

115 FERC ¶61,300
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

California Independent System
Operator Corporation

Docket No. ER98-3760-000

ORDER ADDRESSING OUTSTANDING ISSUES RELATING TO CALIFORNIA
INDEPENDENT SYSTEM OPERATOR CORPORATION

(Issued June 7, 2006)

Introduction and Background

1. On July 15, 1998, the CAISO submitted a proposed "Clarification" amendment to the CAISO's open access transmission tariff (CAISO Tariff), which contained, among other things: (1) a clarification matrix listing numerous corrections and changes to its Tariff; and (2) a matrix listing 230 issues which were raised by intervenors in prior proceedings but remained unresolved or pending before the Commission. The CAISO proposed a procedure to address issues that were raised, but not addressed, in connection with previous ISO filings.
2. In *California Independent System Operator Corp.*,¹ the Commission directed the CAISO and the parties to develop a list of all active issues, to negotiate resolutions with respect to as many of these issues as possible, and to file a report with the Commission within 120 days of the date of the order. The Commission directed that the report include a stipulation of outstanding issues that had been resolved through settlement, and issues that remained for resolution by the Commission.
3. On March 11, 1999, the CAISO filed its "Outstanding Issues Report," which included a matrix of approximately 680 issues that the parties had raised in several ISO-

¹ 84 FERC ¶ 61,217 (1998).

related proceedings.² From this universe of issues, the report identified issues that had been resolved and issues that participants agreed were ripe for Commission resolution. Further, the CAISO report included procedural proposals agreed upon by the participants to (1) submit a settlement for resolved issues and (2) undertake to resolve the remaining issues.

4. In an April 28, 1999 Order, the Commission established procedures to incorporate resolved issues into a settlement and directed the CAISO to file a joint statement of issues identifying unresolved issues and identifying the proponents who advocate a change in the status quo for each issue.³ On January 4, 2000, the CAISO filed a Joint Statement of Issues in which the parties identified the Outstanding Issues that remained to be litigated. The Joint Statement of Issues grouped the issues under alphabetical headings: Issue A (issues concerning ancillary services) through Issue O (rehearing issues). The parties filed initial briefs (on February 14, 2000), answering briefs (on April 10, 2000) and reply briefs (on May 8, 2000).

5. The parties to this proceeding previously intervened in the proceedings cited in footnote 2 of this order. Appendix A to this order lists the full names of the parties and their abbreviated names as used in this order. In the body of this order, we refer to the parties by their abbreviated names.

²The issues were raised in the following proceedings: *Pacific Gas and Electric Co., et al.*, 81 FERC ¶ 61,122 (1997) (*October 1997 Order*); *Pacific Gas and Electric Co., et al.*, 81 FERC ¶ 61,320 (1997); *California Independent System Operator Corp.*, 82 FERC ¶ 61,312 (1998) (accepting ISO Tariff Amendment No. 1 with modification and rejecting Amendment Nos. 2 and 3); *California Independent System Operator Corp.*, 82 FERC ¶ 61,327 (1998) (accepting ISO Tariff Amendment Nos. 4, 5 and 6 with modification); *California Independent System Operator Corp.*, 83 FERC ¶ 61,209 (1998) (accepting ISO Tariff Amendment No. 7 with modification); the CAISO's June 1, 1998 Compliance Filing in Docket Nos. EC96-19-029 and ER96-1663-030; and the CAISO's clarification in Docket No. ER98-3760-000.

³*California Independent System Operator Corp.*, 87 FERC ¶ 61,102 (1999) (April 1999 Procedural Order).

6. By order issued on November 22, 2002, the Commission addressed outstanding rehearing requests, and it stated that remaining Outstanding Issues would be addressed in future Commission orders and may be subject to further procedures.⁴

7. In a letter to the CAISO, dated March 11, 2003, the Commission staff noted the passage of time and the significant changes in the operations of the CAISO, and it requested that the CAISO work with the parties to identify which of the Outstanding Issues remain open and contested, and thus, require a Commission determination. On October 16, 2003, the CAISO filed an updated Identification of Outstanding Issues, including the proponents of each issue. By order issued on November 19, 2004 (*November 19 Order*),⁵ the Commission addressed Outstanding Issues concerning ancillary services requirements, market monitoring, metered subsystems and metering protocols, and it dismissed a range of other issues as moot or withdrawn.⁶

8. In the meantime, the CAISO, with guidance from the Commission, has been involved in a stakeholder process to comprehensively redesign the CAISO market. On September 22, 2005, the CAISO filed non-substantive, organizational changes to the CAISO Tariff. The purpose of those changes was to transform the CAISO Tariff into a more straightforward and transparent document and establish a more workable tariff structure for the CAISO to, in turn, revise the CAISO Tariff to reflect its planned Market Redesign and Technology Upgrade (MRTU).⁷ On February 9, 2006, in Docket No. ER06-615-000, the CAISO filed proposed MRTU revisions to the CAISO Tariff. The proposed effective date for the MRTU revisions is November 1, 2007. The MRTU proceeding is pending.

9. In this order, we address several of the remaining Outstanding Issues. These issues concern outages, portfolio bidding, scheduling, settlements, transmission pricing

⁴ *Pacific Gas and Electric Co., et al.*, 101 FERC ¶ 61,219 at P 1 & n.2 (2002) (*November 22 Rehearing Order*).

⁵ *California Independent System Operator Corp.*, 109 FERC ¶ 61,183 (2004), *reh'g granted*, 112 FERC ¶ 61,350 (2005).

⁶ The issues that the *November 19 Order* deemed to be moot or withdrawn included some sub-issues within Issues G-N.

