

117 FERC ¶61,245
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

California Independent System Operator
Corporation

Docket No. ER98-3760-000

ORDER ADDRESSING OUTSTANDING ISSUES CONCERNING THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

(Issued November 29, 2006)

I. 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.

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

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 CAISO Tariff Amendment No. 1 with modification and rejecting Amendment Nos. 2 and 3); *California Independent System Operator Corp.*, 82 FERC ¶ 61,327 (1998) (accepting CAISO Tariff Amendment Nos. 4, 5 and 6 with modification); *California Independent System Operator Corp.*, 83 FERC ¶ 61,209 (1998) (accepting CAISO 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).

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

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. In an order issued on September 21, 2006, the Commission conditionally accepted for filing, subject to further modification, the CAISO's MRTU revisions to the CAISO Tariff.⁸

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).

⁸ *California Independent System Operator Corp.*, 116 FERC ¶ 61,274 (2006), *reh'g pending* (September 21 MRTU Order). The September 21 MRTU Order directs the CAISO to make certain modifications and grants requests for technical conferences. It also requires the CAISO to comply fully with the Commission's Final Rule on Long-Term Firm Transmission Rights in Organized Markets. *See Long-Term Firm Transmission Rights in Organized Markets*, Order No. 671, 71 Fed. Reg. 43,564 (Aug. 1, 2006), FERC Stats. & Regs. ¶ 31,226 (2006).

9. In an order issued on June 7, 2006,⁹ the Commission addressed Outstanding Issues concerning outages, portfolio bidding, scheduling, settlements, transmission pricing and losses, the Transmission Control Agreement, and the dispatch protocol. The Commission also summarily dismissed several issues where the contested provisions were proposed to be deleted from the CAISO Tariff under MRTU. It found that, where proponents of those issues still had concerns, it was more appropriate to raise such concerns in the MRTU proceeding.¹⁰

10. In this order, we address the remaining Outstanding Issues: Issue B, which concerns dispatch, congestion management and overgeneration; Issue C, which concerns existing rights; and Issue N.3, a miscellaneous issue concerning notice and cost responsibility when a scheduling coordinator stops scheduling for an eligible customer.

11. 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.¹¹ Therefore, in this order, we summarily dismiss a number of Outstanding Issues because they have been or will be addressed in the MRTU proceeding.¹² These issues are identified in Appendix B.

⁹ *California Independent System Operator Corp.*, 115 FERC ¶ 61,300 (2006) (June 7 Order).

¹⁰ June 7 Order, 115 FERC ¶ 61,300 at P 9.

¹¹ As the Commission noted in the September 21 MRTU Order, the filing of the MRTU revisions to the CAISO Tariff was "the product of more than six years of expert analysis, broad stakeholder input from those within and outside California, coordination with state authorities, and Commission guidance." 116 FERC ¶ 61,274 at P 3.

¹² It is not our intent in this order to pre-judge any issue in the MRTU proceeding or modify the Commission's determination in that proceeding.

II. Discussion

Issue B - Dispatch, Congestion Management, and Overgeneration

B.5. With respect to the CAISO's dispatch authority:

B.5.b. Should the CAISO's authority over market participants in sections 2.3.1.2.1 (Comply with Operating Orders Issued), 2.3.1.2.2 (Implementation of Instructions) and 2.3.4 (Management of Overgeneration Conditions) of the CAISO Tariff be limited to emergency conditions under market participants' contracts or other arrangements?

12. Proponents¹³ argue that the CAISO Tariff is overbroad and that market participants should not be subject to CAISO orders and instructions that are unrelated to the services they provide to, or receive from, the CAISO, such as being directed to provide ancillary services. They contend that the CAISO's instructions should not force market participants to violate, or be denied the benefit of, existing contracts absent a system emergency. They also assert that qualifying facility (QF) operations were not contemplated in the development of the CAISO Tariff, that there are operations for which curtailment of thermal supply would pose safety concerns, and that terms and conditions to address QF operational concerns are being considered in Docket Nos. ER98-997-000 and ER98-1309-000. The CAISO responds that its Tariff, as clarified by Commission orders, strikes a careful balance between the rights of entities with existing contracts and the CAISO's responsibilities as the control area operator. The CAISO also contends that its authority under its Tariff is consistent with the Commission's ISO principles, as adopted in Order No. 888, in which the Commission stressed the importance of an ISO retaining and exercising the primary responsibility in ensuring short-term reliability of grid operations.

Commission Determination

13. We dismiss this issue, because concerns about when and how the CAISO may exercise dispatch authority to maintain system reliability have been addressed, or are being addressed, in other proceedings. Under MRTU, the CAISO will honor existing transmission contracts. Further, with respect to maintaining system reliability, under MRTU, the CAISO will have the authority to require what it calls "exceptional dispatches" for several purposes, *e.g.*, during a system emergency or to prevent an

¹³ TANC, Cities/M-S-R, and CAC.

imminent system emergency or a situation that threatens reliability. But, the September 21 MRTU Order held that exceptional dispatch should not become a frequent occurrence and should be reserved for genuine emergencies where the CAISO needs to take actions outside the market software for maintaining system reliability.¹⁴ Further, the Commission addressed the CAISO's authority over QFs in another proceeding, as discussed concerning Issue B.5.c below.

