to be anytime after the close of the Day-Ahead Market. The ISO plans to provide this information in its Exceptional Dispatch reports starting with the July 2009 report.

²¹ WPTF at 4; Powerex at 2.

J.P. Morgan argues that, to the extent that the ISO commits a resource under its Exceptional Dispatch authority for one reason, but then dispatches that resource to a level above its minimum operating level to address a separate requirement, the ISO should identify those as separate Exceptional Dispatches and should provide the cause and MWh volume for each such instruction.²² The ISO has verified that, in the circumstances that J.P. Morgan describes, each Exceptional Dispatch and the cause for that Exceptional Dispatch is identified separately. For the reasons explained below, the ISO should not be required to provide the separate MWh volume for each Exceptional Dispatch.²³

2. Volume of Exceptional Dispatches

Attachment B to the May 2009 Report lists the gross volume in MWh of incremental Exceptional Dispatch and of decremental Exceptional Dispatch that occurred on each day from April 1 through April 15. Thus, the ISO has identified the overall “volume of . . . exceptional dispatches,” as required by the February 20 Order and Section 34.9.4, and has identified the gross volume of the Exceptional Dispatches, as proposed in the April 28 Answer.²⁴

WPTF and Powerex assert that, in the April 28 Answer, the ISO proposed to provide the volumes for each individual Exceptional Dispatch.²⁵ J.P. Morgan argues that the Commission should direct the ISO to provide, as applicable, both

²² J.P. Morgan at 10.

²³ See *infra* Section II.A.2.

²⁴ Although the ISO stated in the April 28 Answer that it would provide the gross volume of the Exceptional Dispatches in “MW,” in the course of preparing the May 2009 Report, the ISO determined that the proper unit to measure volumes of Exceptional Dispatches is “MWh.”

²⁵ WPTF at 3; Powerex at 2.

MW and MWh volumes for each reported Exceptional Dispatch and for each category of Exceptional Dispatch.²⁶

The Commission did not direct the ISO to provide the volumes for each individual Exceptional Dispatch in the February 20 Order. Moreover, in the April 28 Answer, the ISO expressly proposed to provide the “*gross volume . . . of the Exceptional Dispatch,*”²⁷ *i.e.*, the volume of Exceptional Dispatch in the aggregate for the time period, not the volume for individual Exceptional Dispatches for that time period. In any event, the current design of the ISO’s pre-settlements software would not permit the ISO to separate out the individual MW or MWh associated with each Exceptional Dispatch.

3. Causes of Exceptional Dispatches

Attachment A to the May 2009 Report identifies the reason for each Exceptional Dispatch that occurred from April 1 through April 15. The reasons listed in the May 2009 Report were: (1) software limitations; (2) system capacity issues; (3) transmission outages; (4) generator outages; (5) Market Disruptions; (6) over-generation; (7); resource ramping constraints; (8) telemetry errors; and (9) issues relating to specific ISO Operating Procedures (*e.g.*, Operating Procedures T-138 and G-219). Thus, the ISO has identified the causes of the Exceptional Dispatches, as required by the February 20 Order and Section 34.9.4, and has identified the causes of and reasons for the Exceptional Dispatches, as proposed in the April 28 Answer.

²⁶ J.P. Morgan at 3, 9. J.P. Morgan also argues that, regarding Exceptional Dispatches by which the ISO commits resources in the Day-Ahead or earlier time frame, the ISO should provide the capacity (MW) committed as well as the minimum load energy (MWh) and any resulting dispatched energy (MWh) from the Exceptional Dispatch instruction. *Id.* at 9-10.

²⁷ April 28 Answer at 9 (emphasis added).

J.P. Morgan and WPTF argue that the causes of Exceptional Dispatches provided in the May 2009 Report are too general to be useful, and that the Commission should direct the ISO to provide significantly more detail on the reasons that it issues Exceptional Dispatches.²⁸ These arguments should be rejected. The causes of Exceptional Dispatches listed above and in the May 2009 Report provide sufficient detail and meaningful information to the Commission and Market Participants about the causes of Exceptional Dispatches over the April 1-15 time period. To the extent that any significant new or different causes of Exceptional Dispatches arise in subsequent time periods, the ISO will include them in its future Exceptional Dispatch reports. For example, among the reasons listed in the June 2009 Report for Exceptional Dispatches that occurred from April 16 through May 15 were the following: system energy; Hour-Ahead Scheduling Process (“HASP”) failure; SP26 capacity; Path 26; Voltage Support; and unit testing. None of these reasons for Exceptional Dispatches were listed in the May 2009 Report. Although the ISO will continue to expand its list of reasons for Exceptional Dispatches as needed and to develop more discrete reasons, the list should not be expanded so much that it becomes unwieldy for ISO operators to log the reasons for Exceptional Dispatches at the same time they are actively managing the system. The additional detail that J.P. Morgan and WPTF assert should be in the ISO’s Exceptional Dispatch report would require the list of reasons logged by ISO operators to be so long and complex as to be unworkable.