⁷ See *California Independent System Operator Corp. and Pacific Gas and Electric Co.*, 114 FERC ¶ 61,199 (2006).

and losses, the Transmission Control Agreement, and the dispatch protocol.⁸ The proponents and their abbreviated names are listed in Appendix A to this order. We note that several of the Outstanding Issues raised by proponents concern CAISO Tariff provisions that would be deleted under the proposed MRTU revisions as no longer relevant under the CAISO's market redesign or would be superseded by proposed provisions. Because the MRTU filing grew out of an extensive stakeholder process, we regard it as a significant change in circumstances since the Outstanding Issues were briefed. Here, we summarily dismiss a number of issues since they have been/or will be addressed in the MRTU proceeding.⁹ These issues are identified in Appendix B. Where proponents of these issues still have concerns, it is more appropriate to raise such concerns in the MRTU proceeding.

Discussion

Issue G - Outages

G.2. May parties challenge the CAISO's reasons for rejecting a requested maintenance outage or requested change to an Approved maintenance outage provided pursuant to section 2.3.3.5.3 of the CAISO Tariff (renumbered as section 9.3.6.8 in the current tariff),¹⁰ and does the CAISO's amendment to section 2.3.3.5.3 properly implement the directive from the October 1997 Order?

10. Under the CAISO Tariff, the CAISO, acting through the CAISO Outage Coordination Office, has the duty to coordinate and approve all maintenance outages of facilities in the CAISO Controlled Grid. As originally proposed, the CAISO Tariff would have allowed the CAISO to reject any requested maintenance outage that it considered likely to have a detrimental effect on the efficient use and reliable operation of

⁸ The Commission plans to address the last remaining Outstanding Issues in a future order. Those issues are Issue B (dispatch, congestion management and overgeneration), Issue C (existing rights) and Issue N.3 (notice of cessation of scheduling for an eligible customer).

⁹ It is not our intent in this order to pre-judge any issue in the MRTU proceeding.

¹⁰ Numerous CAISO Tariff sections were renumbered in the revisions to simplify and reorganize the CAISO Tariff. While we note the current section numbers of the relevant tariff provisions, we also refer to the CAISO Tariff section numbers as they were in 2000 when the parties filed briefs on the Outstanding Issues.

the CAISO Controlled Grid. In their protest of the original filing, Southern Cities contended that an operator obliged to comply with an ISO order under section 2.3.3.5.3 should be able to call on the CAISO to justify its instructions after the fact. The *October 1997 Order* interpreted Southern Cities' protest as "simply [a] request that the [o]perator be allowed to call on the CAISO to explain its instructions after the fact," rejected the CAISO's argument that such a provision would undermine the CAISO's authority, and directed the CAISO to amend section 2.3.3.5.3 to allow an operator to request an after-the-fact explanation of ISO instructions.¹¹ The CAISO revised section 2.3.3.5.3 to do so, but the CAISO's revision further provided that such explanation would be "for informational purposes only and without affecting in any way the finality or validity of the determination."

11. The proponents¹² oppose the informational-only scope of the CAISO's after-the-fact explanations of its rejections of maintenance outage requests. They argue that, on an after-the-fact basis, the operator should be able to contest the validity of the CAISO's instruction through the alternative dispute resolution process to provide a mechanism to correct any inappropriate actions regarding maintenance outages. They assert that an explanation serves no purpose if it cannot provide a basis for resolution of a dispute over whether ISO instructions were appropriate or serve as guidance for future determinations. They argue that an explanation for informational purposes only would not be binding on the CAISO and that operators would not know if they could rely upon the CAISO's explanation in similar circumstances in the future, thus adding uncertainty to the CAISO's policies and practices. They also express concern that if an operator pursued remedies under the CAISO Tariff or before the Commission, the CAISO would be free to change its explanation in such a proceeding. They also argue that the *October 1997 Order* does not state that the CAISO's explanations shall be for informational purposes only.

12. The CAISO responds that section 2.3.3.5.3 does not limit the flow of useful information between operators. It also asserts that it remains willing to consider whether, on a prospective basis, it needs to change the policies and circumstances under which it cancels or reschedules planned transmission maintenance outages. Further, the CAISO asserts that the tariff language does not prevent an entity that questions the validity of an ISO order from pursuing remedies available under the CAISO Tariff or before the Commission.

¹¹ *October 1997 Order*, 81 FERC ¶ 61,122 at 61,512.

¹² TANC and Southern Cities.

Commission Determination

13. As noted above, the *October 1997 Order* interpreted Southern Cities' protest as simply a request that the CAISO provide an after-the-fact explanation of its actions upon request by an operator, and no party challenged that interpretation on rehearing of the *October 1997 Order*. Further, the *October 1997 Order* did not, either in response to Southern Cities' protest or on its own motion, direct the CAISO to establish new procedures to allow an operator to make an after-the-fact challenge to an outage determination. In directing the CAISO to revise section 2.3.3.5.3 to allow an operator to request an after-the-fact explanation, the Commission found that such a provision would allow the flow of useful information between operators.¹³ That is all that the *October 1997 Order* required, and the CAISO has complied with the directive. If proponents are dissatisfied with the CAISO's explanations, they may pursue remedies under the CAISO Tariff.

Issue H - Portfolio Bidding

H. Does the CAISO's prohibition of portfolio bidding for inter-zonal access, ancillary services, and supplemental energy discriminate against in-area non-incumbents and create inefficiencies in the market?

14. CAISO Tariff section 2.2.11 (information to be submitted by scheduling coordinators to the CAISO) and, in particular, section 2.2.11.2.2,¹⁴ does not allow for portfolio bidding and requires that only location-specific resources and loads be used in the bidding process through which inter-zonal transmission rights are acquired. Proponents,¹⁵ the CAISO and the California Commission agree that they do not want the Commission to make a merits determination concerning the portfolio bidding issue pending the outcome of the CAISO's congestion management process. In the MRTU proceeding, the CAISO proposes to delete section 30.2 of the CAISO Tariff as superseded by a proposed new MRTU bid submission process. Therefore, we dismiss Issue H from the Outstanding Issues proceeding.

