

128 FERC ¶ 61,265
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation Docket Nos. ER09-1247-000
ER09-1247-001

ORDER CONDITIONALLY ACCEPTING TARIFF PROVISIONS, SUBJECT TO
MODIFICATION

(Issued September 17, 2009)

1. On June 1, 2009, as amended June 4, 2009,¹ the California Independent System Operator Corporation (CAISO) filed proposed amendments to the CAISO tariff to accelerate the process by which the CAISO invoices and settles market transactions through a payment acceleration program. In this order, we conditionally accept for filing, subject to modification, revised tariff sheets to be effective November 1, 2009, as requested. Also, we direct the CAISO to submit a compliance filing, as discussed below.

I. Background

2. In a previous order, the Commission accepted the CAISO's proposed revisions to its Market Redesign and Technology Upgrade (MRTU) tariff to implement a number of changes to its credit policy provisions, effective March 31, 2009.² At that time, the CAISO indicated that it planned to propose additional revisions to its credit policy to further lower market participants' exposure to credit risk. The CAISO stated that it would propose a payment acceleration program within a few months following the commencement of MRTU, and also would seek to reduce the maximum unsecured credit limit from \$150 million to \$50 million based upon recommendations from CAISO

¹ On June 4, 2009, the CAISO filed corrected tariff sheets to reflect a requested effective date of November 1, 2009. References in this order are to the CAISO transmittal in the June 4, 2009 filing in Docket No. ER09-1247-001.

² *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,285 (2009) (March 2009 Order).

management.³ The proposal to implement a payment acceleration program is the subject of the CAISO's June 4, 2009 filing.

II. CAISO Filing

3. The CAISO states that the proposed tariff revisions will establish a new payment acceleration program to shorten the time period in which it invoices and settles market transactions. The CAISO asserts that this proposed program is a critical step toward lowering the overall market's credit exposure and reducing the credit requirements market participants must meet under the CAISO tariff section 12.⁴ The CAISO also asserts that its tariff revisions may serve to encourage resource availability from out-of-state resources.

4. Under the proposed payment acceleration program, the CAISO will implement a semi-monthly invoicing program that will shorten its settlement and payment period to approximately 25 calendar days from its existing settlement and billing procedures that exceed 80 days.⁵ To meet this schedule, the CAISO proposes to revise the daily settlement procedures for market transactions and modify the meter data submission requirements for scheduling coordinators. In this regard, the CAISO proposes provisions that are designed to encourage scheduling coordinators to submit timely and accurate meter data. Together the new procedures and requirements will permit the CAISO to issue initial settlement statements within seven business days.

5. The payment acceleration program will allow market participants to review, validate and dispute settlement statements through an expedited payment timeline and substantially revised settlement dispute procedures. Specifically, the CAISO proposes a schedule for the CAISO to make adjustments to its settlement statements in five iterations of recalculated settlement statements issued at intervals of 38 business days, 76 business days, 18 months, 35 months and 36 months.⁶ The CAISO proposes to apply interest to adjustments made through the second recalculation settlement statement, i.e., 76 business days after the relevant trading day, to compensate scheduling coordinators for the time

³ March 2009 Order, 126 FERC ¶ 61,285 at P 12, n.8, citing CAISO January 29, 2009 transmittal letter at 4.

⁴ CAISO transmittal at 1.

⁵ *Id.* at 4. The CAISO proposes to issue invoices twice a month, at seven business days after the fifteenth and the last day of the month, with payments due five business days thereafter.

⁶ *Id.* at 3.

value of money. The CAISO's proposal also includes a 36-month sunset provision by which time any adjustments to settlement statements must be complete. The CAISO asserts that this sunset provision will further increase certainty for market participants and lower their overall credit exposure.

III. Notice of Filing, Motions to Intervene, and Responsive Pleadings

6. Notices of the CAISO filings were published in the *Federal Register*, 74 Fed. Reg. 31020 (2009) and 74 Fed. Reg. 28685 (2009), with interventions, comments, and protests due on or before June 22, 2009, and June 25, 2009, respectively.

7. A notice of intervention was filed by the California Public Utilities Commission. The following parties filed timely motions to intervene: Alliance for Retail Energy Markets, California Department of Water Resources State Water Project, the City of Santa Clara, California and the M-S-R Public Power Agency, Mirant Energy Trading, LLC, Mirant Delta, LLC and Mirant Potrero, LLC (collectively, Mirant Parties), Modesto Irrigation District, and Pacific Gas and Electric Company. A motion to intervene out-of-time was filed by Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.

8. The following parties submitted comments and/or protests along with their motions to intervene: Southern California Edison Company (SoCal Edison), Western Power Trading Forum (WPTF), Powerex Corp. (Powerex), Calpine Corporation (Calpine), Northern California Power Agency (NCPA) and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California (Six Cities). A joint motion to intervene and comment was filed by NRG Power Marketing LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo Power, LLC, Long Beach Generation LLC, Dynegy Morro Bay, LLC, Dynegy Moss Landing Bay, LLC, Dynegy Oakland, LLC, Dynegy South Bay, LLC, RRI Energy, Inc., J.P. Morgan Ventures Energy Corporation, and BE CA LLC (collectively, Joint Parties). The CAISO filed an answer to the comments and protests.

IV. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Also, pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2009), we grant the motion to intervene out-of-time filed by Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. given their interest in this proceeding, the early stage of this proceeding, and the absence of any undue prejudice or delay.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept the answer filed by the CAISO because it provided information that assisted us in our decision-making process.

V. Discussion

11. We conditionally accept the CAISO's proposed payment acceleration program. We find that the payment acceleration program should lower the market's credit exposure and reduce the amount of the credit requirements market participants must meet. A longer average cash clearing schedule exposes the CAISO to an increasing amount of outstanding market charges and payments, and exposes market participants to increased credit risk.⁷ Therefore, subject to the modifications discussed below, we find the proposal to be just and reasonable. We direct the CAISO to include these modifications in a compliance filing due 30 days from the date of issuance of this order.