²⁸ J.P. Morgan at 4-5; WPTF at 4, 6-7.

Further, the ISO expects that it will need to rely on Exceptional Dispatch less and less over time. Therefore, it is not as important for the ISO to provide unnecessary detail on the cause of an Exceptional Dispatch as it is for the ISO to show that the overall trend is that the cause is recurring less often than it was in the past. In the event that the use of Exceptional Dispatch for a particular reason does not decline over time, the ISO is prepared to consider providing, in future reports, a more specific explanation of why that particular use of Exceptional Dispatch is not declining and/or discussion of planned enhancements that could reduce the need for the ISO to rely on the particular use of Exceptional Dispatch.

J.P. Morgan and WPTF argue that the ISO's identification of only a single primary reason for issuing an Exceptional Dispatch may mask other, secondary reasons for the Exceptional Dispatch and may delay efforts to reduce the ISO's reliance on Exceptional Dispatches. By way of example, they state that a resource that receives an Exceptional Dispatch to provide Voltage Support may also be satisfying capacity-based constraints, such as the Southern California Import Transmission ("SCIT") nomogram and South of Path 26 constraint that protects the system against the loss of the Pacific AC Intertie, but in that event the ISO will only list Voltage Support as the reason for the Exceptional Dispatch.²⁹ The Commission should not require the ISO to identify secondary reasons for Exceptional Dispatches. Identifying only the primary reason for each Exceptional Dispatch, pursuant to the current list of reasons set forth in the ISO's Exceptional Dispatch report, provides sufficient information about the causes of the Exceptional Dispatches.

²⁹ J.P. Morgan at 5-7; WPTF at 7-8.

Further, the ISO includes only the primary reason in its systems in order to facilitate more accurate logging of Exceptional Dispatches. As discussed above, the data gathering for the ISO's Exceptional Dispatch reports and the logging of that data are currently manual processes. Also, as explained in the Technical Bulletin on Exceptional Dispatch that the ISO posted in May 2009, "[c]ertain Exceptional Dispatches may relieve multiple grid issues at once. However, in order to avoid double-counting, each Exceptional Dispatch will be categorized in no more than one instruction type and reason category."³⁰ If the ISO were required to list all of the possible reasons for each Exceptional Dispatch, that would create significant potential in the manual data gathering and logging processes for double-counting errors or even for counting individual Exceptional Dispatches three or more times. In addition to there possibly being multiple reasons for or benefits of an Exceptional Dispatch, that dispatch may also have adverse consequences elsewhere on the grid. If the ISO were to attempt to identify all of these reasons, benefits, and adverse consequences, the result would be needless complication and potential for error. Therefore, the Commission should not require the ISO to add to the primary reasons for Exceptional Dispatches that are reflected in the ISO's Exceptional Dispatch reports.

J.P. Morgan and WPTF argue that the ISO should provide the secondary reasons for Exceptional Dispatches so that the ISO can provide complete information in the status report the Commission directed the ISO to file, within

³⁰ ISO Technical Bulletin 2009-05-01 Exceptional Dispatch (May 11, 2009), at 18 ("Exceptional Dispatch Technical Bulletin"). The Exceptional Dispatch Technical Bulletin is available on the ISO's website at: <http://www.caiso.com/23ab/23abf0ae703d0.pdf>.

120 days of the issuance of the February 20 Order, regarding the ISO's stakeholder process on the development of a market-based solution for Path 26 dispatch (such as a competitive procurement of existing or new Ancillary Service products) and regarding the ISO's plans for a long-term solution for procuring Voltage Support outside of the Exceptional Dispatch mechanism.³¹ The ISO timely submitted its 120-day status report in these proceedings on June 22, 2009, and there is (and was) no need for additional information to be included in the monthly reports in order for that status report to be completed.

WPTF and Powerex argue that the ISO should provide a level of granular detail about the causes of Exceptional Dispatches that includes, for example, which individual transmission lines had outages that required Exceptional Dispatches.³² The Commission should not require the ISO to provide this level of detail. The ISO needs to be able to include categories of reasons – such as the occurrence of a transmission outage without listing the specific transmission lines on which the outage occurred – in its Exceptional Dispatch reports, in order to facilitate more accurate logging for the Exceptional Dispatch reporting process. In addition, the ISO often resolves multiple transmission outages using a single Exceptional Dispatch. When this occurs, the ISO needs to associate each Exceptional Dispatch with a single, primary cause in its reports, for the reasons explained above, rather than list multiple causes or individual transmission lines.