¹³ *October 1997 Order*, 81 FERC at 61,512.

¹⁴ These sections are designated as sections 30.2 and 30.2.2.2 in the current Tariff.

¹⁵ WPTF, Enron and Dynegy.

Issue J - Scheduling**J.1 Should the Schedules and Bids Protocol (SBP) 2.3 temporary requirement that scheduling coordinators schedule and bid within the physical capability of their generating units be made permanent, or should this requirement be eliminated?**

15. The CAISO adopted this provision on a temporary basis in Amendment No. 6, because it was concerned that there were inadequate economic incentives to counteract imbalances that may result from implementing the sub-hour settlement period in stages. The CAISO also stated that it would propose to replace the temporary provision with permanent measures to improve reliability when it filed a comprehensive tariff amendment implementing a sub-hour settlement period pursuant to the CAISO staging plan.

16. In its initial brief, Metropolitan argues that the protocol should be made permanent. Metropolitan is concerned that not requiring scheduling coordinators to submit realistic schedules creates opportunities for gaming, exacerbating the CAISO's intra-zonal congestion management problems. It also expresses doubt as to whether stakeholders would support the CAISO's new proposal. The PX withdrew its request to eliminate the temporary provision, stating that its concerns were addressed by the CAISO's adoption of a ten-minute settlement period.¹⁶

17. In its answering brief, the CAISO argues that, to address market incentives for uninstructed deviations, it would propose 10-minute settlements of uninstructed imbalance energy. According to the CAISO, this will allow more accurate and timely price signals regarding the imbalance energy market. The CAISO argues that further consideration of Issue J.1 should take place in the context of the CAISO's filing of its 10-minute settlement proposal. In its reply brief, filed after the CAISO submitted the proposal (Amendment No. 29), Metropolitan disagrees that the CAISO's 10-minute settlement proposal addresses its concerns.¹⁷

¹⁶ The PX has since ceased operations except for wind-up functions.

¹⁷ The CAISO filed Amendment No. 29 between the time of its answering brief and Metropolitan's reply brief. The Commission conditionally accepted Amendment No. 29 for filing. *California Independent System Operator Corp.*, 91 FERC ¶ 61,324 at 62,117-18 (2000).

Commission Determination

18. In Amendment No. 29 to the CAISO Tariff, the CAISO settles scheduling coordinators' obligations in the imbalance energy real-time market on a 10-minute basis rather than hourly. SBP 2.3 currently contains the requirement that scheduling coordinators for generators schedule and bid within the physical capability of their generating units. Thus, Metropolitan's concern that the requirement remains in the CAISO Tariff is satisfied. If the CAISO proposes to remove or amend the requirement in SBP 2.3 in the future, we would examine such a proposal at that time. Since SBP 2.3 remains in the CAISO Tariff, we need not address whether the adoption of 10-minute settlements would, in lieu of SBP 2.3, satisfy Metropolitan's concern.¹⁸

J.3. Has the CAISO unreasonably delayed establishing more than one scheduling coordinator at a single meter?

19. The original CAISO Tariff did not permit market participants to utilize more than one scheduling coordinator and prohibited more than one scheduling coordinator from using a single meter. In the *October 1997 Order*, the Commission directed the CAISO to coordinate with all interested scheduling coordinators to develop rules for allocating trades through a single meter.¹⁹ The CAISO sought rehearing, which is pending and which we address here. The CAISO also submitted a compliance filing to amend the CAISO Tariff, as directed by the Commission. However, the CAISO has not revised its protocols or developed software to allow more than one scheduling coordinator at a single meter.

20. Proponents²⁰ argue that the CAISO, in its staging plan, committed to enable multiple scheduling coordinators at a single meter but did not project a date for implementation. They further argue that this issue is a high priority among market participants, but the CAISO's failure to develop the necessary software hinders the move away from existing protocols.

¹⁸ We note that SBP 2.3 has been redesignated as section 30.2.2A in the current Tariff and that the proposed MRTU revisions would delete section 30.2.2A as superseded by the proposed new MRTU submission process. Any concerns about the new proposal to remove section 30.2.2A must be raised in the MRTU proceeding.

¹⁹ 81 FERC ¶ 61,122 at 61,509.

²⁰ Dynegy, Turlock and CAC.

21. The CAISO argues that when it polled market participants in 1999, enabling market participants to utilize multiple scheduling coordinators was not identified as a priority. Further, the CAISO argues that modifying its systems as proposed by proponents would be complex and extremely costly, with the costs being borne by all market participants while benefiting only a few particular entities. It does not believe that the benefits justify the costs. The CAISO also contends that there are other, more cost-effective ways to associate the dispatch of a generator with two or more accounts that would be potentially more robust than the software changes requested by proponents. It offers two examples. First, there could be a contractual agreement among two or more participants whereby the single invoice rendered by the CAISO for that meter can be allocated among them as they wish. Second, they could enter into an agreement to allocate billing and settlement responsibility while still utilizing one scheduling coordinator for the meter.²¹ The CAISO argues that a similar result could be achieved via inter-scheduling coordinator trades. The CAISO requests that the Commission permit the CAISO to continue with other higher priority modifications to the Tariff and instead allow the CAISO to evaluate the best approach for achieving the results desired by proponents, with a report due to the Commission on the results of its evaluation.