A. Meter Data Requirements

12. The CAISO explains that initial settlement statements are to be calculated based on either actual or estimated settlement quality meter data.⁸ For CAISO metered entities, revenue quality meter data⁹ is validated, estimated, and edited by the CAISO to produce actual settlement quality meter data, and is made available to scheduling coordinators five business days from the trading day.¹⁰ Under the payment acceleration proposal, the CAISO will require that scheduling coordinators submit estimated or actual settlement quality meter data to the operational meter analysis and reporting application by noon on

⁷ See *Creditworthiness Policy Statement*, 109 FERC ¶ 61,186 (2004) at P 21-23 ("The size of credit risk exposure is, in large part, a function of the length of time between completion of the various parts of electricity transactions, i.e., the provision of service, the billing for service, and the payment of service.").

⁸ CAISO transmittal at 10, citing CAISO tariff section 11.1.5. The CAISO tariff defines Settlement Quality Meter Data as Meter Data gathered, edited, validated, and stored in a settlement-ready format, for Settlement and auditing purposes.

⁹ The CAISO tariff defines Revenue Quality Meter Data as Meter Data meeting the standards and requirements established and maintained by the CAISO.

¹⁰ CAISO transmittal at 10, citing CAISO proposed tariff section 10.2.1.3(a).

the fifth business day after the trading day.¹¹ In the event a scheduling coordinator or metered entity does not submit the data, the CAISO will produce estimated settlement quality meter data for the outstanding metered demand or generation for the initial settlement statement issued seven business days from the relevant trading day.¹² As discussed in more detail below, the CAISO proposes to set its meter data estimates to zero if the scheduling coordinator does not submit actual settlement quality meter data within 43 calendar days from the trading day.

1. Estimated Meter Data

13. The CAISO proposes to revise tariff section 11.1.5, which specifies the estimation methodology for meter data in the event a scheduling coordinator fails to submit actual or estimated meter data in time for the publishing of the initial settlement statement. The CAISO explains that its estimation of settlement quality meter data for metered generation is based on total expected energy and the dispatch of resources as calculated in the real-time market. The CAISO proposes to estimate settlement quality meter data for metered demand using the scheduled demand at Load Aggregation Points.¹³

14. In addition, the CAISO proposes that if the total actual system demand in real-time “is greater than 15 percent of the total estimated meter demand” when calculated five business days from the trading day, the CAISO will increase by 15 percent the scheduled demand at the Load Aggregation Point of scheduling coordinators that did not submit actual or estimated meter data.¹⁴ The CAISO notes that it does not propose to make participating load subject to a 15 percent increase because the load is price responsive.

¹¹ See Attachment C, page 13 of CAISO’s June 4, 2009 filing. The operational meter analysis and reporting program is a web-based application that allows users to view download, graph and submit settlement quality meter data. See <http://www.caiso.com/docs/2005/10/28/200510281045562024.html>. According to the CAISO, its proposal recognizes technological advancement in meter data collection and estimation; aligns with current requirements and processes for submitting settlement quality meter data; and leverages current metering infrastructures and file formats. See CAISO answer at 9.

¹² CAISO transmittal at 11, citing CAISO proposed tariff section 10.3.6.1.

¹³ *Id.*

¹⁴ *Id.* We understand the CAISO to mean that the increase in scheduled demand will be triggered when the total actual system demand in real-time exceeds the total estimated meter demand by more than 15 percent. See “Commission Determination” below.

Thus, the day-ahead schedule for participating load will become the demand forecast for participating load, making the 15 percent demand increase unnecessary.¹⁵

a. Protests and Comments

15. SoCal Edison protests the CAISO's proposed assessment of charges associated with the late submission of meter data.¹⁶ Specifically, SoCal Edison claims that the CAISO uses conflicting methodologies in first determining the initial estimated metered demand value at the Load Aggregation Point level and then subsequently deciding whether to increase the amount of CAISO estimated metered demand by 15 percent, as measured at the system level. SoCal Edison asserts that approving the CAISO's proposed methodology will cause an increase in the allocation of Unaccounted for Energy¹⁷ charges to scheduling coordinators within Transmission Access Charge Areas¹⁸ that submit accurate and reliable estimated meter demand by the required deadline. SoCal Edison claims that this increase in Unaccounted for Energy will occur because the CAISO's proposal will tend to mask TAC level meter errors, due to the dependency on system level load and meter data. SoCal Edison argues that assessing interest charges when estimated metered demand deviates from actual demand does not provide adequate relief.¹⁹

16. To address this concern, SoCal Edison requests that the Commission require the CAISO to retain the 15 percent threshold, but apply it at the TAC level instead of at the system level. SoCal Edison argues that this change would more accurately allocate

¹⁵ *Id.*

¹⁶ SoCal Edison comments at 3.

¹⁷ *See* CAISO tariff, Appendix A. Unaccounted for Energy is defined as the difference in energy, for each utility service area and settlement period, between the net energy delivered into the utility service area, adjusted for utility service area transmission Losses, and the total metered demand within the utility Service Area, adjusted for distribution losses using Distribution System loss factors approved by the Local Regulatory Authority.

¹⁸ The Transmission Access Charge (TAC) is designed to recover the CAISO's transmission revenue requirement. The TAC Area is a portion of the CAISO controlled grid with respect to which Participating Transmission Owners' high voltage transmission revenue requirements are recovered through a high voltage access charge. TAC Areas are listed in CAISO tariff Appendix F, section 3 of Schedule 3.

¹⁹ SoCal Edison comments at 3-4.