The ISO acknowledges that in the April 28 Answer it proposed to provide the “cause of the Exceptional Dispatch (e.g., transmission outages on a particular

³¹ J.P. Morgan at 7-8 (citing February 20 Order at PP 44-45); WPTF at 14-15 (same).
³² WPTF at 3; Powerex at 2.

line).³³ This reference was intended to address circumstances where outages on a particular major transmission line could be a recurring cause of Exceptional Dispatches. Starting with the June 2009 Report, the ISO has begun identifying specific 500 kV lines operated by the ISO as the causes of Exceptional Dispatches. In the June 2009 Report, the ISO listed Path 26 as the reason for several of the Exceptional Dispatches that occurred during the April 16-May 15 time period.³⁴ Nevertheless, the ISO plans to continue to group outages of lower-voltage transmission lines that are the subject of a single Exceptional Dispatch under a single reason (“transmission outages”), as it does now. The ISO reports transmission outages on its website, and therefore resources already have some ability to determine which transmission outages required Exceptional Dispatches.³⁵ Moreover, including in the monthly reports excessive detail on the link between specific transmission outages and the resulting Exceptional Dispatches would create a risk that Market Participants could anticipate Exceptional Dispatches, modify their bidding behavior accordingly, and thereby exercise market power.

4. Costs of Exceptional Dispatches

The ISO explained in the May 2009 Report that the report did not include any cost data because, until the ISO implements payment acceleration, settlement quality data for the Exceptional Dispatches discussed in a particular

³³ April 28 Answer at 9-10.

³⁴ June 2009 Report, Attachment A, at Exceptional Dispatch Nos. 261-262, 264-265, 346, 350-351, 353, and 359-361.

³⁵ The transmission outage information is available on the Open Access Same-Time Information System (“OASIS”) page on the ISO’s website at: <http://oasis.caiso.com/mrtu-oasis/?doframe=true&serverurl=http%3a%2f%2ffrptp09%2eoa%2ecaiso%2ecom%3a8000&volume=OASIS>.

report will not be available in time to be included in that same report.³⁶ The ISO intends to provide cost data for the April 1-April 15 time period as soon as settlement quality data for that time period becomes available, which the ISO expects will occur by July 15, 2009, when the ISO will submit its July 2009 Exceptional Dispatch report.³⁷ Therefore, the ISO was justified in not including this information in the May 2009 Report. No party takes issue with the omission of this information from the May 2009 Report.

5. Degree of Mitigation of Exceptional Dispatches

The ISO explained in the May 2009 Report that the report did not list the degree of mitigation of Exceptional Dispatches because that information is really only applicable as of Trading Days occurring on and after August 1, 2009, when only Bids for non-competitive constraints and Delta Dispatch will be mitigated. For the first four months of operations under the ISO's new market (*i.e.*, through the end of July), all Bids that are settled at the higher of Bid price, Resource-Specific Interval Locational Marginal Price ("LMP"), or Default Energy Bid price are subject to Bid mitigation other than for decremental Exceptional Dispatches.³⁸ Therefore, the ISO was justified in not including this information in the May 2009 Report. No party takes issue with the omission of this information from the May 2009 Report.

³⁶ May 2009 Report at 3. The ISO explained that this would be the case for its Exceptional Dispatch reports in the April 28 Answer at 10 n.22. Once payment acceleration is in place, the cost data for Exceptional Dispatches – based on estimated meter data – should be available in time to be included in the same report. *Id.*

³⁷ June 2009 Report at 4.

³⁸ Section 34.9.1 of the CAISO Tariff allows the ISO to accept a Bid from a Non-Dynamic System Resource, in which case the ISO will pay the resource as Bid without mitigation and without triggering any supplemental compensation in the form of an Interim Capacity Procurement Mechanism ("ICPM") payment or supplemental revenues.

6. Location by Resource of Exceptional Dispatches

Attachment A to the May 2009 Report identifies, by Participating Transmission Owner Service Area, the location of each resource that was exceptionally dispatched from April 1 through April 15. The February 20 Order did not require the ISO to include this information in its Exceptional Dispatch reports. Consistent with the ISO's proposal in the April 28 Answer, the location by resource is specified at the level of the Local Reliability Area if relevant and applicable and to the extent such information is readily determinable.