B.5.c. Does the CAISO unjustly and unreasonably exercise authority to control the operation of non-participating generators, and should CAISO Tariff section 2.3.2.7 (Further Obligations Relating to System Emergencies) be revised to add the word "participating" before the word "generators" to reflect the specific generators to which this section should apply? In addition, should sections 5.1.3, 5.2.1, 5.2.3, 5.3, 5.4 and 5.7.3 of the CAISO Tariff, which provide the CAISO with authority over, and control of, all generators, be revised to limit the CAISO's authority to participating generators?

14. Proponents¹⁵ contend that the CAISO's proposal in Amendment No. 23 to expand its dispatch authority reflects an intent by the CAISO to obtain authority to dispatch participating generators for reasons other than potential or actual system emergencies, which they argue is contrary to the stakeholders' intent.¹⁶ They ask that the Commission direct the CAISO to comply with the Amendment No. 23 Order and to limit the CAISO's dispatch authority to participating generators. They also argue that the CAISO Tariff does not protect the rights of operators of qualifying facilities (QFs).

Commission Determination

15. The CAISO was required to comply with the Commission's directives in the Amendment No. 23 Order, and proponents do not allege that the CAISO did not comply with those directives. Any further directive in that regard would be unnecessarily

¹⁴116 FERC ¶ 61,274 at P 267. The order further stated that the Commission will monitor instances of the occurrence of and the method by which CAISO employs exceptional dispatch and if necessary will direct changes.

¹⁵ TANC, SMUD, and CAC.

¹⁶ See *California Independent System Operator Corp.*, 90 FERC ¶ 61,006, *reh'g denied*, 91 FERC ¶ 61,026 (2000) (Amendment No. 23 Order).

repetitive. Therefore, we deny proponents' request that we again direct the CAISO to comply with the Amendment No. 23 Order.

16. The QF issue has been overtaken by events. In Docket No. ER98-997-000, the CAISO filed a proposed pro forma Participating Generator Agreement, which was set for hearing. The judge's initial decision determined that the proposed agreement was unjust and unreasonable with respect to QFs and that the CAISO should be required to file a QF-specific Participating Generator Agreement that reflected the initial decision's findings. In Opinion No. 464, the Commission affirmed the initial decision and directed the CAISO to file a QF-specific pro forma Participating Generator Agreement.¹⁷ The proceeding concerning the QF-specific pro forma agreement provided the forum for addressing QF-specific issues. Therefore, we dismiss Issue B.5.c.

B.5.f. Is the CAISO's ability to redispatch a scheduling coordinator's portfolio on an involuntary basis through out-of-market payments (under which the CAISO pays only its real-time price) punitive and confiscatory?

17. Proponents¹⁸ oppose the CAISO's proposal under its Tariff Amendment No. 6 to give itself authority to redispatch supplemental energy from scheduling coordinators that did not bid into the supplemental energy market (*i.e.*, out-of-market dispatch). They also oppose the CAISO's Tariff Amendment No. 23, in which it proposed, among other things, to direct out-of-market dispatch as a congestion management tool and an alternative payment option for redispatched scheduling coordinators.¹⁹ Proponents request that the Commission limit the CAISO's authority to impose out-of-market orders on market participants to those situations necessary to address legitimate system emergencies. Proponents argue that neither the CAISO's original payment option under Amendment No. 6 nor its alternative payment option under Amendment No. 23 adequately compensates scheduling coordinators in all circumstances when an involuntary redispatch is ordered. They list examples of types of externality costs that they believe will not be compensated under this mechanism, including take-or-pay

¹⁷ See *California Independent System Operator Corp.*, Initial Decision, 96 FERC ¶ 63,015 (2001), *aff'd*, Opinion No. 464, 104 FERC ¶ 61,196 (2003).

¹⁸ Enron and WPTF.

¹⁹ Proponents were given the choice of accepting the hourly ex post imbalance energy price or an alternative option that included allowance for fuel-related start-up costs and verifiable gas imbalance charges.

penalties, pollution penalties, and maintenance costs. Proponents also assert that market resources will be forced to bid into the supplemental energy markets to avoid the risk that they will be under-compensated if they fail to bid.

18. The CAISO responds that proponents are using the Unresolved Issues proceeding to make an impermissible collateral attack on the Amendment No. 23 Order in which the Commission ruled on the scope of the CAISO's out-of-market dispatch authority and the alternative pricing mechanism that proponents dispute here,²⁰ and proponents did not request rehearing of that order. The CAISO further responds that proponents' proposal to limit the CAISO's dispatch authority to system emergencies would threaten the reliability of the California transmission system, and that proponents mischaracterize the CAISO's out-of-market dispatch authority. The CAISO asserts that, contrary to proponents' claims, the CAISO Tariff does limit out-of-market dispatch to reliability concerns, and even then, out-of-market dispatch is used only after other options have been exhausted. The CAISO points to sections 2.3.2.2 and 2.3.2.3 of its Tariff to show that consistent with its responsibility to safeguard short-term reliability, the CAISO will generally use its authority to exercise supervisory control over resources participating in its markets only when a real-time system problem or emergency either exists or could occur in the absence of CAISO action, and available market bids are either exhausted or would not be effective to resolve the problem. The CAISO expects to rarely rely on its authority to issue dispatch orders to non-Reliability Must-Run resources that have not submitted bids, but claims that it must have the authority to do so if it is to meet its responsibility to safeguard short-term reliability.