Unaccounted for Energy charges to the scheduling coordinators that fail to submit estimated metered data.²⁰

b. Answer

17. The CAISO disagrees with SoCal Edison that the estimation methodology should be modified. The CAISO explains that it considered the TAC-based methodology during the stakeholder process, but opted instead to use a system demand based approach. The CAISO explains that the system demand based approach “will produce a reasonably representative estimation of the outstanding metered Demand or Generation” for use in the initial settlement statement calculation.²¹ The CAISO states that if the estimation departs from actual data subsequently submitted, the estimation will be subject to adjustments and the application of interest to the incremental changes on the first recalculation settlement statement issued 38 business days from the relevant trading day.²²

18. In addition, the CAISO states that the proposed estimation methodology is designed to achieve the following goals: (1) minimize the deviations of real-time calculations due to differences between expected energy and the day-ahead schedules for generation; (2) minimize the impact of day-ahead charges; (3) minimize imbalances between payments made to suppliers and charges to demand due to estimations; (4) increase the incentive for scheduling coordinators to accelerate submission of accurate meter data and not be dependent on a CAISO meter data estimation; (5) recognize technology advancement in meter data collection and estimation; (6) align with current requirements and processes for submitting settlement quality meter data; and (7) leverage current metering infrastructures and file formats.²³

c. Commission Determination

19. In its answer, the CAISO identified a number of goals the estimation methodology was designed to meet. We find that these goals provide a reasonable basis for adopting the CAISO’s system demand approach. Therefore, we conditionally accept the CAISO’s proposed meter data estimation methodology, subject to clarification of certain tariff language.

²⁰ *Id.* at 4.

²¹ CAISO answer at 8.

²² *Id.* at 9.

²³ *Id.* at 8-9.

20. As noted above, our understanding of the estimation methodology is that the CAISO will increase scheduled demand by 15 percent for those scheduling coordinators who do not submit data for the initial settlement statement when total actual system demand in real-time exceeds total estimated meter demand by more than 15 percent. However, we find that a literal reading of proposed section 11.1.5 does not support this interpretation. The literal reading implies that the CAISO will compare 100 percent of actual demand to 15 percent of estimated demand, and if the former is the larger quantity, the CAISO will increase scheduled demand by 15 percent. We find that this methodology would not be reasonable because 100 percent of actual demand will virtually always exceed 15 percent of estimated demand. We do not believe this result is what the CAISO intended. We therefore direct the CAISO in its compliance filing to revise the proposed language of section 11.1.5 to conform it to the Commission's understanding of the estimation methodology, or to explain why such clarification is unnecessary.²⁴

21. SoCal Edison argues that the CAISO's proposal places an unjustified financial burden on those scheduling coordinators that submit accurate data on time and recommends that the Commission adopt SoCal Edison's alternative proposal. However, we find the CAISO's proposed meter data estimation methodology to be just and reasonable for the following reasons. As we state above, the CAISO's proposal achieves a reasonable balance among a number of important, competing goals. In addition, increased charges faced by scheduling coordinators will be subject to adjustment later in the settlement period. Furthermore, to the extent that the estimation departs from actual data subsequently submitted, the estimation will be subject to the application of interest to the incremental changes. This payment of interest will compensate the scheduling coordinators for carrying costs that they may incur.²⁵ For these reasons, we find the CAISO's proposal to be just and reasonable, and accept it, subject to the modifications explained herein. Under the Federal Power Act, the issue before the Commission is whether the CAISO's proposal is just and reasonable and not whether the proposal is

²⁴ For example, one way to conform section 11.1.5(b) to the Commission's interpretation would be to change the phrase "is greater than fifteen percent (15%) of the sum" to "is greater than one hundred fifteen percent (115%) of the sum."

²⁵ As discussed below, the Commission is requiring the CAISO in its compliance filing to revise proposed tariff section 11.29.10.2 to allow interest to accrue on incremental changes that may arise throughout the full 36 months of the settlement process. This payment of interest will further offset any financial burden that scheduling coordinators may incur. See "Interest Accrual" below.

more or less reasonable than other alternatives.²⁶ Therefore, because we find the CAISO's proposal to be just and reasonable, we need not assess the justness and reasonableness of SoCal Edison's alternative proposal.

2. Submission of Meter Data and Revised Meter Data

22. With respect to the submission of revised meter data, the CAISO proposes a new tariff section 10.3.6 which specifies the revised timing requirements for the submission of actual settlement quality meter data or scheduling coordinator estimated settlement quality meter data for each settlement statement. As proposed, scheduling coordinators must submit settlement quality meter data within five business days for it to be included in the initial settlement statement.²⁷

a. Protests and Comments

23. NCPA argues that the submission provisions for Wheeling Out and Wheeling Through Data, which is used to calculate the CAISO's Wheeling Access Charge, are inconsistent with the requirements in the new payment acceleration program.²⁸ NCPA proposes changes in section 26.1.4.4 to link the wheeling data submission process to the proposed payment acceleration meter data submission timeline.

24. Further, NCPA protests that tariff section 10.3.6.1 does not require a scheduling coordinator to submit actual settlement quality meter data until midnight 43 calendar days after the trading day. NCPA contends that the CAISO's tariff should preserve the ability of scheduling coordinators to update actual settlement quality meter data for the initial

²⁶See *Oxy USA, Inc. v. FERC*, 64 F.3d 679, 692 (1995) (under the Federal Power Act, as long as the Commission finds a methodology to be just and reasonable, that methodology "need not be the only reasonable methodology, or even the most accurate one"); cf. *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) (when determining whether a proposed rate was just and reasonable, the Commission properly did not consider "whether a proposed rate schedule is more or less reasonable than alternative rate designs").

²⁷ CAISO transmittal at 11.