WPTF and Powerex argue that the ISO should list the Local Reliability Area in which the unit that received an Exceptional Dispatch is located.³⁹ As shown in Attachment A, the ISO did list the Local Reliability Areas for "PGA/Humboldt" (Exceptional Dispatch Nos. 15, 17-18, 40, and 42) and "SDGE/San Diego" (Exceptional Dispatch Nos. 172, and 187-188). These were the only cases listed in the May 2009 Report in which that information was relevant, applicable, and readily determinable. The Commission should not require the ISO to list the Local Reliability Areas where that is not the case.

7. Market in Which Exceptional Dispatches Occurred

Attachment A to the May 2009 Report identifies the ISO market in which each Exceptional Dispatch occurred from April 1 through April 15. The February 20 Order did not require the ISO to include this information in its Exceptional Dispatch reports. The ISO provided the information in the May 2009 Report consistent with its commitments in the April 28 Answer. Thus, this is another instance where the ISO is providing greater detail than was required by the

³⁹ WPTF at 3; Powerex at 2.

February 20 Order. No commenter takes issue with the ISO's inclusion of this information in the May 2009 Report.

B. Parties Raise Issues Beyond the Scope of Comments on the ISO's Informational Reports.

1. Parties Request that the ISO Include Certain Information in its Exceptional Dispatch Reports that is Outside the Scope of the Directives in the February 20 Order.

In the February 20 Order, the Commission directed the ISO to report on the frequency, volume, costs, causes, and degree of mitigation of Exceptional Dispatches. The Commission imposed no other reporting requirements. The parties in these proceedings, however, assert that the ISO should provide information in its Exceptional Dispatch reports (including the May 2009 Report) that has nothing to do with the directives in the February 20 Order. In addition to the comments discussed above, parties submit the following comments:

- WPTF argues that the ISO should report on how Exceptional Dispatches that are issued before the Day-Ahead Integrated Forward Market run affect the Integrated Forward Market outcomes.⁴⁰
- WPTF argues that the Exceptional Dispatch reports should provide information about why generation and transmission outages are not included in the network model prior to the running of the market.⁴¹
- WPTF, Powerex, and NRG argue that the Exceptional Dispatch reports should include information on Exceptional Dispatch commitments of units to Minimum Load and should clarify the compensation for such units.⁴² Similarly, J.P. Morgan argues that the reports should identify the Exceptional Dispatches that result in the forward-market commitment of resources at Minimum Load and should identify whether such Minimum Load energy is displacing market bids and the potential impact of such self-scheduled energy on ISO market outcomes.⁴³

⁴⁰ WPTF at 4.

⁴¹ *Id.* at 8-9.

⁴² WPTF at 13-14; Powerex at 2-3; NRG at 6-7.

⁴³ J.P. Morgan at 10-11.

The information that these parties request goes far beyond the ISO's reporting of the frequency, volume, costs, causes, or degree of mitigation of Exceptional Dispatches. By asserting that the ISO should be required to include information in its Exceptional Dispatch reports that far exceeds the information that the February 20 Order directed the ISO to include in such reports, these parties are essentially arguing that the February 20 Order itself is in error. Therefore, although not styled as such, the parties' arguments constitute requests for rehearing of the February 20 Order. Court and Commission precedent clearly state that the Commission is barred by Section 313(a) of the Federal Power Act, 16 U.S.C. §825l(a), from considering any request for rehearing that is submitted more than 30 days after the issuance of the order that the request for rehearing concerns.⁴⁴ Also, the Commission has stated that it will reject comments on a compliance filing that constitute untimely requests for rehearing of, and thus collateral attacks on, the underlying order.⁴⁵ In the instant proceedings, the parties did not submit requests for rehearing regarding the issues they now raise in their comments regarding the ISO's Exceptional Dispatch reports, within the required 30 days of the issuance of the February 20

⁴⁴ See, e.g., *Cities of Campbell v. FERC*, 770 F.2d 1180, 1183 (D.C. Cir. 1985); *Boston Gas Co. v. FERC*, 575 F.2d 975, 977-98, 979 (1st Cir. 1978); *Alabama Electric Cooperative, Inc.*, 116 FERC ¶ 61,115 (2006).

⁴⁵ See, e.g., *California Independent System Operator Corp.*, 119 FERC ¶ 61,240, at P 13 (2007) ("Moreover, these protests should have been raised on rehearing and/or clarification of the January 22 Order, and therefore we reject their requests to alter the CAISO's compliance filing as untimely and a collateral attack on the Commission's January 22 Order."); *PJM Interconnection, LLC*, 104 FERC ¶ 61,020, at P 13 n.8 (2003) ("First Energy's protest on this issue is a collateral attack on the November 1 Order. First Energy should have sought rehearing of the November 1 Order if it believed the compliance obligation was incorrect, rather than raising it in a protest to the compliance filing.").