19. Moreover, the CAISO argues that it remains strongly committed to the market principles cited by proponents as underlying the CAISO Tariff, which the CAISO claims direct it, in addressing system reliability problems, to look first to the resources voluntarily made available by market participants, and only after these are exhausted is the CAISO to look to generating units, curtailable demands, and system resources, which may serve to alleviate the condition that threatens reliability. Furthermore, the CAISO

²⁰ In their reply, WPTF and Enron argue that their argument is not a collateral attack on the Amendment No. 23 Order. They contend that they are challenging the existing hourly ex-post price payment option (*i.e.*, the original payment method) and that the Commission, in the Amendment No. 23 Order, held that only the proposed alternative payment option – not the hourly ex-post price -- was at issue in that proceeding. They contend that the Commission contemplated allowing parties to challenge the existing hourly ex-post price payment option in the Unresolved Issues proceeding.

claims that its authority to redispatch resources is consistent with the Commission's ISO principles, as adopted in Order No. 888²¹ and reaffirmed in Order No. 2000.²²

20. The CAISO further argues that the proponents' second proposal creates an undue risk of overpayment by the CAISO for supplemental energy, with resulting inefficiencies. The CAISO believes that its out-of-market pricing mechanism is a fair approach which substantially reduces the possibility that generators will be required to operate at a loss in those situations when they are called out-of-market. The CAISO asserts that the Commission agreed with the CAISO when it accepted the pricing mechanism and recognized that "[while] this pricing mechanism may, on some occasions, result in payments that are higher than necessary to address concerns that rates equal out-of-pocket costs, and may, on other occasions, result in payments that fail to consider all opportunity costs (such as the untimely release of hydro generation), the ISO's proposal is a pragmatic approach to addressing generators' concerns which uses payment methods based, to the extent possible, on market data."²³ The CAISO asserts that its pricing mechanism represents a compromise between concerns about under-compensation, and other concerns about overpayment. Moreover, the CAISO contends that proponents' criticism of the CAISO's out-of-market pricing mechanism ignores the broader interests of all market participants. The CAISO points out that prior to being approved by the Commission,²⁴ the out-of-market pricing mechanism that proponents attack was finalized after a full stakeholder process and was approved by the CAISO governing board, which

²¹ The CAISO notes that in Order No. 888, the Commission recognized that "[t]he ISO may need to exercise some level of operational control over generation facilities in order to regulate and balance the power system, especially when transmission constraints limit trading," though it should rely, where possible, on market mechanisms. Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,731.

²² The CAISO asserts that in Order No. 2000, the Commission stated that the RTO should be able to exercise operational control over generation facilities if necessary to maintain reliability, though generally market mechanisms should be allowed to operate, and specifically the CAISO notes the Commission's statement that "for reliability purposes, the RTO should have full authority to order the redispatch of any generator, subject to existing environmental and operating restrictions that may limit a generator's ability to change its dispatch." Order No. 2000, FERC Stats. & Regs. ¶ 31,089, at 31,104.

²³ *California Independent System Operator*, 90 FERC ¶ 61,006, at 61,015 (2000).

²⁴ *Id.* at 61,014-15.

represents a broad spectrum of market participants, and was supported as well by end-use customers.

21. SCE, whose position is supported by PG&E, supports the CAISO's two payment options, as reflect in Amendment No. 23. SCE believes that the proponents' issue is more appropriately addressed in the following proceedings: the Amendment No. 23 proceeding; a proceeding in Docket No. ER00-1830-000 in which El Segundo Power, LLC (El Segundo) filed a proposal to set its own out-of-market price; and through a stakeholder process initiated by the CAISO to review this issue.

Commission Determination

22. We dismiss this issue because it is addressed under MRTU and the Amendment No. 23 Order. Proponents challenge the scope of the CAISO's out-of-market redispatch authority and the adequacy of both the original hourly ex-post price payment option conditionally accepted for filing in the Amendment No. 6 proceeding and the CAISO's alternative payment option that it proposed in Amendment No. 23. In the proceeding concerning Amendment No. 6, the Commission conditionally accepted the proposed Amendment No. 6 revisions for filing, and those issues not addressed in that order were made subject to the outcome of further orders.²⁵ However, in the El Segundo proceeding referenced by SCE, the Commission rejected El Segundo's proposal of its own rate for out-of-market dispatch, noted that the CAISO was engaged in a stakeholder process to develop a third payment option to address the concerns of participants, and held that the ongoing CAISO stakeholder process was the appropriate forum in the first instance for parties dissatisfied with their payment options to raise their concerns.²⁶ Further, in the Amendment No. 23 Order, the Commission accepted the CAISO's alternative payment option, rejecting the argument that it was unjust and unreasonable.²⁷

23. However, the Amendment No. 23 Order rejected the CAISO's proposal to expand its out-of-market dispatch authority to alleviate intra-zonal congestion. Instead, it ordered the CAISO to design a comprehensive replacement congestion management

²⁵ The Commission determined that parties would be permitted to reargue issues in light of updated circumstances upon the submittal of a compliance filing by the CAISO. *California Independent System Operator Corp.*, 82 FERC ¶ 61,327, at 61,294 (1998).

²⁶ *El Segundo Power, LLC*, 91 FERC ¶ 61,110, at 61,391 (2000), *reh'g denied*, 95 FERC ¶ 61,159 (2001).

²⁷ 90 FERC ¶ 61,006 at 61,015, *reh'g denied*, 91 FERC ¶ 61,026 at 61,086.

approach.²⁸ Under MRTU, the CAISO will conduct what it calls “exceptional dispatches,” which are discussed above concerning Issue B.5.b.