Commission Determination

22. The CAISO effectively prohibits multiple scheduling coordinators at a single meter by virtue of not having developed the software necessary to implement the corresponding Tariff revision ordered by the Commission. The CAISO's argument that market participants do not place a high priority on this issue, a position disputed by proponents, is misplaced. The Commission determined that it was a high priority for the CAISO to have this capability in place. It stated:

We agree with BPA, ECI and others that the ISO should permit Eligible Customers to be represented by more than one Scheduling Coordinator. As recognized by the ISO/PX, an entity could potentially trade through one or more non-PX Scheduling Coordinators in the bilateral market to secure most of its energy requirements and also purchase stand-by or any additional requirements through the PX, which is another Scheduling Coordinator. We recognize that for many Market Participants, the ability to trade through more than one Scheduling Coordinator is an essential feature that will enable them to efficiently procure and utilize

²¹ As an example, they cite an agreement between PG&E, a trade association for qualifying facilities (QFs) and the PX that enabled QFs with power purchase agreements with PG&E to sell their excess energy to third parties, including the CAISO.

various resources. However, as noted by the ISO, the ability of a customer to utilize more than one Scheduling Coordinator depends on the development of the proper software and development by Scheduling Coordinators of rules for the allocation of trades through a single meter. Consistent with our earlier discussion, we require the ISO to inform us on the progress of the software development. To the extent that the ISO anticipates that the software will not be ready by the start of the ISO operations, the ISO should promptly notify the Commission and request whatever extensions are necessary. In addition, we direct the ISO to coordinate efforts with all interested Scheduling Coordinators in the development of rules for allocating trades through a single meter. . . . We emphasize that we consider the development of the necessary software and trade rules to be a critical priority of the ISO that should be accomplished in as quick a time frame as possible.^[22]

23. Further, while the Commission acknowledged that the CAISO would have to develop the software to implement the Tariff modification, there has been time for the CAISO to have made progress on this issue. Therefore, we direct the CAISO to address this issue with stakeholders, either to develop the software necessary to implement the Tariff revision ordered by the Commission or to propose alternatives. We further direct the CAISO to provide the Commission with a report on its progress in addressing this issue within three months of the date of this order. Such report should also include the CAISO's timeline for addressing the issue.

Issue K - Settlements

K.1. Are the review and notification of errors periods for preliminary settlement statements reasonable?

24. Section 11.6.1.2 of the CAISO Tariff²³ allows a period of eight days from the issuance of a preliminary settlement statement for a scheduling coordinator to notify the CAISO of any errors. The proponents²⁴ express concern that the CAISO could treat the provision as requiring a scheduling coordinator to bring a dispute to the CAISO within

²² 81 FERC ¶ 61,122 at 61,509.

²³ In the proposed MRTU revisions, the CAISO proposes to redesignate it as section 11.19.7.1.2, but it does not propose any substantive changes.

²⁴ Cities/M-S-R.

eight days instead of another, longer period that may be permitted under the Tariff. The proponent, Cities/M-S-R, originally requested that section 11.6.1.2 be amended to include the following provision: “A failure to identify a billing error in no way affects a Scheduling Coordinator’s right to challenge a bill until the expiration of any relevant statute of limitations.” In its answering brief, SDG&E supports this position.

25. Amendment No. 22 to the CAISO Tariff included a provision that a scheduling coordinator would have ten days from the issuance of a final settlement statement to notify the CAISO of any errors. In that proceeding, Cities/M-S-R expressed the same concern with respect to the final settlement statement process that they express here with respect to the preliminary settlement statement process. The Commission accepted the CAISO’s proposal, determining that “[t]he ten-day final bill validation period does not represent a ‘statute of limitations,’ as feared by Cities/M-S-R, since the tariff provides Scheduling Coordinators with the ability to bring a dispute before the CAISO Governing Board at any time.”²⁵ In their reply brief, Cities/M-S-R argue that the Commission’s determination concerning Amendment No. 22 validates their position and urge the Commission to make a similar holding here regarding the preliminary bill validation period. SDG&E further asserts that adoption of the requested additional language is necessary because, in SDG&E’s experience with the CAISO, the CAISO has treated the bill validation period as a statute of limitations for disputing bills.

Commission Determination

26. We find here, as we previously found with regard to the ten-day final bill validation period,²⁶ that the ten-day preliminary bill validation period does not represent a statute of limitations regarding billing disputes since the tariff allows scheduling coordinators to bring disputes before the CAISO Governing Board at any time. We deny SDG&E’s request to require the CAISO to reflect this determination in the CAISO Tariff as unnecessary since SDG&E seeks such relief based only on its unsubstantiated allegation that the CAISO has not abided by the Commission’s previous determination regarding the final settlement validation period. SDG&E does not indicate that it filed a complaint concerning its allegation, and we are unaware of it having done so. The CAISO is obligated to act in accordance with its Tariff as interpreted by the Commission. Thus, revising the Tariff to expressly reflect our determination here is unnecessary.

²⁵ *California Independent System Operator Corp.*, 89 FERC ¶ 61,229 at 61,686 (1999), *order on reh’g*, 90 FERC ¶ 61,315 (2000).

²⁶ *Id.*

Issue L – Transmission Pricing and Losses**L.3. With respect to the CAISO's neutrality adjustment:****L.3.a. Is the CAISO's neutrality adjustment sufficiently defined and should it be included as a formula rate in the CAISO Tariff?****L.3.b. Should there be a cap on the amounts that can be collected?****L.3.c. What items are properly included in the neutrality adjustment?****L.3.d. How should the charges be allocated?**

27. The neutrality adjustment (section 11.2.9 of the current CAISO Tariff) provides a mechanism to recover five specific categories of costs (or payments of credits), which are not covered in other parts of the CAISO's Tariff, enabling the CAISO to maintain a revenue-neutral position.