Order.⁴⁶ Instead, those parties filed comments that constitute untimely requests for rehearing. Therefore, the Commission should reject the comments as collateral attacks on the February 20 Order.

2. If the Commission Does Not Reject the Parties' Arguments as Outside the Scope of the Directives in the February 20 Order, They Should Still Be Rejected for Lack of Merit.

Even if the parties' arguments described above were not untimely requests to modify the directives in the February 20 Order, the Commission should still reject them because they lack merit.

With regard to WPTF's argument that the ISO should explain how Exceptional Dispatches that are issued before the Day-Ahead Integrated Forward Market run affect the Integrated Forward Market outcomes, there is no need for the ISO to provide that explanation in its reports. The ISO's issuance of Exceptional Dispatches has evolved as ISO operators have acquired and continue to acquire experience in the ISO's new market regarding the need for Exceptional Dispatch. The ISO's initial practice was solely to issue Exceptional Dispatches after the Integrated Forward Market run. The ISO now has empirical evidence that this practice can lead to substantial resource over-commitment in some circumstances. In circumstances where the operators know that the Integrated Forward Market is unlikely to pick up a resource, the operators may issue an Exceptional Dispatch prior to the Integrated Forward Market so that the

⁴⁶ Two of the parties (NRG and WPTF) filed requests for rehearing of the February 20 Order, but those requests for rehearing concerned issues other than the additional information that NRG and WPTF state in their comments that the ISO should include in its Exceptional Dispatch reports. See Request for Rehearing and Clarification of the California Generators, Docket Nos. ER08-1178-000 and EL08-88-000 (Mar. 23, 2009); Request for Rehearing and Clarification of the Western Power Trading Forum, Docket Nos. ER08-1178-000 and EL08-88-000 (Mar. 23, 2009).

ISO's software will recognize that the resources are on. Similarly, when the operators' need for a resource extends to several days, the operators will issue consecutive daily Exceptional Dispatches to the resource.

As to WPTF's argument that the Exceptional Dispatch reports should provide information about why outages are not included in the network model prior to the running of the ISO markets, WPTF is incorrect on the facts. Outages are included in the network model before the market is run. However, a transmission outage of a line that is modeled results in the line being derated, which can create a capacity requirement, and capacity requirements are not modeled. The ISO is looking into ways to enhance its modeling of capacity requirements in the long run, but this is a lower-priority item than other, more pressing initiatives the ISO is undertaking.

Regarding the parties' arguments that the Exceptional Dispatch reports should include information on the commitment of units to Minimum Load through Exceptional Dispatch, there is no need for the reports to include that information. Resource owners know the specifics of the individual Exceptional Dispatches they receive and can bring to the ISO or the Commission any concerns about the commitment of their units to Minimum Load as those concerns arise. Given the ability of the resource owners to take such action, it would serve no purpose to include information on the commitment of units to Minimum Load in the ISO's Exceptional Dispatch reports.

Moreover, there is no need to clarify the compensation that the exceptionally dispatched units receive, because units that are committed to

Minimum Load receive sufficient compensation. If the ISO issues an Exceptional Dispatch for a unit to ramp up to Minimum Load prior to the Integrated Forward Market, the unit has more of a chance of earning market revenues in the Day-Ahead and Real-Time Market, because the ISO's software, which dispatches on a least-cost basis, will recognize that the unit is on and the software will not consider Start-Up and Minimum Load Costs. Whether the ISO issues an Exceptional Dispatch for a unit to ramp up to Minimum Load before or after the Integrated Forward Market, the unit will receive Bid Cost Recovery.⁴⁷ Further, if the unit is a Resource Adequacy Resource, it has received a capacity payment.⁴⁸ If the unit is not a Resource Adequacy Resource, it will receive an ICPM designation and ICPM payment (unless the Scheduling Coordinator has opted for supplemental revenues from the ISO).⁴⁹ Therefore, all units – whether or not Resource Adequacy Resources – receive payment for their capacity.

As to J.P. Morgan's argument that the ISO's reports should identify the Exceptional Dispatches that result in the forward-market commitment of resources at Minimum Load and whether such Minimum Load energy is displacing market bids and the potential impact of such self-scheduled energy on ISO market outcomes, that issue is far beyond the scope of the Commission's directives in the February 20 Order. The issue would be more appropriately addressed in a long-term market study performed by the ISO's Department of

⁴⁷ To the extent that stakeholders have concerns about the requirement to maintain the same bids for Start-Up and Minimum Load for a six-month period, the ISO has recently initiated a stakeholder process on possible tariff revisions to address these concerns as addressed at the ISO's Market Surveillance Committee ("MSC"). See "Changes to Bidding Start-Up and Minimum Load" (presentation of the MSC to stakeholders dated June 17, 2009), which is available on the ISO's website at: <http://www.caiso.com/23cf/23cf8f142b260.pdf>.