24. Accordingly, we dismiss Issue B.5.f.

B.5.g. With respect to Dispatch Protocol (DP) 10.2.8, should the CAISO be required to file a report notifying the Commission whenever the CAISO calls a system warning or emergency and, if so, should such a report contain information regarding any out-of-market generators it was required to dispatch?

25. The proponent, Dynegy, states that the CAISO has agreed to disclose information for calling out-of-market generation under the draft out-of-market protocol. The CAISO notes that it disseminates its declarations of system warnings or system emergencies to all market participants by e-mail and asserts that no purpose would be served by compiling reports for the Commission. SCE supports the posting of out-of-market information on the CAISO’s web page. In order to resolve this issue, the CAISO agrees to post such information per its draft protocols.

Commission Determination

26. The CAISO posts a Monthly Market Performance report on its web page, which lists total costs of out-of-market dispatch and the reasons for a given call. Therefore, we find that this issue has been resolved, and we dismiss Issue B.5.g.

B.5.k. Does DP 9.4.1, which concerns action required by generators in response to CAISO dispatch instructions, provide the CAISO too much discretion to shut down a generating unit?

27. Dynegy was the proponent, and as reflected in the Report on Outstanding Issues filed in the instant proceeding on March 11, 1999, Dynegy and the CAISO reached a proposed settlement based on a change to DP 9.4.1(h) of the CAISO Tariff. While Dynegy continues to support the proposed settlement as a mutually agreeable resolution to this issue, EPUC/CAC suggests additional changes, arguing that the Tariff provisions fail to properly consider the particular safety concerns related to operation of a thermal energy host facility (*i.e.*, a QF). The CAISO argues that additional changes are unwarranted.

²⁸ 90 FERC ¶ 61,006 at 61,013-14, *reh’g denied*, 91 FERC ¶ 61,026 at 61,085-86.

Commission Determination

28. As noted above concerning Issue B.5.c, the CAISO filed a QF-specific pro forma Participating Generator Agreement pursuant to Opinion No. 464, and the Commission accepted it for filing. Therefore, we dismiss Issue B.5.k.

B.6. With respect to the CAISO's communications with generators:

B.6.a. Whether the CAISO properly complied with the October 30 Order with respect to its modifications to CAISO Tariff sections 2.5.6.2 (Communication Equipment) and 2.5.22.10 (Dispatch Instructions)?

B.6.b. Whether section 2.5.6.2 improperly permits the CAISO to determine unilaterally which method of communication with the generator is appropriate?

29. The CAISO states that EPUC/CAC have withdrawn their advocacy of this issue, which was originally raised by Cities/M-S-R and settled in accordance with the resolution of Issue B.6.b. The CAISO further states that EPUC/CAC have withdrawn their opposition to that issue as well and that the CAISO agrees to modify its Tariff in accordance with the proposed settlement terms.

Commission Determination

30. In view of proponents' withdrawal of the issue and settlement between the parties, we find that this issue has been resolved. Within 30 days of the date of this order, the CAISO should file any modification that is necessary to reflect the settlement.

Issue C - Existing Rights

C.1. Should the CAISO and affected participating transmission owners (PTOs) be required under CAISO Tariff sections 2.4.4.1 *et seq.* to honor existing contract provisions and practices that allow netting in the accounting and billing treatment of wheeling in and wheeling out transactions?

31. The CAISO Tariff applies the wheeling access charge to service within the CAISO control area that is not covered by existing contracts.²⁹ The proponent, DWR, asserts

²⁹ In the Master Definitions section of the Tariff, "wheeling" is defined as wheeling out or wheeling through. "Wheeling Out" is defined as: "Except for Existing
(continued)

that the CAISO's application of the wheeling access charge would not allow DWR's practice, under its existing contracts, of netting the amounts of energy that it consumes and resells (and thus transmits in opposite directions). DWR argues that netting reflects actual transmission and actual system impacts. It contends that the CAISO allows netting by SMUD under an existing contract between PG&E and SMUD.

32. The CAISO responds that it receives instructions from the scheduling coordinator and that the interpretation of existing contracts is a matter between the contracting parties, and does not involve the CAISO. SCE argues that its existing contract with DWR does not permit netting of transmission schedules and that it will not instruct the CAISO to permit netting by DWR. It also disagrees that netting reflects actual transmission and actual system impacts.

Commission Determination

33. The parties do not dispute that the CAISO should honor existing contracts. But, DWR's dispute is not with the application of the CAISO's wheeling access charge. Rather, it is a dispute with SCE with respect to whether the contract between DWR and SCE permits netting for transmission by DWR and, in turn, whether SCE should instruct the CAISO accordingly. Those are matters between the contracting parties. We agree with the CAISO that it is not its responsibility to interpret scheduling coordinators' existing contracts; rather, it responds to instructions from the scheduling coordinator. Further, even if the CAISO does net SMUD's transmission pursuant to instructions from PG&E pursuant to an existing contract between SMUD and PG&E, that is not dispositive of whether SCE should instruct the CAISO to net DWR's transmission pursuant to the existing contract between SCE and DWR. Therefore, we find that the interpretation of DWR's contract with SCE is beyond the scope of this proceeding, and we dismiss Issue C.1.