28. Joint proponents²⁷ challenge the neutrality adjustment, as it was proposed by the CAISO in Amendment No. 6. They argue that the neutrality adjustment should not be accepted as a formula rate in the tariff. They argue that data inputs for formula rates must be easily identifiable and verifiable, but the CAISO's data inputs either constitute, or are developed from, data held by the CAISO. They claim that the CAISO has refused to disclose to stakeholders the components of the charges and how they are calculated. However, if formula rate treatment is allowed, proponents believe that there should be a cap of 2 mills/kWh, and that the CAISO should be required to make a filing with the Commission to recover amounts above the cap. Proponents also oppose the proposed allocation of charges, arguing that a more refined methodology is needed. They urge that the CAISO be required to prepare a report on the neutrality adjustment and its proposed allocation of those charges. Proponents also seek to exclude unaccounted for energy (UFE)-related costs²⁸ from the adjustment with respect to municipal utilities to avoid improper UFE charges that arise from retail service outside their systems.

29. The CAISO responds that the neutrality adjustment is a reasonable means of settling cash imbalances. Further, it cites its then-proposed Amendment No. 27 to cap

²⁷ Joint proponents on Issue L.3 are Dynegy, Southern Cities, Cities/M-S-R, and Vernon.

²⁸ The tariff defines UFE as the difference in energy between the net energy delivered into the utility distribution company service area (adjusted to utility distribution company service area transmission losses) and the total metered demand within the utility distribution company service area (adjusted to distribution losses).

the charge. In addition, it states that the CAISO has already committed to study potential actions that can be taken to reduce the neutrality adjustment.

Commission Determination

30. Issues concerning the CAISO Tariff's neutrality adjustment provisions have been resolved or superseded by subsequent changes to the neutrality adjustment provisions in subsequent proceedings. Specifically, in the CAISO's Amendment No. 27, the neutrality adjustment charge was capped at \$.095/MWh.²⁹ The cap is reflected in section 11.2.9.1 of the S&R Tariff. This resolves Issues L.3.b.

31. Regarding Issues L.3.a and L.3.c, the Commission directed the CAISO to file a report detailing its neutrality adjustment charges. The CAISO filed a report, and the Commission accepted it.³⁰ The proceeding concerning the CAISO's report provided a forum for parties to raise issues concerning the definition of, and the items properly included in, the neutrality adjustment charge, and no further consideration of those issues is necessary here. Therefore, Issues L.3.a and L.3.c have been resolved.

32. With respect to the UFE cost issue, the 2002 Rehearing Order required the CAISO to revise the CAISO Tariff to reflect that all market participants with revenue-quality meters at ISO take points should be allowed to pay their own UFE calculated separately with data from their own meters.³¹ In a July 25, 2003 order, the Commission accepted the CAISO's compliance filing.³² Thus, the UFE cost issue, Issue L.3.d, has been resolved.³³

²⁹ See *California Independent System Operator Corp.*, 94 FERC ¶ 61,268 at 61,934, *order on reh'g*, 102 FERC ¶ 61,274; see also *California Independent System Operator Corp.*, 94 FERC ¶ 61,266 at 61,927-28.

³⁰ *California Independent System Operator Corp.*, 105 FERC ¶ 61,021 (2003), *order on reh'g*, 106 FERC ¶ 61,205 (2004).

³¹ *2002 Rehearing Order*, 101 FERC ¶ 61,219 at P 16-18, *order on clarification*, 103 FERC ¶ 61,042 at 11-12 (2003).

³² *California Independent System Operator Corp.*, 104 FERC ¶ 61,129 at P 6-14 (2003).

³³ An issue raised in relation to the UFE charges is addressed in Issue L.5 below.

33. Accordingly, we dismiss Issue L.3.

L.5. Do UFE charges comport to the CAISO Tariff? Should the CAISO Tariff be clarified or revised?

34. The remaining proponent on this issue is PG&E.³⁴ PG&E previously objected to the CAISO's loss calculation methodology, which was an input to the UFE allocation among utility distribution companies. PG&E acknowledges that the CAISO's Amendment No. 22 to the CAISO Tariff addressed its objection to its satisfaction. However, Amendment No. 22 became effective prospectively only, and PG&E expresses concern about the accuracy of UFE charges for the retroactive period before Amendment No. 22 became effective - from April 1, 1998 through February 1, 2000. Southern Cities answers that PG&E's argument is a collateral attack on the Commission's determination in its order addressing Amendment No. 22 that any changes that result from the *Unresolved Issues Proceeding* would be applied prospectively only.

Commission Determination

35. We dismiss PG&E's argument here as an improper collateral attack on our prior determination that rejected the same argument. In the order on Amendment No. 22, the Commission stated in pertinent part:

[B]ecause the instant filing incorporates aspects of the loss formula that are pending in the Unresolved Issues proceeding in Docket No. ER98-3760-000, and because that proceeding may result in revisions to the current formula, the methodology approved herein will remain subject to the outcome of that proceeding. *Any changes that result from that proceeding will, however, be applied on a prospective basis only.*³⁵

³⁴ The CAISO's Identification of Outstanding Issues in *Unresolved Issues Proceeding*, Docket No. ER98-3760-000 (filed Sept. 17, 2003) also lists Vernon, Metropolitan and DWR, and Southern Cities as proponents on Issue L.5. However, in that Identification of Issues, Vernon indicates that Issue L.5 is no longer applicable to Vernon. Metropolitan and DWR considered the issue to be open only to the extent that the Commission had not yet acted on the CAISO's compliance filing pursuant to the *2002 Rehearing Order*. As noted above, the Commission accepted the CAISO's compliance filing concerning UFE charges. Accordingly, this issue is moot with regard to Metropolitan and DWR. Southern Cities raise their concerns about UFE charges in the context of the neutrality adjustment, discussed in Issue L.3 above.

³⁵ 89 FERC ¶ 61,229 at 61,686 (emphasis added).

The Commission denied PG&E's request for rehearing on this issue, reaffirming its decision that it would not retroactively apply any changes in the methodology.³⁶ Accordingly, Issue L.5 has been resolved, and we dismiss it.