²⁸ NCPA motion at 4. The current CAISO tariff section 26.1.4.4 requires scheduling coordinators to submit data for Wheeling Out and Wheeling Through transactions on the fifth day following the end of the month, for each trading day in a given month. The CAISO has not proposed to modify the tariff provisions governing the submission of data for these transactions.

settlement statement.²⁹ NCPA proposes tariff language to allow a scheduling coordinator that submits actual settlement quality meter data prior to the issuance of initial settlement statement to also submit revised data no later than midnight 43 calendar days after the trading day.³⁰

b. Answer

25. The CAISO states that NCPA did not question the timelines for submitting Wheeling Out and Wheeling Through Data during the stakeholder process for payment acceleration. However, the CAISO states that NCPA's suggestion does warrant consideration in a future stakeholder process.³¹

26. Further, the CAISO agrees with NCPA that requiring a more frequent submission rate than the current monthly submission of data for the assessment of Wheeling Access Charges would be more consistent with the provisions governing submission of meter data under the payment acceleration program.³² Therefore, the CAISO requests the opportunity to vet the issue with affected scheduling coordinators and to complete a system analysis by the end of August 2009. If this review results in a decision to proceed with a change, the CAISO states that it will take the steps necessary to obtain the requisite approvals from the CAISO Board of Governors and the Commission in order to allow the change to become effective on November 1, 2009, or shortly thereafter.³³

27. Finally, the CAISO contends that it did not intend to prevent a scheduling coordinator from submitting revised actual settlement quality meter data after five business days. The CAISO agrees with NCPA's proposed language and proposes to clarify this tariff provision in a compliance filing that allows a scheduling coordinator that timely submits actual settlement quality data no later than noon on the fifth business

²⁹ *Id.* at 5.

³⁰ *Id.* NCPA proposes the following change to the CAISO proposed tariff section 10.3.6.1: If a Scheduling Coordinator submits Actual Settlement Quality Meter Data for use in the Initial Settlement Statement T+7B calculation, the Scheduling Coordinator may also submit revised Actual Settlement Quality Meter Data no later than midnight on the forty-third calendar day after the Trading Day (T+43C) for use in the Recalculation Settlement Statement T+38B. "T" represents the trading day being settled, "B" denotes business days, and "C" denotes calendar days.

³¹ CAISO answer at 10.

³² *Id.*

³³ *Id.* at 11.

day for the calculation of the initial settlement statement to also submit revised actual settlement quality data no later than midnight 43 calendar days after the trading day for the first recalculation settlement statement.³⁴

c. Commission Determination

28. More frequent submission of Wheeling Out and Wheeling Through Data would be more consistent with the procedures for submission of meter data under the payment acceleration program. However, we recognize that other affected scheduling coordinators must have an opportunity to present feedback. Therefore, we accept the CAISO's commitment to perform a detailed analysis on the submission of Wheeling Out and Wheeling Through Data, which the CAISO states it expects to complete in August 2009.³⁵ Upon completion of this analysis, the CAISO may make an additional filing to implement any changes to tariff section 26.1.4.4 that may result from the stakeholder process.

29. Additionally, we accept the CAISO's clarification regarding the submission of revised actual settlement quality data. The CAISO's proposal should not be construed as preventing a scheduling coordinator from submitting revised actual settlement quality meter data after five business days. Therefore, we direct the CAISO to revise tariff section 10.3.6.2 to incorporate NCPA's proposed language and to include the proposed revisions in its compliance filing.

3. Retention Standard

30. The CAISO proposes to amend tariff section 10.1.2 to shorten the time period that the CAISO is required to retain revenue quality meter data and settlement quality meter data. The CAISO indicates that the proposed amendment eliminates the current requirement that the CAISO maintain a record of all revenue quality meter data and settlement quality meter data for a period of ten years in the CAISO's archive storage facilities.³⁶ The CAISO proposes to retain the data for 18 months on-site at the CAISO's facilities and for a period which allows for the re-run of data as required by the tariff and

³⁴ *Id.* at 7.

³⁵ We remind all participants, including NCPA, that they should raise relevant concerns, such as the timeliness for submitting Wheeling Out and Wheeling Through Data, during the relevant stakeholder process. The stakeholder process provides all parties with an efficient and collaborative mechanism to work through any concerns on their own in the first instance.

³⁶ CAISO transmittal at 20.

any adjustment rules of the local regulatory authority governing the scheduling coordinators and their end-use customers and the Commission.

a. Protests and Comments

31. Six Cities assert that the CAISO has not provided any substantive reason why the revision of the data retention period is necessary or appropriate.³⁷ Six Cities argue that the proposed retention standard is unduly vague and will create uncertainty with respect to the CAISO's obligations and the availability of data. Six Cities request the current data retention requirements remain in place, or that the sunset date be specified explicitly in the tariff.³⁸

b. Answer

32. The CAISO responds that it is proposing to amend the retention standard in section 10.1.2 so that the retention standards for revenue and settlement quality meter data are the same for all settlement data in general, as set forth in section 11.1(c).³⁹ The CAISO contends that settlement data and meter data are integral to performing re-runs, and as such they should be maintained for the same period of time. The CAISO argues that the modified retention standard is clear even though it is specified in terms other than a designated number of years.

c. Commission Determination

33. The CAISO states that it is amending section 10.1.2 so that the retention standard for revenue quality meter data and settlement quality meter data is the same as that set forth in section 11.1(c) for settlement data in general. Indeed, we note that the proposed language of section 10.1.2 is identical to the language of section 11.1(c), which the Commission has previously accepted. The Commission finds that it is reasonable to maintain the two types of data for the same period of time, given that both are needed to perform re-runs. Therefore, we will accept the proposed retention standard. Also, we disagree with Six Cities that the proposed standard is vague. Although the proposed retention standard is not solely expressed in terms of a stated number of years, it establishes that the CAISO will retain the data for as long as the Commission, local regulatory authorities and the tariff require to perform any re-runs. This means that the CAISO must meet all applicable retention standards required by Commission regulations,

³⁷ Six Cities protest at 4.

³⁸ *Id.*

³⁹ CAISO answer at 6.

as those regulations may be amended from time to time. Therefore, we reject Six Cities' proposed tariff modifications.