Rights under an Existing Contract . . . , the use of the [CAISO] Controlled Grid for the transmission of Energy from a Generating Unit located within the ISO Controlled Grid to serve a Load located outside the transmission and distribution system of a Participating [Transmission Owner]." "Wheeling Through" is defined as: "Except for Existing Rights under an Existing Contract . . . , the use of the [CAISO] Controlled Grid for the transmission of Energy from a resource located outside the [CAISO] Controlled Grid to serve a Load located outside the transmission and distribution system of a Participating [Transmission Owner]." These definitions would be retained under MRTU.

N.3. Whether to add a new provision under § 2.2.6 (Responsibilities of a Scheduling Coordinator) to provide that a scheduling coordinator will continue to schedule power for seven days following notice to the CAISO and the utility distribution company that it will stop scheduling for an eligible customer?

34. Proponents³⁰ argue that a scheduling coordinator which is discontinuing its responsibility to schedule and report – to the CAISO – meter data for end-use customers should be required to give notice to the CAISO, and particularly to the utility distribution company where those customers are located. They seek a tariff provision for such notice so that the utility distribution company may include those customers in its load forecast and report those customers' meter data to the CAISO via the California PX. They argue that such a requirement is necessary to, among other things, meet the requirement for balanced schedules. The CAISO does not oppose proponents' recommended revision, but WPTF and Enron oppose it. In turn, proponents dispute WPTF's and Enron's arguments.

Commission Determination

35. This issue has been overtaken by events. Since the California PX has ceased operations, there is no reporting of information to the California PX. Further, under MRTU, the balanced schedule requirement will be eliminated. Therefore, we dismiss this issue.

The Commission orders:

(A) The Outstanding Issues are hereby addressed, as discussed in the body of this order.

³⁰ PG&E and SDG&E.

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(B) The CAISO is hereby directed to file within 30 days of the date of this order any modifications necessary to reflect the settlement of Issue B.6.a and B.6.b, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

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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)
Cogeneration Association of California (CAC)
Dynergy Power Marketing, Inc. (Dynergy)
Energy Producers and Users Coalition (EPUC)
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****B2. With respect to *inter-zonal* congestion management:**

B.2.a. Has the CAISO complied with the *October 1997 Order's* directive to make publicly available to market participants its Inter-zonal congestion management algorithm? Should the CAISO have to make available to scheduling coordinators its congestion management software and transmission database, and is the CAISO's refusal to provide this information to scheduling coordinators unjust and unreasonable?

1. Under MRTU, the CAISO will eliminate the distinction between inter-zonal and intra-zonal congestion management that exists under its current congestion management system. It will employ a full network model composed of network nodes interconnected with network branches. Under the CAISO's proposal, the use of the full network model would incorporate transmission losses and allow the model to enforce all network constraints, resulting in locational marginal prices (LMP) for energy that reflect the marginal cost of energy, losses and congestion. Under that proposal, LMPs would be produced at every node in the network. Thus, under MRTU, inter-zonal and intra-zonal congestion management would be eliminated as vestiges of the prior congestion management program. Further, in the MRTU proceeding, protestors argued that they should be allowed to see the CAISO's algorithm for its LMP proposal; that issue is being addressed in the MRTU proceeding. The September 21 MRTU Order directed the CAISO to provide a detailed description of its LMP calculation methodology.³¹

B.2.b. Whether Scheduling Protocol (SP) 10.3 addressing Congestion Management and pricing is sufficiently detailed to provide Market Participants with adequate information to determine, in advance, the cost of a particular schedule?

2. SP 10.3 is renumbered as § 27.1.1.4 in the current Tariff. Under MRTU, it will be deleted from the Tariff as a vestige of the prior market structure and congestion management program.

³¹ 116 FERC ¶ 61,274 at P 64.

B.2.e. Is the 3000-bus model adopted by the CAISO for prices and decisions on inter-zonal access anticompetitive, unjust or unreasonable, or should the CAISO adopt a simplified commercial 15-bus model, which treats all resources within a zone identically on a zonal basis?

3. This issue is tied to the proponents' argument that the CAISO should permit portfolio bidding, which the parties agree is more appropriately addressed in the congestion management process.³² Also, as noted above, under MRTU, the congestion management program will be revised.

B.3. With respect to *intra*-zonal congestion management:

B.3.a. Has the CAISO properly complied with the *October 1997 Order* at 61,478, regarding the filing of specific practices and procedures it uses to manage Intra-Zonal Congestion, including an explanation of pricing and billing for Intra-Zonal Congestion?

B.3.b. Whether the CAISO failed to properly implement the October 30, 1997 Order at 61,478 with respect to the deletion of sections 2.5.22.8, 7.2.1.4.2, and 7.3.2 of the CAISO Tariff?

B.3.c. Does section 2.5.22.8 of the CAISO Tariff give the CAISO excessive authority in managing intra-zonal congestion by extending its control over the dispatch of non-participating generators?

4. As noted above regarding issue B.2.a, under MRTU, the congestion management program would no longer be based on intra-zonal congestion management.

B.4. With respect to overgeneration:

B.4.a. Does the CAISO Tariff, particularly section 2.3.4, allow the CAISO to order reductions for overgeneration by entities that are operating in balance and/or did not cause the overgeneration problem in an unjust, unreasonable or unduly discriminatory manner. And, is section 2.2.4.4 of the CAISO Tariff, which provides that the CAISO can mitigate real-time overgeneration by requiring all scheduling coordinators to make pro rata cuts in their generation or imports,

³² See the June 7 Order, 115 FERC ¶ 61,300 at P 14 (dismissing the issue of whether the CAISO should be required to allow portfolio bidding).

contrary to the requirements in the October 1997 Order, which stated that those who cause overgeneration problems are responsible for alleviating those conditions. Is it also contrary to the Commission's directive to honor existing contracts?