⁴⁸ See CAISO Tariff, Section 40.

⁴⁹ See *id.*, Sections 39.10 and 43.

Market Monitoring (“DMM”). If the Commission directs it to do so, the ISO will ask the DMM whether it believes that such a study is appropriate.

J.P. Morgan also argues that the Commission should direct the ISO to submit a cumulative Exceptional Dispatch report each month.⁵⁰ In the February 20 Order, the Commission directed the ISO to submit Exceptional Dispatch reports that cover successive time periods. The Commission gave no indication that these reports should be cumulative.⁵¹ Therefore, for the reasons explained above, J.P. Morgan’s request is outside the scope of the February 20 Order. Moreover, each Exceptional Dispatch report is posted on the ISO’s website and readily accessible to all interested parties. Requiring the reports to be cumulative will quickly result in a lengthy report that will not only be more burdensome to maintain and update but that will also be less useful to most interested parties seeking the information on the most recent month covered by the latest report. The Commission should reject J.P. Morgan’s request for a cumulative report.

C. To the Extent that the May 2009 Report Did Not List All of the Exceptional Dispatches for the Relevant Period, Those Omissions Will Be Corrected in a Subsequent Report.

WPTF and Powerex question whether the May 2009 Report listed every Exceptional Dispatch that occurred from April 1 through April 15.⁵² The ISO acknowledges that the May 2009 Report did inadvertently omit some instances of Exceptional Dispatches that occurred during that time period. The omitted Exceptional Dispatches were approximately 80 Intertie dispatches that were performed for reasons other than a failure of the HASP. The ISO intends to

⁵⁰ J.P. Morgan at 12-13.

⁵¹ See February 20 Order at P 263.

⁵² WPTF at 5; Powerex at 2.

include information on all Exceptional Dispatches for the April 1-15 time period in its July 2009 Exceptional Dispatch report. These omissions occurred due to variances in Exceptional Dispatch logging practices that the ISO is working to correct. In recognition of the possibility that such omissions might take place, the ISO explained in the May 2009 Report that:

The ISO has endeavored to develop a comprehensive report itemizing all Exceptional Dispatches occurring in the first 15 days [after the implementation of the ISO's new market] and believes that it is substantially complete and accurate. However, due to the fact that data gathering involved manual review of individual logs, the fact that logging practices are not automated and due to the fact that the post process review of market review to ensure quality is not complete as the timeline for the post process is aligned with the settlement cycle, it is possible that additional Exceptional Dispatches occurred during the fifteen day period. The ISO will republish revised versions of the attachments when it submits the cost data for this time period. Notwithstanding the ISO's inability to guarantee that it has captured all the relevant data, the ISO believes the information to be substantially complete and provides a reliable indication of the frequency and causes of Exceptional Dispatch during the first fifteen days of MRTU.⁵³

As noted above, the ISO intends to include, in its July 2009 Exceptional Dispatch report, the Exceptional Dispatches for the time period from April 1 through April 15 that were not included in the May 2009 Report.⁵⁴ Therefore, the issues raised by Powerex and WPTF on this matter will soon be moot.

The ISO will use its best efforts to include all the Exceptional Dispatches it can for each time period in its future reports. To the extent that the ISO is unable to include all Exceptional Dispatches for a particular time period in its report for

⁵³ May 2009 Report at 3.

⁵⁴ The ISO intends to republish all of the data for the April 1-15 time period at that time. June 2009 Report at 4. The republished data will include the Exceptional Dispatches that were inadvertently omitted from the May 2009 Report.

that time period, the ISO will include the missing information in a subsequent report.

D. The Commission Should Not Consider Issues Raised by Parties Regarding the Nature of the ISO's Use of Exceptional Dispatch.

1. Parties Raise Arguments About the Nature of the ISO's Use of Exceptional Dispatch that Are Beyond the Scope of the Proceedings Regarding the May 2009 Report.