4. Penalties For Not Replacing Estimated Data with Actual Data

34. Under the payment acceleration program, the CAISO proposes to penalize scheduling coordinators who do not replace the CAISO estimated settlement quality meter data with actual settlement quality meter data within 43 calendar days, pursuant to proposed tariff section 37.5. The CAISO proposes tariff section 10.3.6.2(c), which states that the CAISO will not estimate a scheduling coordinator's metered entity's settlement quality meter data for any outstanding metered demand and/or generation for use in a recalculation settlement statement calculation. In addition, the CAISO tariff indicates that any previous CAISO estimated settlement quality meter data that the scheduling coordinator does not replace with actual settlement quality meter data within 43 calendar days after the trading day will be set to zero.⁴⁰

a. Protests and Comments

35. Six Cities assert that the CAISO should revise its proposed section 10.3.6.2(c) regarding the determination of charges to demand when estimated settlement quality meter data is not replaced with actual data.⁴¹ Six Cities argue that a policy of setting the data to zero is appropriate when applied to generation data, but when applied to demand, this policy would result in under-charges to scheduling coordinators for the metered demand. Six Cities request that the Commission direct the CAISO to explain how charges for metered demand will be determined and collected if the responsible scheduling coordinator does not replace the estimated settlement quality meter data within 43 calendar days.⁴²

b. Commission Determination

36. The proposed section 10.3.6.2(c) should be revised with respect to its application to metered demand. While setting estimated metered generation to zero would provide an incentive for a scheduling coordinator to submit actual settlement quality meter data, the incentive would disappear in the case of setting estimated metered demand to zero. Also, it is not clear how any sanctions that may apply to the scheduling coordinator under section 37.5 would overcome this lack of incentive. Therefore, we direct the CAISO to

⁴⁰ CAISO transmittal at 12.

⁴¹ Six Cities protest at 5.

⁴² *Id.*

include with its compliance filing revisions to section 10.3.6.2(c) that set forth the process by which metered demand will be determined, and appropriate charges collected, if a scheduling coordinator does not replace the CAISO's estimated settlement quality meter data within 43 calendar days.

B. Settlement Statement Disputes

37. The CAISO explains that the payment acceleration proposal includes (1) revised procedures and time frames for market participants to submit disputes concerning discrepancies or errors for any item contained in the CAISO issued settlement statements; (2) requirements for the initiation and scope of disputes; (3) treatment of valid disputes; and (4) recourse of the disputing party in the event that it disagrees with the CAISO's resolution of the matter.⁴³

1. Schedule for Submission of Disputes

38. Under the payment acceleration program, market participants are allowed to dispute items in the initial settlement statement and incremental changes in subsequent recalculation settlement statements according to the following schedule: (1) within 14 business days of an initial settlement statement; (2) within 18 business days from the publication of the first recalculation settlement statement; (3) within 12 months from the relevant trading day for the second recalculation settlement statement; (4) within 19 months from the relevant trading day for the third recalculation settlement statement; and (5) no later than seven calendar days from the publication date of the fourth recalculation settlement statement. In general, if a market participant disagrees with the CAISO's resolution of a dispute, it may initiate good faith negotiations with the CAISO within 30 days of the date of the CAISO's response to the dispute. However, if a market participant disagrees with the CAISO's resolution of a dispute regarding the fourth recalculation settlement statement, the CAISO proposes to require market participants to use the dispute resolution process contained in tariff section 13.

a. Protests and Comments

39. Six Cities contend that the CAISO's proposed timeline of seven calendar days for market participants to dispute incremental changes in the fourth recalculation settlement statement, which is issued at 35 months from the trading day, is unreasonably short.⁴⁴ By comparison, Six Cities indicate that the proposal allows market participants eight months

⁴³ CAISO transmittal at 15-17, citing CAISO proposed tariff section 11.29.8.4.1 through section 11.29.8.4.6.

⁴⁴ Six Cities protest at 5.

to dispute changes appearing in the second recalculation settlement statement. Six Cities suggest that the minimum period for reviewing settlement statements should be 10 business days. Six Cities assert that extending the final recalculation settlement statement beyond 36 months from the relevant trading day is acceptable if the CAISO needs additional time to compile the relevant information.⁴⁵

b. Commission Determination

40. We will accept the CAISO's proposal to allow market participants no more than seven calendar days to dispute incremental changes in the fourth recalculation settlement statement. We find that seven calendar days should provide market participants with sufficient time to identify any disputes that may arise regarding the fourth recalculation settlement statement, given that the market participants and the CAISO have had, at that point in the settlement process, 35 months to achieve an accurate settlement of market transactions.

2. Settlement Dispute Resolution

41. The current CAISO tariff provides in sections 11.29.8.5 and 11.29.8.6 that the CAISO must respond to settlement statement disputes no later than 25 business days after receiving a dispute. However, under the payment acceleration program, the CAISO proposes to provide no deadline by which it must respond to these disputes.

42. Also, the CAISO's proposal contains a sunset provision whereby the CAISO will finalize all adjustments to settlement statements, including those arising from disputes, within 36 months after the relevant trading day. The CAISO would only make further adjustments by direction of the CAISO Board of Governors or order of the Commission.⁴⁶

a. Protests and Comments

43. Six Cities request that the existing time period for CAISO to respond to disputes be retained. Six Cities contend that the CAISO provided no justification for the elimination of the dispute response timeline. Six Cities assert that scheduling coordinators must initiate good faith negotiations of a dispute no later than 30 days after the date of the CAISO's response to the dispute; however, there is no indicated timeline for the CAISO to provide its response.⁴⁷

⁴⁵ *Id.* at 6.

⁴⁶ CAISO proposed tariff section 11.29.8.4.6.

⁴⁷ Six Cities protest at 7-8.