5. These issues arose from the October 1997 Order's conclusion that the requirement that each scheduling coordinator's schedule be balanced between load and generation should apply during overgeneration conditions (i.e., circumstances in which the generation that was required to operate for regulatory, contractual, or other reasons exceeds demand).³³ However, under MRTU, the balanced schedule requirement will be eliminated.

B.4.b. Does Scheduling Protocol (SP) 10.2 fail to comply with the October 30 Order by failing to adopt and implement procedures for allocating transmission capacity on a pro rata basis to each scheduling coordinator when the CAISO reduces a scheduling coordinator's generation due to insufficient transmission capacity?

6. SP 10.2 was redesignated as § 27.1.1.5. Under MRTU, it will be removed as a vestige of the prior market structure and congestion management program.

B.4.c. Are the changes in Amendment No. 6 to the CAISO Tariff regarding overgeneration management and giving native load an implicit priority in congestion management inconsistent with prior Commission orders (regarding, inter alia, existing contracts) unduly discriminatory or otherwise unreasonable?

7. Some proponents raise issues related to real-time management of overgeneration conditions. Their arguments pertain to Issue B.4.a, which is summarily dismissed above. Only the California PX raised the implicit priority issue, and it has since withdrawn its arguments in the Unresolved Issues proceeding.

³³ October 1997 Order, 81 FERC at 61,526.

B.5.d. Has the CAISO improperly eliminated section 7.2.5.2.6 of the CAISO Tariff?

B.9. Is the failure of the CAISO to include ancillary services in its congestion management program unjust and unreasonable?³⁴

8. Dynegy argues that the CAISO's congestion management scheme under the original Tariff was intended to account for the effect of ancillary services on congestion. Dynegy asserts that the CAISO deleted Tariff provisions that did so, apparently because its software supplier's congestion management program failed to include ancillary services. According to Dynegy, the exclusion of ancillary services results in the CAISO understating congestion.

9. Under MRTU, locational ancillary services will be reflected in the new congestion management program.

B.5.e. Does section 7.2.5.2.7 of the CAISO Tariff unreasonably allow the CAISO to curtail generation and demand of non-participating transmission owners using resources that are not bid into the CAISO markets if adjustment bids do not alleviate congestion on the inter-zonal interface?

10. Section 7.2.5.2.7 was renumbered § 27.1.1.5.2.6. Under MRTU, it will be removed from the Tariff as a vestige of the prior market structure and congestion management program.

B.5.j. Is the CAISO's dispatch authority under DP 9.1.1 (Range of ISO Authority) and DP 9.5 (Failure to Comply with Dispatch Instructions) overbroad? Should DP 9.1.1 be modified to clarify that this provision is subject to other applicable Tariff requirements respecting existing contracts, and should DP 9.5 be modified to limit the CAISO's authority to dispatching units in the event of an actual system emergency?

11. DP 9.1.1(a)-(d) have been deleted as redundant with § 7.1.3(a)-(d).³⁵ DP 9.1.1(e) was deleted in part as redundant and added in part to § 7.1.3(e). DP 9.1.1(f)-(g) were

³⁴ The proponent Dynegy states that Issues B.5.d and B.9 concern the same issue.

³⁵ Section 7.1.3 concerns CAISO Control Center Authorities.

added to §§ 7.1.3(f)-(g). Under MRTU, § 7.1.3 will be revised and clarified. DP 9.5 was deleted as unnecessary.

B.5.i. Does DP 8.1.1 (Responsibility of the CAISO in Real-time Dispatch) unreasonably permit the CAISO to issue a dispatch order for a generator without the generator having submitted a bid that has been accepted and made final, or until such time as the CAISO has otherwise exhausted all market mechanisms provided to it under the CAISO Tariff, and thus must call a system emergency?

12. In the current Tariff, DP 8.1.1 was added in part and deleted in part as redundant with § 34.3. Under MRTU, the current § 34.3 (Real-Time Dispatch) will be deleted as not applicable under the proposed MRTU day-ahead market. A new § 34.3 (Real-Time Dispatch) will replace it.

B.6. With respect to the CAISO's communications with generators:

B.6.c. With respect to DP 3.4.4 (Consequences of a Failure to Respond or Inadequate Response): (1) should the CAISO be prohibited from imposing penalties, fines or sanctions as long as a generator is abiding by the terms of its contract with the CAISO? (2) If the CAISO bypasses the scheduling coordinator and communicates directly with the generator, should neither the scheduling coordinator nor the generator be subject to penalties?

13. DP 3.4.4 was added to § 34.8 of the Tariff. Under MRTU, it will be deleted as not applicable under the proposed MRTU day-ahead market.

B.7. Should information regarding price be included in the data provided to ISO dispatchers, pursuant to DP 8.6.3(e) (concerning the CAISO's basis for real-time dispatch) and Scheduling Protocol (SP) 11.2 (Stacking of the Energy Bids)?

14. DP 8.6.3(e) and SP 11.2 were renumbered §§ 34.3.0.2 and 34.1.2.3.2, respectively. Under MRTU, they will be deleted as not applicable under the proposed MRTU day-ahead market.