L.6. With respect to Settlement and Billing Protocol, Appendix A, section 3.2, should “metered consumption” be changed to “metered Demand”?

36. SMUD raises an objection regarding the calculation of the Grid Management Charge in Appendix A of the Settlement and Billing Protocol. Specifically, SMUD argues that the phrase “monthly metered consumption” should be changed to “monthly Demand,” because it is uncertain what is included in “consumption.” The CAISO responds that the Grid Management Charge formula, included in Appendix F of the CAISO Tariff, provides the definition of “monthly metered consumption.” The CAISO further argues that the definition is part of the specific terms that were agreed upon as part of the Grid Management Charge settlement that the Commission approved in Docket No. ER98-211-000, *et al.*³⁷

Commission Determination

37. In the current Tariff, the Settlement and Billing Protocol is designated as Appendix N. The MRTU filing indicates that the CAISO plans to update Appendix N. If SMUD continues to have the same concerns regarding settlement and billing, then it may raise such issues in the MRTU proceeding. Accordingly, we dismiss Issue L.6.

L.7. Should the less costly alternatives to transmission expansion identified in CAISO Tariff section 3.2.1.2 be priced at the greater of a cost-based rate or the revenues foregone (i.e., the opportunity cost) in providing them?³⁸

38. The proponent, DWR, requests that we not decide this issue in the Unresolved Issues proceeding, but instead allow the issue to be addressed through the stakeholder process. DWR also requests that the Commission provide certain guidance to the CAISO

³⁶ 90 FERC ¶ 61,315 at 62,043.

³⁷ See *California Independent System Operator Corp.*, 83 FERC ¶ 61,247 (1998).

³⁸ Section 3.2.1.2 (Reliability Driven Projects), has been renumbered as section 24.1.2.

in its consideration of the issue, *i.e.*, that the CAISO make the use of off-peak transmission rates the top priority for consideration. DWR believes that the CAISO's need for guidance from the Commission is shown by the CAISO's desire for more demand response and its confusion at the lack of demand response.

39. The CAISO opposes DWR's request for guidance as inappropriately limiting the scope of the stakeholder process and as contrary to the Commission's decision on Order No. 2000 not to dictate the outcome of RTO collaboration processes. The CAISO further argues that DWR's request is premature, because DWR will have an opportunity to participate in the stakeholder process and might be satisfied with the outcome of that process. The California Commission agrees that the issue should be addressed in the stakeholder process rather than in the Unresolved Issues proceeding.

40. We dismiss this issue from the Outstanding Issues proceeding in view of DWR's request to address the matter through the stakeholder process. However, we deny DWR's request to issue the requested guidance to stakeholders, so as to allow the matter to be addressed through the stakeholder process in the first instance.

L.8. Is the CAISO's failure to permit discounting in its wheeling-out rates arbitrary and unreasonable, resulting in transmission service that is substantively worse than the quality of service contemplated in Order No. 888?

41. When the CAISO originally submitted the CAISO Tariff, it explained that it might consider providing discounted transmission service in the future.³⁹ The Commission denied intervenor requests to order the Tariff amended to permit discounting. With regard to a protester's concern that generators in the Southwest would be "trapped" in California absent discounts, the Commission also directed the CAISO to address the discounting issue in its future firm transmission rights proposal and in the alternative rate methodology proposal provided for in section 7.1.6 of the CAISO Tariff.⁴⁰

42. According to WPTF and Enron, the Commission declined to require the CAISO to offer discounting in the *October 1997 Order* to expedite the implementation of the CAISO. They assert that the CAISO has been involved in negotiating an alternative rate methodology pursuant to section 7.1.6, but it did not hold any stakeholder meetings on the issue of discounting of the wheeling-out charge. Instead, section 7.1.4.1 of the

³⁹ *October 1997 Order*, 81 FERC ¶ 61,122 at 61,505-06.

⁴⁰ *Id.* at 61,506. Section 7.1.4.1 is renumbered as section 26.1.4.1 under MRTU..

CAISO Tariff continues to prohibit the CAISO from discounting. Proponents argue that this is unjust and unreasonable, and they request that the CAISO Tariff be revised to establish a price cap that can be discounted, consistent with the pro forma OATT.

43. According to WPTF and Enron, no social benefit is gained if generating and transmission capacity go unused because the CAISO is unable to sell wheeling services at discounted prices. Further, they contend that the lack of a discount locks generation in California, leading to artificially lower prices that deviate from an efficient market outcome. They also argue that permitting the CAISO to discount its access charge would put it on the same plane as other ISOs, citing NEPOOL and PJM as examples.⁴¹ They also argue that the CAISO's refusal to discount is inconsistent with the rate treatment accorded the CAISO for pricing ancillary services.⁴²

44. The CAISO and SCE challenge proponents' standing to raise this issue. They argue that because no party sought rehearing of the *October 1997 Order* on this issue, the Commission's determination became final. They also dispute proponents' arguments. The CAISO further argues that the issue is more appropriately addressed through the stakeholder process.

45. Proponents dispute that that they lack standing to raise this issue, but they also agree that the issue should be deferred pending the outcome of the stakeholder process.

⁴¹ WPTF and Enron cite *New England Power Pool*, 83 FERC ¶ 61,045 at 61,234 (1998) (requiring NEPOOL to reinstate pro forma tariff language that permits, but does not require, discounts on point-to-point rates); *Pennsylvania-New Jersey-Maryland Interconnection*, 81 FERC ¶ 61,257 at 62,246 (1997) (requiring PJM to submit a revised tariff to comply with Order No. 888-A, and to reflect the approach to discounting taken by the Commission in Order No. 888-A), *order on clarification*, 82 FERC ¶ 61,103 (1998).