44. Similarly, Powerex asserts that the CAISO should add language to its tariff specifying that it will respond to market participants' disputes within a set period of time.⁴⁸ Powerex contends that this additional language will assure market participants that disputes are being addressed in a timely manner. Also, although Powerex believes that 36 months should be an adequate length of time to resolve most disputes, it requests that the Commission direct the CAISO to clarify the steps a market participant can take, if any, to address a dispute that has not been resolved after the 36 month sunset date and further adjustments are prohibited.⁴⁹

b. Answer

45. The CAISO contends that opposition to the deletions of sections 11.29.8.5 and 11.29.8.6 is based on a misunderstanding of the proposed amendments.⁵⁰ The CAISO states that these sections have been replaced with greatly expanded provisions on disputes and exceptions in proposed new section 11.29.8.4. In addition, the CAISO states that it will include in the appropriate Business Practice Manual detailed process information and a timeline for the CAISO's responses to disputes. In response to Powerex's concern, the CAISO states that the proposed section 11.29.8.4.6 recognizes the right of CAISO or a disputing party to seek redress from the Commission in accordance with the Federal Power Act for a dispute that is not timely resolved before the final recalculation settlement statement.⁵¹

c. Commission Determination

46. We find merit in the requests of Six Cities and Powerex that the tariff provisions implementing the CAISO's payment acceleration program should state the length of time within which the CAISO must respond to a valid settlement dispute. The CAISO indicates that it will include in a Business Practice Manual detailed process and timeline information for the CAISO's response to a settlement dispute. While it is appropriate to include some of this detail in a Business Practice Manual, we find that the maximum number of days that the CAISO has to respond to a dispute is a key parameter in the CAISO's settlement process, especially given the potential 36 month length of that process. We therefore conclude that the maximum number of days that the CAISO has to

⁴⁸ Powerex comments at 4.

⁴⁹ *Id.* at 5.

⁵⁰ CAISO answer at 11.

⁵¹ *Id.*

respond to a dispute significantly affects rates, terms and conditions and of service, and under our “rule of reason,” this deadline should be included in the tariff itself.⁵²

47. Therefore, we direct the CAISO to include in its compliance filing tariff revisions that set forth the length of time within which the CAISO must respond to a settlement dispute. We note that the current tariff provides in sections 11.29.8.5 and 11.29.8.6 that the CAISO must respond to settlement statement disputes within 25 business days. While we will allow the CAISO to propose the same or a different time period for its payment acceleration program, we will require the CAISO in its compliance filing to justify the time period that it proposes.

48. Regarding Powerex’s request for clarification of the steps that a market participant can take to address a dispute that has not been resolved after the 36 month sunset date, we find that no such clarification is needed. We find that it is important to have a date by which the settlement process is deemed to be final and the proposed sunset date provides an appropriate time limit for bringing the process to a close. Moreover, as the CAISO notes, and as proposed section 11.29.8.4.6 makes clear, both the CAISO and the disputing party may seek redress from the Commission for any dispute that is not timely resolved before the final recalculation settlement statement is issued.

C. Interest Accrual

49. Under section 11.29.10.2, the CAISO will apply interest at the Commission-approved rate to any deviation through the second recalculation settlement statement, with interest calculated separately for the two billing periods for each month, i.e., from the first to the fifteenth day of the month and from the sixteenth to the last day of the month.⁵³ The CAISO explains that during the stakeholder process, it considered applying interest to settlement statements issued subsequent to the second recalculation settlement statement, but rejected this approach because it anticipates that the amount of

⁵² Whether provisions included in the Business Practice Manuals must be filed under section 205 of the Federal Power Act and made part of a tariff is determined through the “rule of reason,” which provides that those provisions that significantly affect rates, terms and conditions of service must be filed for Commission approval and included within the tariff. *See generally Public Serv. Comm’n of N.Y. v. FERC*, 813 F.2d 448, 454 (D.C. Cir. 1987); *Midwest Indep. Transmission Sys. Operator, Inc.*, 98 FERC ¶ 61,137, at 61,401 (2002).

⁵³ CAISO transmittal at 17.

interest associated with adjustments to incremental changes from statement to statement will be very small and tracking the interest would require a lengthy manual process.⁵⁴

1. Protests and Comments

50. As noted above, SoCal Edison argues that the CAISO's proposed metered demand estimation methodology places an unjustified financial burden on scheduling coordinators that comply with the metered demand estimation rules.⁵⁵ SoCal Edison protests that, although the CAISO's interest proposal will provide some compensation to those scheduling coordinators, the cumulative cost and potential increased credit requirements due to temporary unaccounted for energy charges may do more harm to scheduling coordinators than the additional benefits from receiving interest payments.

51. Further, SoCal Edison and Six Cities argue that interest should be applied consistently across the entire payment cycle rather than ending at 76 business days. SoCal Edison contends that because the payment acceleration program will be a permanent feature of MRTU, initial concerns over the manual process required to calculate the accrual of interest are not valid.⁵⁶ SoCal Edison cites to the New York Independent System Operator, Inc. (NYISO) practice as precedent for applying interest throughout the entire payment cycle.⁵⁷ SoCal Edison argues that under the payment acceleration program, interest will be applied to disputed quantities only in cases where the disputes are resolved prior to the issuance of the second recalculation settlement statement.⁵⁸ Similarly, Six Cities support the application of interest at the Commission-approved rate to all adjustments to settlement statements, whenever they occur.⁵⁹ Six Cities contend that terminating interest after 76 business days is unjust and unreasonable given the CAISO's proposal to remove from its tariff any timeline for responding to disputes.⁶⁰

⁵⁴ *Id.* at 18.

⁵⁵ SoCal Edison comments at 3.

⁵⁶ *Id.* at 4.

⁵⁷ NYISO Billing and Accounting Manual, section 1.3.1, Page 1-5.
<http://www.nyiso.com/public/webdocs/documents/manuals/administrative/acctbillmnl.pdf>

⁵⁸ SoCal Edison comments at 5.

⁵⁹ Six Cities protest at 6.

⁶⁰ *Id.* at 7.