Comments on the May 2009 Report should be limited to the issue of whether the ISO's reporting provides information about the frequency, volume, costs, causes, and degree of mitigation of Exceptional Dispatches that satisfies the requirements of the February 20 Order and Section 34.9.4. Therefore, it is beyond the scope of these proceedings for parties to make arguments about the circumstances in which the ISO is permitted to use Exceptional Dispatch and whether the ISO has used Exceptional Dispatch only in those circumstances. Nevertheless, parties raise the following issues regarding the nature of the ISO's use of Exceptional Dispatch:

- NRG and WPTF argue that the ISO should stop exceptionally dispatching resources prior to running the Day-Ahead Market, and WPTF questions the ISO's use of Exceptional Dispatch in the HASP.⁵⁵
- NRG and WPTF argue that the ISO may not have tariff authority to make multi-day Exceptional Dispatches.⁵⁶
- WPTF argues that the Commission should direct the ISO to provide clarification regarding the use of Exceptional Dispatches at interties.⁵⁷
- Powerex argues that if, in the future, the ISO continues to issue a large number of Exceptional Dispatches prior to the Integrated Forward Market,

⁵⁵ NRG at 3-5; WPTF at 10-13.

⁵⁶ NRG at 5-6; WPTF at 5. NRG also argues that it is unclear why the ISO cannot update its model in allow an in-market optimization. NRG at 5.

⁵⁷ WPTF at 9-10.

the ISO should consider a solution that is similar to the solution employed by the Alberta Electric System Operator in similar circumstances.⁵⁸

- J.P. Morgan argues that the ISO should ensure that the Exceptional Dispatch instructions provided verbally by ISO operators clearly state the reason for each Exceptional Dispatch and use the same terminology as outlined in the Exceptional Dispatch Technical Bulletin and related Automated Dispatch System (“ADS”) codes.⁵⁹

These parties’ arguments go far beyond the scope of these proceedings.

To the extent parties take issue with the scope of the ISO’s Exceptional Dispatch authority as accepted by the Commission in the February 20 Order , their arguments constitute untimely requests for rehearing of that Order and the Commission should reject those arguments as collateral attacks on the Order. If parties believe that the ISO’s use of Exceptional Dispatch is inconsistent with the CAISO Tariff or Commission orders, a proper forum to raise those concerns would be in a complaint submitted pursuant to Section 206 of the Federal Power Act. It is, however, inappropriate for the parties to raise such concerns in their comments on the May 2009 Report. Moreover, any requests for Commission action based on such concerns must be accompanied by the demonstration that the ISO has acted in a manner that is unjust and unreasonable as required by Section 206.

⁵⁸ Powerex at 3.
⁵⁹ J.P. Morgan at 8.

2. If the Commission Does Not Reject the Parties' Arguments as Outside the Scope of Comments on the May 2009 Report, They Should Still Be Rejected for Lack of Merit.

Even if the parties' arguments discussed above were not entirely outside the proper scope of comments on the May 2009 Report, the Commission should still reject them because they lack merit.

As to the argument of NRG and WPTF that the ISO should stop exceptionally dispatching resources prior to running the Day-Ahead Market, the ISO has clear tariff authority to issue Exceptional Dispatches outside of Real-Time. In the February 20 Order, the Commission acknowledged the ISO's authority to issue Exceptional Dispatches outside of the Real-Time time frame.⁶⁰ Moreover, Section 34.9 of the CAISO Tariff states that "Dispatch Instructions issued pursuant to Exceptional Dispatches shall be entered manually by the CAISO Operator into the Day-Ahead or RTM [Real-Time Market] optimization software so that they will be accounted for and included in the communication of Day-Ahead Schedules and Dispatch Instructions to Scheduling Coordinators." The ISO also authority to issue Exceptional Dispatches prior to Real-Time as explained in the Exceptional Dispatch Technical Bulletin and discussed below. Further, each of the tariff sections describing the types of Exceptional Dispatches (Sections 34.9.1, 34.9.2, and 34.9.3) states that the ISO may issue an Exceptional Dispatch to resources "in addition to or instead of resources with a

⁶⁰ February 20 Order at P 7 n.21 ("The CAISO anticipates that exceptional dispatches will typically be required to address a transmission constraint or generation unit operating constraint that was not captured in the models used in the integrated forward market, the residual unit commitment process, or the real-time market."); *id.* at P 82 ("[R]esources that receive exceptional dispatch instructions are not subject to the automated process that the CAISO uses to mitigate the exercise of market power in its integrated forward and real-time markets.").

Day-Ahead Schedule or dispatched by the RTM optimization software.” In this regard, NRG argues that Section 34.9.2 does not “clearly describe the CAISO’s practice of supplanting a supplier’s bid.”⁶¹ NRG is incorrect in asserting that the use of Exceptional Dispatch supplants a Bid. Commitments for Exceptional Dispatch in the Day-Ahead Market are at Minimum Load. Market Bids can be considered by the Integrated Forward Market if the commitment is made prior to the Integrated Forward Market. In addition, if the ISO stopped exceptionally dispatching resources prior to running the Day-Ahead Market, doing so could result in Exceptional Dispatch de-commitment of resources that are not needed.