⁴² They cite *California Independent System Operator Corp.*, 89 FERC ¶ 61,169 (1999) (accepting a proposal that gives the CAISO discretion to lower the price it is willing to pay for ancillary services by an unspecified amount in the event that it determines that the markets are not workably competitive); and *Pacific Gas and Electric Co., San Diego Gas & Electric Co. and Southern California Edison Co.*, 77 FERC ¶ 61,204 (1996) (holding that in the absence of a demonstration that the seller does not have market power in ancillary services, rates for such services should be cost-based and established as price caps, from which transmission providers may offer discounts to reflect cost variations or to match rates available from any third party).

Commission Determination

46. The *October 1997 Order* declined to require the CAISO to offer discounted transmission rates, stating:

The Commission has never required that transmission providers offer discounted transmission rates for a particular service. Moreover, while the CAISO may elect to submit a discounting proposal in the future, we will not require the CAISO to do so at this time in light of the pressures and time constraints of implementing the CAISO. Any future discounting proposal will require balancing the interests of Transmission Owners, who may face a reduced contribution to their fixed transmission costs, and Generators, who may benefit from discounted transmission rates. However, the discretion as to whether to discount a transmission rate, and the extent of that discount is ultimately up to the Transmission Owner whose facilities will be utilized. Any such future discounting proposal must be made in the context of a Participating Transmission Owner's rate proposal because the CAISO is only responsible for collecting the revenue requirement.^[43]

47. In addition, in that order, the Commission rejected the protesters' argument that the CAISO's refusal to discount would lock in generation in California to the detriment of the market. Although WPTF and Enron claim to have standing to raise this issue, they do not state that they sought, nor do we see where they sought, rehearing of the *October 1997 Order* on the discounting issue. Consequently, we reject their argument as an untimely request for rehearing of the *October 1997 Order*. This decision is without prejudice to reexamination of the discounting issue in a stakeholder process.

⁴³ *October 1997 Order*, 81 FERC ¶ 61,122 at 61,505-06.

Issue M – Transmission Control Agreement**M.1. Whether the CAISO properly complied with the requirement from the October 1997 Order to include in section 2.3.1.3.2 of the CAISO Tariff an adequate reference to section 5 of the Transmission Control Agreement (TCA) placing limits on the CAISO's ability to establish new reliability criteria?**

48. In the *October 1997 Order*, the Commission directed that section 2.3.1.3.2 of the CAISO Tariff be revised:⁴⁴

With regard to Western's concern that section 2.3.1.3.2 gives the [CAISO] too much discretion in fashioning new reliability criteria, we agree that this section should specifically reference, and be consistent with, section 5 of the [TCA]. Section 5.1.5 of the [TCA] provides that the [CAISO] will consult with Participating Transmission Owners and other Market Participants, through the [CAISO] Technical Advisory Committee, in developing and promulgating Applicable Reliability Criteria for the CAISO Controlled Grid.

49. In response, the CAISO revised section 2.3.1.3.2 to read "The CAISO may establish planning and Operating Reserve criteria more stringent than those established by [the Western Systems Coordinating Council (WECC)] and [the North American Electric Reliability Council (NERC)] or revise the Local Reliability Criteria subject to and in accordance with the provisions of the TCA." This provision has been renumbered as section 7.3.2 and reads as follows:

The CAISO Governing Board may establish planning guidelines more stringent than those established by NERC and WECC as needed for the secure and reliable operation of the CAISO Controlled Grid. The CAISO may revise the Local Reliability Criteria subject to and in accordance with the provisions of the TCA.

50. Proponents Cities/M-S-R argue that the CAISO Tariff includes only a general reference to the TCA and that the CAISO has not complied with the Commission's directive. They request that the CAISO revise the Tariff specifically to require that the CAISO consult with participating transmission owners and other market participants through a stakeholder process. The CAISO responds that its revision already references

⁴⁴ *Id.* at 61,457.

subjects described in section 5 of the TCA and, thus, complies with the Commission's directive. Further, it contends that proponents do not identify any practical deficiency or confusion resulting from section 2.3.1.3.2. Therefore, the CAISO contends that there is no need to modify section 2.3.1.3.2 further. The CAISO also contends that the Commission did not require that section 2.3.1.3.2 specifically reference section 5.1.5 of the TCA.

Commission Determination

51. The *October 1997 Order* said to “*specifically reference, and be consistent with, section 5*” (emphasis added). The point of requiring that the Tariff refer to section 5 of the TCA was to emphasize that the provision for a consultation process provides a limit on the CAISO's discretion. Accordingly, we direct the CAISO to revise section 7.3.2 of the Tariff to change “in accordance with the provisions of the TCA” to read “in accordance with section 5 of the TCA.”

Issue N – Other Issues

N.2. Whether Dispatch Protocol (DP) 3.8.1 and DP 3.9.1, which state that the CAISO will provide certain information regarding the status of the system to adjacent control areas, are unduly discriminatory and preferential by failing to make that information available to market participants?

52. DP3.8.1 provides that information regarding changes in the status of an interconnection, changes in an interconnection's total transfer capability, and situations that could affect the reliability of an interconnection, is to be shared with the CAISO and adjacent control areas. In the current Tariff, DP 3.8.1 is redesignated as section 34.3.6.6. DP3.9.1 provided that each existing operating entity was to report to the CAISO any change or potential change in transmission equipment status, or any change in the existing operating entity's transmission system that could affect grid reliability. However, the CAISO deleted DP3.9.1 from the current Tariff as unnecessary.

53. Dynegy states that the CAISO regularly collects information from neighboring control areas and existing operating entities under existing operating agreements (*e.g.*, from SMUD) related to the status of their transmission systems. Dynegy argues that the information disclosed to the CAISO by adjacent control area operators and existing operating entities pursuant to the protocols is the type of information that is appropriately disclosed on OASIS. Dynegy further argues that disclosure of this information is also necessary to be consistent with the Commission's decision to require source and sink information in the short-term market to be posted on the OASIS. Dynegy argues that the information that the CAISO collects should be disclosed to the entire market, to promote

the competitiveness of electricity markets and foster greater confidence in the integrity of OASIS systems.