2. Answer

52. The CAISO responds that the interest provision is meant to compensate scheduling coordinators for the time value of money and to remove the financial incentive for scheduling coordinators to submit unreasonable estimates of metered data.⁶¹ The CAISO states that it limited the application of interest to align with the use of estimated meter data in calculating these statements. Subsequent statements under the payment acceleration program are calculated using actual settlement quality meter data. For this reason, the CAISO does not believe that extending interest to subsequent settlement statements is warranted. The CAISO anticipates that incremental changes in the latter settlement statements will likely be limited, and the dollar amount of interest very small. The CAISO anticipates that calculating interest for each and every time segment would require implementation of a detailed manual process and significant expenditure of resources.⁶²

3. Commission Determination

53. The application of interest to incremental changes in settlement statements is important to compensate scheduling coordinators for the time value of money and to remove the financial incentives for scheduling coordinators to submit unreasonable estimates of meter data. While the latter objective may become less important after 76 business days because estimates are no longer used in the recalculations, we find that compensating scheduling coordinators for the time value of money is an important objective throughout the proposed settlement process. Under the payment acceleration program, that process is 36 months long. Thus, the interest that could accrue on incremental changes that occur well after 76 days could be substantial. This is especially true in cases where a scheduling coordinator submits a valid dispute that is not resolved until after the second recalculation settlement statement has been issued, and the resolution of the dispute results in a large incremental change in favor of the scheduling coordinator. Also, we are not persuaded by the CAISO's argument that tracking the interest payments after the second recalculation settlement statement will require a large expenditure of resources. The CAISO will have in place systems for tracking interest accruing through the period ending with the publication of the second recalculation settlement statement. Using those same systems to track the interest that accrues on the incremental changes that are likely to occur after that period should not be difficult. Therefore, we direct the CAISO to include in its compliance filing revisions to section

⁶¹ CAISO answer at 13.

⁶² *Id.* at 13-14.

11.29.10.2 that will allow interest to accrue on incremental changes that may arise throughout the full 36 months of the settlement process.⁶³

D. Lowering Unsecured Credit Limit

54. CAISO's current tariff at section 12 contains comprehensive creditworthiness provisions designed to ensure that market participants satisfy creditworthiness standards or post financial security sufficient to cover all of their financial obligations in the CAISO settlement process, and to discourage defaults in the CAISO's markets. The creditworthiness provisions require each market participant to secure its transactions with the CAISO by maintaining an unsecured credit limit and/or by posting financial security. Under section 12.1.1, the maximum unsecured credit limit for any market participant is \$150 million.

1. Protests and Comments

55. Joint Parties and Powerex contend that the CAISO has not acted upon its commitment to reduce the unsecured credit limit to \$50 million concurrent with the implementation of the payment acceleration program.⁶⁴ Joint Parties and Powerex request that the Commission direct the CAISO to clarify its intent to implement the reduction to the unsecured credit limit. If the CAISO intends to reduce the unsecured credit limit to \$50 million, Powerex requests that the Commission require the CAISO to modify section 12.1.1 accordingly, and to provide market participants with further information on what changes it proposes to make to the Business Practice Manuals, if any, to make the unsecured credit limit reduction effective. Joint Parties note that there is still time to implement a concurrent reduction in the unsecured credit limit if the CAISO files separately to do so.

2. Answer

56. The CAISO indicates that during the stakeholder process for payment acceleration, the CAISO discussed its intent to reduce the \$150 million maximum unsecured credit limit to a lesser amount commensurate with the decrease in credit risk

⁶³ Also, as noted above, this change should alleviate SoCal Edison's concern that the payment of interest will not provide adequate compensation for the Unaccounted for Energy charges that it may incur under the CAISO's proposed metered demand estimation methodology.

⁶⁴ Joint Parties comments at 7-8; Powerex comments at 5-6, citing March 2009 Order, 126 FERC ¶ 61,285 at P 34.

resulting from a shortened payment timeline.⁶⁵ The CAISO states that at the December 16, 2008 meeting of the Board of Governors, CAISO management approved a recommendation to reduce the maximum unsecured credit limit to \$50 million. The CAISO states that it did not propose to change the maximum unsecured credit limit in the payment acceleration filing because it wanted to re-evaluate the intended \$50 million maximum to determine if it remains the appropriate limit in light of the new MRTU market implemented March 31, 2009.⁶⁶ The CAISO anticipates completing its review and taking action as necessary so that the appropriate maximum unsecured credit limit amount is in effect coincident with the November 1, 2009 implementation date for payment acceleration.⁶⁷

3. Commission Determination

57. On September 4, 2009, the CAISO filed a proposed tariff amendment to reduce its maximum unsecured credit limit to \$50 million.⁶⁸ The filing is pending action before the Commission. We will address in that proceeding any concerns that parties have with the CAISO's proposal.

E. Miscellaneous Issues

1. Weekly Invoicing

58. The CAISO explains that during the stakeholder process, it considered Calpine's suggestion that it institute a weekly invoicing cycle. The CAISO indicates that while it plans to establish weekly invoicing, at this stage it recommends that the payment acceleration program begin by utilizing semi-monthly invoicing.⁶⁹

a. Protests and Comments

59. Calpine asserts that the CAISO tariff builds in excessive time delays between trade dates and invoice dates, and between invoice dates and subsequent payment dates.⁷⁰ As a

⁶⁵ CAISO answer at 18.

⁶⁶ *Id.* at 18-19.

⁶⁷ *Id.* at 19-20.

⁶⁸ *See* Docket No. ER09-1681-000.

⁶⁹ CAISO transmittal at 6-8.

⁷⁰ Calpine comments at 3.

result, Calpine contends that these time delays expose market participants to excessive credit risk due to potential defaults and/or bankruptcies. Therefore, Calpine requests that the Commission direct the CAISO to follow through expeditiously on its commitment to move to weekly invoicing. Calpine asserts that weekly invoicing, in combination with accelerated payment dates, will further decrease the credit and default risks in the CAISO market and eliminate inefficient market behavior by market participants in an effort to mitigate their exposure to default risk.⁷¹

b. Answer

60. The CAISO explains that it considered Calpine's suggestion to include weekly invoicing as part of the initial deployment of the payment acceleration program. However, the CAISO determined that moving first to semi-monthly invoices would serve as a more reasonable transition to a weekly cycle. The CAISO objects to Calpine's request that the Commission direct the CAISO to meet an arbitrary deadline for weekly invoicing. The CAISO argues that it is prudent to deploy and obtain experience with settlements under semi-monthly invoicing before committing to a definitive date for initiating weekly invoicing.⁷²

61. Also, the CAISO notes that stakeholders have advised the CAISO that they have developed sophisticated and expensive settlements programs to verify CAISO settlements and are concerned that they have sufficient opportunity to verify that their programs are functioning properly with the new markets. The CAISO states that it will work with stakeholders to develop an appropriate timeline for implementing weekly invoicing in conjunction with market design initiatives contemplated by the CAISO's 2009 Roadmap process.⁷³

c. Commission Determination

62. Although weekly invoicing could further limit market participants' exposure to credit risk, we find that the CAISO's proposal to establish a payment acceleration program initially using semi-monthly invoicing is just and reasonable. The payment acceleration program should result in a significant reduction in market participants' credit exposure as compared to payment and settlement provisions of the existing tariff. As explained by the CAISO, moving first to semi-monthly invoicing serves as a reasonable

⁷¹ *Id.* at 4.