With regard to WPTF’s issue with the use of Exceptional Dispatch resulting from the HASP, the ISO may issue Exceptional Dispatches as a result of a HASP failure to System Resources or pursuant to agreed-upon transactions. With regard to System Resources, Section 34.9.1 of the CAISO Tariff states that, to deal with any threats to System Reliability, the ISO may also issue an Exceptional Dispatch in the Real-Time for Non-Dynamic System Resources that have not been or would not be selected by the Real-Time Market for Dispatch, but for which the relevant Scheduling Coordinator has submitted a Bid into the HASP. With regard to agreed-upon transactions, the Exceptional Dispatch Technical Bulletin states the ISO considers any transaction settled in accordance with Section 11.5.6 of the CAISO Tariff to be an Exceptional Dispatch even if the transaction is not expressly set forth in Section 34.9 of the CAISO Tariff. In this category are agreed-upon transactions between the ISO and any entity that is not obligated under the CAISO Tariff to respond to an ISO instruction, such as a

⁶¹ NRG at 5.

neighboring Balancing Authority Area or a System Resource that has not offered a Bid in the relevant market, but whose Energy or other services the ISO needs for reliability of the CAISO Controlled Grid. Although these entities and their resources are not bound to comply with the CAISO Tariff, the entities did agree to provide service at a negotiated price pursuant to Section 42 of the CAISO Tariff and are fully compensated at the agreed-upon price.⁶²

Regarding the argument of NRG and WTPF that the ISO may not have tariff authority to make multi-day Exceptional Dispatches, as explained in Section II.A, above, the ISO does not actually issue multi-day Exceptional Dispatches. Rather, the ISO issues consecutive daily Exceptional Dispatches, and these are fully within the ISO's tariff authority. Although the ISO does not issue multi-day Exceptional Dispatches *per se*, it believes it has the tariff authority to do so and it may be appropriate to do so under certain circumstances based on good utility practice.

As to WPTF's argument that the Commission should direct the ISO to provide clarification regarding the use of Exceptional Dispatches at interties, the ISO has the authority to accept an intertie Bid that is not picked up in the market. As explained in the Exceptional Dispatch Technical Bulletin, "with regard to settlement of decremental Exceptional Dispatches at the Interties, such Exceptional Dispatches, including export energy, will be paid the lower of the resource specific LMP, the Energy Bid price (subject to the minimum energy bid requirements in Section 39.6.1.4), the DEB [Default Energy Bid price], if

⁶² Exceptional Dispatch Technical Bulletin at 10.

applicable, or the negotiated price, as applicable.”⁶³ Otherwise, as described above, the ISO has the authority to agree on a transaction with any entity that is not obligated under the CAISO Tariff to respond to an ISO instruction, such as a neighboring Balancing Authority Area or a System Resource that has not offered a Bid in the relevant market, which the ISO needs for Energy or other services for reliability of the ISO grid.⁶⁴ In addition, because the ISO is a Balancing Authority Area, the ISO has authority to curtail Intertie schedules for reliability reasons pursuant to the Reliability Standards of the Western Electricity Coordinating Council (“WECC”) regarding unscheduled flows.⁶⁵ The ISO does not consider the curtailment of an Intertie schedule for this reason to constitute an Exceptional Dispatch.

With regard to Powerex’s argument that if, in the future, the ISO continues to issue a large number of Exceptional Dispatches prior to the Integrated Forward Market, the ISO should consider a solution that is similar to the solution employed by the Alberta Electric System Operator in similar circumstances, that is a potential market change that should be addressed through the ISO stakeholder process if there is sufficient stakeholder interest in it. In any event, that potential market change should not be addressed in the instant proceedings.

As to J.P. Morgan’s argument that the ISO should ensure that the Exceptional Dispatch instructions provided verbally by ISO operators clearly state the reason for each Exceptional Dispatch and use consistent terminology, that

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ These Reliability Standards are available on the WECC website at: <http://www.wecc.biz/modules.php?op=modload&name=downloads&file=index&req=viewdownload&cid=33>.

argument is unrelated to the content of the ISO's Exceptional Dispatch reports and has no impact on each resource's obligation to comply with Exceptional Dispatches. Therefore, the Commission should disregard J.P. Morgan's argument.

III. CONCLUSION

For the reasons explained above, the Commission should accept the May 2009 Report as submitted by the ISO and should not take further action.

Respectfully submitted,

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Dated: June 23, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each party on the official service list for the above-referenced proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. on this 23rd day of June, 2009.

/s/ Bradley R. Miliauskas
Bradley R. Miliauskas