B.13.a. Has the CAISO failed to justify the change to CAISO Tariff section 2.5.22.4 (Supplemental Energy Bids) that supplemental energy bids must be submitted to the CAISO no later than 45 minutes prior to the opening hour rather than 30 minutes?

15. Section 2.5.22.4 was renumbered as § 34.9.1. Under MRTU, it will be deleted as not applicable under the proposed MRTU day-ahead market.

B.13.b. Should the CAISO be required to modify certain language relating to resources that provide imbalance energy at section 2.5.23.1 of the CAISO Tariff, as it allows the CAISO to use Regulation for imbalance energy?

16. Under MRTU, the CAISO will eliminate the imbalance requirement.

C.2. Is the CAISO's use of specific adjustment bid values for existing rights in Schedules and Bids Protocol (SBP) 4.6 appropriate and adequately justified or does it improperly modify the terms of existing contracts?

17. Under the simplification and reorganization of the Tariff in preparation for MRTU, SBP 4.6 was not carried over into the existing Tariff. Also, under MRTU, the CAISO will include a new bid submission process.

C.3. With respect to the honoring of existing rights:

C.3.a. Whether Scheduling Protocol (SP) 4.3, rather than assigning responsibility for losses under an existing contract to the PTO, should provide for losses to be specified in the operating instructions to be developed jointly by the PTO and the existing contract rights holder?

C.3.b. Whether SP 4.3 should indicate how the CAISO will determine for such differences in losses its mechanism acceptable to the PTO to roll any associated shortfall or surplus into the CAISO rates and charges applicable to the PTO in accordance with CAISO Tariff section 2.4.4.4.5?

C.3.c. Should the last sentence of CAISO Tariff section 2.4.4.4.5 be modified to eliminate an implication that an existing rights holder will be responsible for payment of additional rates or charges not contemplated by the existing contract, and to eliminate an inconsistency with section 2.4.4.4.3, which provides that the holders

of existing rights and non-converted rights shall continue to pay the providers of the existing rights and non-converted rights at the rates provided in the associated existing contracts?

C.3.d. Should the last sentence of section 2.4.4.4.5 be modified to eliminate the suggestion that existing rights may be subject to “the relevant CAISO Tariff,” which implies that such rights are subject to the Transmission Owner Tariff of the PTO with whom the existing rights holder has an existing contract?

C.3.e. Whether the Commission should clarify that the Transmission Owner Tariff will not be applicable to a party to an existing contract until and unless that party converts its rights and becomes a PTO?

18. Under MRTU, the CAISO will charge the scheduling coordinator for the existing transmission contract (ETC) for losses in accordance with the CAISO Tariff,³⁶ but the holder of the ETC will continue to pay in accordance with the existing contract. Any shortfall or surplus will be recovered bilaterally or through the Transmission Owner tariff.

C.4. With respect to CAISO Tariff provisions regarding existing rights and the CAISO’s compliance with the Commission’s orders regarding charges assessed to existing rights holders:

C.4.a. Does the CAISO have authority to charge existing rights holders using firm transmission contracts for intra-zonal congestion through the Grid Operations Charge?

19. Under the MRTU, the Grid Operations Charge will be eliminated.

C.4.b. Should CAISO Tariff sections 2.4.4.4.1 and 7.3.2 be amended to provide that holders of existing rights and non-converted rights shall have not responsibility for payment of Grid Operations Charges for load served by transmission service obtained pursuant to such rights in conformance with section 2.4.4.4.1, which provides that such rights holders have no responsibility for payment of Usage Charges?

³⁶ Under MRTU, the CAISO proposes to adopt locational marginal pricing. Losses would be assessed under the new LMP methodology.

C.4.c. Should CAISO Tariff sections 7.3.2 and 7.2.6.2 be amended to clarify that the CAISO may only utilize scheduling coordinators that provide adjustment bids to implement intra-zonal congestion management, unless emergency conditions exist, in which case CAISO Tariff section 5.1.3 shall apply?

20. Regarding Issue C.4.b, §§ 2.4.4.4.1 and 7.3.2 were renumbered as §§ 16.2.3.4.1 and 27.1.3, respectively. Both sections will be deleted under MRTU.

21. Regarding Issue C.4.c, § 7.2.6.2 was renumbered as § 27.1.1.6.2 and will be deleted under MRTU. As noted above, § 7.3.2, which is renumbered as § 27.1.3 of the existing Tariff, will be deleted under MRTU.

C.5. With respect to ISO operating instructions:

C.5.a. Whether SP 9.9 should provide for information regarding ancillary services under existing contracts to be set forth in the operating instructions to be developed jointly by the responsible PTO and the existing contracts rights holder?

C.5.b. Whether SBP 3.3.5.2 should require the CAISO to notify an existing rights holder, as well as a PTO, of any perceived problem with operating instructions submitted to the CAISO?

C.5.c. Whether the SBP, including SBP 3.3.5.1, 3.3.5.2 and 3.4, should be revised to provide that parties other than responsible PTOs may submit operating instructions, as provided by SBP 3.2?

C.5.d. Should SBP 3.3.5.2 be revised to more precisely define permissible bases for the CAISO's discretion to reject revised operating instructions and to limit the CAISO's discretion to delay as long as seven days in implementing those instructions?