⁷² CAISO answer at 15.

⁷³ See CAISO's Catalog of Market Design Initiatives June 2009, posted on the CAISO's Website at <http://www.aiso.com/23cb/23cbe0fd29060.pdf>.

transition to a weekly cycle. Although weekly invoicing and accelerated payment dates should further decrease the credit and default risks in the CAISO market, it is reasonable to allow CAISO and stakeholders a sufficient opportunity to verify that their settlement programs are functioning properly under payment acceleration, before further changes to the invoicing and payment timelines are made.

2. Notice Period for Non-Routine Invoices

63. Section 11.29.10.3 of the currently effective CAISO tariff requires the CAISO to publish a market notice 30 days prior to issuing a non-routine invoice or payment advice. Under the payment acceleration program, the CAISO proposes to delete the 30-day market notice provision.

a. Protests and Comments

64. Six Cities protest that the CAISO has not justified its removal of the existing requirement for a 30-day notice to market participants. Six Cities contend that the 30-day notice provision is appropriate to alert market participants to anticipate a non-routine invoice or payment advice.⁷⁴

b. Answer

65. The CAISO indicates that the removal of the 30-day notice requirement permits the items covered by the provision (post-closing adjustments and the financial settlement of disputes) to be settled quickly, either by separate invoices or in the next monthly invoice. However, the CAISO states that it will revise section 11.29.10.3 in a compliance filing to require that a market notice be published at least five business days in advance of a non-routine invoice or payment advice. The CAISO argues that the shortened notice period strikes a reasonable balance by providing the timely alert sought by Six Cities while also allowing for quicker invoicing and settlement timelines.⁷⁵

c. Commission Determination

66. The CAISO's commitment to revise section 11.29.10.3 to require that a market notice be published at least five business days in advance of a non-routine invoice or payment advice is reasonable when understood in the context of the overarching goal of minimizing default risk through speedier billing and settlement procedures. Accordingly, five days should provide sufficient notice for non-routine invoicing and strikes a fair balance by assuaging the concerns raised by Six Cities within this context. We therefore

⁷⁴ Six Cities protest at 7.

⁷⁵ CAISO answer at 16.

direct the CAISO to revise section 11.29.10.3 as necessary to include the proposed revisions in its compliance filing.

3. Sunset Date for Transition Period

67. The CAISO proposes that new payment acceleration timelines apply to trading days beginning with the effective date of November 1, 2009.⁷⁶ The CAISO indicates that transactions for trading days prior to that effective date will continue to be settled under the terms of the currently effective metering and settlement provisions of the CAISO tariff. To accommodate two settlement timelines in effect for a transitional period, the CAISO's payment acceleration filing incorporates the existing provisions of tariff sections 10 and 11 in a separate Appendix H.

a. Protests and Comments

68. SoCal Edison asserts that the proposed sunset date for the tariff modification made to Appendix H is in conflict with the proposed effective date of November 1, 2009, requested by the CAISO. SoCal Edison requests that the Commission require the CAISO to update the sunset date of Appendix H to be consistent with the requested effective date of the payment acceleration tariff provisions.⁷⁷

b. Answer

69. The CAISO explains that although it changed the effective date for its proposed payment acceleration program from October 1, 2009 to November 1, 2009, it inadvertently did not make the corresponding change to the tariff provisions regarding trading days to which Appendix H will apply.⁷⁸ To remedy this tariff conflict, the CAISO represents that it will revise Appendix H to clarify that the metering and settlement provisions of the currently effective CAISO tariff will apply to all market transactions that occur prior to the November 1, 2009, effective date for payment acceleration.⁷⁹

⁷⁶ CAISO transmittal at 20.

⁷⁷ SoCal Edison comments at 5.

⁷⁸ CAISO answer at 17.

⁷⁹ *Id.*

c. **Commission Determination**

70. We direct the CAISO to revise Appendix H, as it has proposed, to clarify that the metering and settlement provisions of the currently effective CAISO tariff will apply to all market transactions that occur prior to the November 1, 2009 effective date, and to include this revision in its compliance filing.

4. **Request for Waiver**

71. The CAISO requests a waiver of section 35.3 of the Commission's regulations⁸⁰ to permit the tariff sheets implementing the payment acceleration program to become effective November 1, 2009, which is more than 120 days after the date of the CAISO's filing. The CAISO explains that the timing of this filing was directed by the CAISO Board of Governors to allow all interested entities to resolve any disputed issues prior to the implementation of the payment acceleration program.⁸¹

Commission Determination

72. We find good cause to grant the CAISO's uncontested request for waiver of the 120-day prior notice requirements, to allow the CAISO tariff revisions to become effective November 1, 2009.

The Commission orders:

(A) The CAISO's revised tariff sheets are hereby conditionally accepted, subject to modification, effective November 1, 2009.

(B) The CAISO is granted a waiver of section 35.3 of the Commission's regulations to permit the tariff sheets conditionally accepted herein to become effective November 1, 2009.

⁸⁰ 18 C.F.R. § 35.3 (2009).

⁸¹ CAISO transmittal at 21.

(C) The CAISO is hereby directed to submit, within 30 days of the date this order issues, a compliance filing to modify the tariff, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.