54. The CAISO argues that Dynegy misunderstands the general requirement that the transmission function be unbundled from the wholesale sales function. It cites Order No. 889's⁴⁵ provision for unbundling to "prevent abuses based on preferential access to information and other discriminatory behavior." It contends that the information described in DP 3.8.1 is a typical exchange necessary to promote reliable operation of interconnected systems.

Commission Determination

55. Section 37.6 of our regulations concerns information to be posted on the OASIS.⁴⁶ It requires that the information posted on the OASIS must be in such detail and the OASIS must have such capabilities as to allow transmission customers to, among other things: (1) request transmission services offered by transmission providers, resellers, and other providers of ancillary services; and (2) clearly identify the degree to which transmission service requests or schedules were denied or interrupted. Section 37.6 also requires that the transmission capability that is expected to be available on the transmission provider's system and the total transmission capability be calculated and posted for each posted path. It also requires that posted information on constrained paths be updated when transactions are reserved or service ends or whenever the total transmission capability estimate for the path changes by more than ten percent. The CAISO's protocols must be consistent with the requirements of section 37.6 with regard to the information it posts concerning its own system. However, section 37.6 does not require the CAISO to collect for, and disclose to, its transmission customers information about neighboring transmission systems. To the extent that a potential transmission customer wishes to obtain the type of information about a transmission provider required under section 37.6, it may go to the OASIS of that transmission provider. Therefore, we dismiss Issue N.2.

⁴⁵ *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, 61 Fed. Reg. 21,737 (1996), FERC Stats. & Regs., Regs. Preambles ¶ 31,037 (1996), *order on reh'g*, Order No. 889-A, 62 Fed. Reg. 12,484 (1997), FERC Stats. & Regs., Regs. Preambles ¶ 31,049 (1997), *reh'g denied*, Order No. 889-B, 81 FERC ¶ 61,253 (1997), *aff'd in part and rev'd in part sub nom.* Transmission Access Policy Study Group v. FERC, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

⁴⁶ 18 C.F.R. § 37.6 (2005).

Docket No. ER98-3760-000

22

The Commission orders:

The Outstanding Issues are hereby addressed, as discussed herein.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Docket No. ER98-3760-000

23

APPENDIX A

Parties that Filed Briefs Individually or Jointly

Public Utilities Commission of the State of California (California Commission)

California Independent System Operator Corporation (CAISO)

California Power Exchange Corporation (California PX or PX)

Cities of Redding, Santa Clara and Palo Alto, California, and the M-S-R Public Power Agency (Cities/M-S-R)

California Department of Water Resources (DWR)

Dynegy Power Marketing, Inc. (Dynegy)

Enron Power Marketing, Inc. (Enron)

Metropolitan Water District of Southern California (Metropolitan)

Pacific Gas and Electric Company (PG&E)

San Diego Gas & Electric Company (SDG&E)

Sacramento Municipal Utility District (SMUD)

Southern California Edison Company (SCE)

Cities of Anaheim, Riverside, Azusa, Banning and Colton, California (Southern Cities)

Transmission Agency of Northern California (TANC)

The Utility Reform Network and the Utility Consumers Action Network (TURN/UCAN)

City of Vernon, California (Vernon)

Western Power Trading Forum (WPTF)

APPENDIX B**Summarily Dismissed Outstanding Issues****Issue J - Scheduling**

J.4. Does the limitation in section 2.5.22.4.1 of the CAISO Tariff on the capability of market participants to withdraw supplemental energy bids unreasonably bind a generator to an ISO obligation without any compensation?

Section 2.5.22.4.1. was redesignated as section 34.2.1.1 in the current Tariff. The contested provision is proposed to be deleted under MRTU.

Issue L – Transmission Pricing and Losses

L.1. Is the CAISO's use of hour-ahead generation meter multipliers (GMM) and ex post GMMs an unreasonable condition of service or harmful to the market?

In the proposed MRTU revisions, the CAISO proposes to adopt a new methodology for transmission pricing and losses based on locational marginal cost pricing (LMP).⁴⁷ Part of that proposed change includes the deletion of the CAISO Tariff's references GMMs.

L.2. Whether the default usage charge is insufficiently detailed, unreasonable, or discriminatory, and whether the existing default usage charge should be rejected and replaced by a charge that reflects the zonal price differential based on an adjusted market clearing price determined from capital generation bids?

The default usage charge provision, previously section 7.3.1.3 of the CAISO Tariff, was redesignated as section 27.1.2.3 and is proposed to be deleted under MRTU.

⁴⁷ See *California Independent System Operator Corp.*, 105 FERC ¶ 61,140 at P 14, P 37, P 75-78 (2003) (accepting the CAISO's conceptual proposal to use marginal losses).

L.4. With regard to metered subsystems, existing contracts, or non-converted transmission contracts, should Scheduling Protocol (SP) 4.2.1(c) and Schedule and Bids Protocol (SBP) 2.2.2 be revised to recognize that transmission losses may be dealt with by a scheduling party's system according to existing protocols in use for those contracts and not according to ISO protocols?

Under MRTU, the CAISO proposes to eliminate the use of GMMs and instead use marginal transmission losses. With respect to the two CAISO Tariff provisions challenged by proponents: (1) SP 4.2.1(c), was redesignated as Appendix Y and would be deleted under MRTU as unnecessary; and (2) SBP 2.2.2, was redesignated as section 30.4.1.2 of the Tariff and would be deleted under MRTU as superseded by the new MRTU bid submission process (proposed section 30 of the MRTU revisions to the CAISO Tariff).