22. Issue C.5.a has been overtaken by MRTU. Under MRTU, only one sentence of SP 9.9 will be retained, and a new Tariff provision, § 16.6.3(4), will address who the CAISO will charge for ancillary services. Regarding Issues C.5.b and C.5.d, under MRTU, SBP 3.3.5.2 will be moved to § 16.4.6 and modified to reflect the use of Transmission Rights & Transmission Curtailment (TRTC) instructions. Regarding Issue C.5.c, under MRTU: SBP 3.3.5.1 will be deleted and replaced by the use of TRTC instructions in § 16.4; SBP 3.4 will be removed as overtaken by a proposed new section that addresses ETC self-schedules; and operating instructions will be covered under the new TRTC instructions.

C.6. With respect to whether the CAISO has appropriately integrated scheduling rights under existing contracts:

C.6.a. Should CAISO Tariff section 2.4.4.5.1.6, which gives the CAISO the right to use existing rights and non-converted rights that have not been scheduled by the start of the CAISO's hour-ahead scheduling process be stricken if such a requirement is inconsistent with the existing rights or non-converted rights at issue?

C.6.b. Do sections 7.4.4, 7.5, 7.5.1 and 7.5.2 of the SP preserve existing contract rights that give parties scheduling flexibility after the close of the CAISO's hour-ahead scheduling process?

C.6.c. The justness and reasonableness of the CAISO's proposed treatment that any use of such existing contract scheduling flexibility gives rise to imbalance energy deviations to be priced and accounted to the scheduling coordinator for that rights holder.

C.6.d. Is the second sentence of CAISO Tariff section 2.4.4.5.1.6 inconsistent with the Commission's ruling that the CAISO must honor flexible scheduling rights?

C.6.e. Should the final sentence of CAISO Tariff section 2.4.4.5.1.6 be deleted as being inconsistent with the October 30 Order's directive that the CAISO must honor flexible scheduling rights?

C.6.f. Does SP 7.4.4 run counter to the contractual provisions for a majority of the holders of existing contracts, inasmuch as such rights holders can schedule up to 20 minutes before the operating hour, while the CAISO's market is two hours prior to the beginning of the operating hour?

23. Concerning Issues C.6a, C.6.d and C.6.e, § 2.4.4.5.1.6 was renumbered as § 16.2.4F and will be deleted under MRTU. Under MRTU, reservation of transmission capacity is addressed in proposed § 16.5.

24. Concerning Issue C.6.b, under MRTU, the CAISO will have authority to issue dispatch instructions pursuant to an exceptional dispatch for several purposes, including to accommodate existing transmission contracts after the hour-ahead scheduling process closes. Concerning Issue C.6.c, under MRTU, the balanced schedule requirement will be eliminated.

25. Concerning Issue C.6.f, SP 7.4.4 was renumbered as § 16.2.4F and will be deleted under MRTU.

C.7. Should the CAISO be required to implement CAISO Tariff section 2.4.4.3.1.4 by giving express recognition to different priorities for firm service under existing contracts on Path 15, for purposes of allocating constrained capacity and for purposes of allocating Usage and Wheeling Revenues for PTOs who have converted their existing contracts, and should the CAISO be required to reconcile CAISO Tariff sections 7.3.1.6 and 7.1.4.2 with section 2.4.4.3.1.4?

C.8. Should PTOs who are existing rights holders, but who do not own and operate transmission facilities and have no transmission customers, be required under CAISO Tariff sections 7.3.1.6 and 7.1.4.2 to develop an Access Charge, Transmission Revenue Requirement and/or Transmission Revenue Balance Account in order to receive Usage Charge and Wheeling revenues pursuant to CAISO Tariff section 2.4.4.3.1.4 upon conversion of their existing contracts?

26. Section 2.4.4.3.1.4 was renumbered as § 16.2.2.1.4. Under, MRTU, it will be moved to § 4.3.1.6(c). Section 7.3.1.6 was renumbered as § 27.1.2.1.6 and will be deleted under MRTU as a vestige of the prior market structure and congestion management program. Section 7.1.4.2 was renumbered as § 26.1.4.2 and will be retained under MRTU.

27. Issues concerning existing contracts have been, or are being, addressed in a proceeding concerning Path 15 and under MRTU. With respect to Path 15, in May 2001, the Secretary of Energy authorized Western Area Power Administration (Western) to explore ways to relieve Path 15 capacity constraints and increase reliability through transmission expansion in the Path 15 corridor. Construction of the Path 15 Upgrade was completed in late 2004 and the line was put into commercial operation on December 21, 2004. In June 2002, the Commission issued an order which accepted a letter agreement among Path 15 Participants that identified the parties' obligations and expected rate methodologies.³⁷ The Commission has also addressed issues pertaining to the transfer of

³⁷ *Western Area Power Administration*, 99 FERC ¶ 61,306, *reh'g denied*, 100 FERC ¶ 61,331 (2002), *aff'd sub nom. Public Utilities Commission of the State of California v. FERC*, 367 F.3d 925 (D.C. Cir. 2004).

Western's rights and interests in the Path 15 upgrade to the CAISO's operational control.³⁸

28. Under MRTU, transmission owner rights will not be turned over to the CAISO. If a transmission line is congested, the scheduling coordinator would receive a so-called "perfect hedge," reversing the congestion costs using congestion revenue rights as the hedge. The CAISO will withhold the transmission owner rights holder's congestion revenue rights from the market on behalf of the transmission owner rights holder.

³⁸ *California Independent System Operator Corp.*, 109 FERC ¶ 61,153 (2004), *order on reh'g*, 115 FERC ¶ 61,178 (2006).