

ISO Enforcement Protocol

ISO ENFORCEMENT PROTOCOL

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ISO ENFORCEMENT PROTOCOL (“EP”)

EP 1 OBJECTIVES, DEFINITIONS, AND SCOPE

EP 1.1 Purpose

This Protocol sets forth the guiding principles for participation in the markets administered by the California Independent System Operator. The specified Rules of Conduct are intended to provide fair notice to Market Participants of the conduct expected of them, to provide an environment in which all parties may participate on a fair and equal basis, to redress instances of gaming and other instances of anticompetitive behavior, and thereby to foster confidence of Market Participants, ratepayers and the general public in the proper functioning of the ISO markets.

EP 1.2 Objectives

The objectives of this Protocol are to:

- (a) Provide clear Rules of Conduct specifying the behavior expected of Market Participants; and
- (b) Establish in advance the Sanctions and other potential consequences for violation of the specified Rules of Conduct.

EP 1.3 Master Definitions Supplement

Unless the context otherwise requires, any word or expression defined in the Master Definitions Supplement to the ISO Tariff shall have the same meaning where used in this Protocol. References to a Section or Appendix are to a section of or an appendix to the ISO Tariff. References to EP are to this Protocol or to the stated section or paragraph of, or appendix to, this Protocol.

EP 1.4 Special Terms for This Protocol

In this Protocol, the following words and expressions shall have the meanings set opposite them:

- (a) “**FERC**” means the Federal Energy Regulatory Commission.

- (b) **“Market Behavior Rules”** mean those rules established by FERC under Docket No. EL01-118.
- (c) **“Market Manipulation”** has the meaning set forth in EP 7.
- (d) **“Market Monitoring Unit”** means the component of the ISO organization (currently the “Department of Market Monitoring”) that is assigned responsibility in the first instance for the functions of a Market Monitoring Unit, as that term is used in Docket No. EL01-118.
- (e) **“Rules of Conduct”** refers to the rules set forth in EP 2 through EP 7.
- (f) **“Sanction”** is a consequence specified in this EP for the violation of a Rule of Conduct, which may include a) a warning letter notifying the Market Participant of the violation and future consequences specified under this EP if the behavior is not corrected, or b) financial penalties. Neither referral to FERC nor rescission of payment for service not provided shall constitute a Sanction.

EP 1.5 Rules of Interpretation

Unless the context otherwise requires, if the provisions of this Protocol and the ISO Tariff conflict, the ISO Tariff will prevail to the extent of the inconsistency. Provisions of the ISO Tariff have been summarized or repeated in this Protocol only to aid understanding.

A reference in this Protocol to a given agreement, ISO Protocol, or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented, or restated through the date as of which such reference is made. This EP does not modify the terms of any ISO agreements or the relationship of those agreements to the ISO Tariff.

The captions and headings in this EP are inserted solely to facilitate reference and shall have no bearing upon the interpretation of any of the terms and conditions of this Protocol.

EP 1.6 Scope

The EP applies to:

- (a) Scheduling Coordinators;
- (b) Utility Distribution Companies (UDCs);
- (c) Metered Subsystems (MSSs);

- (d) Participating Transmission Owners (PTOs);
- (e) Participating Generators;
- (f) Control Area Operators, to the extent the agreement between the Control Area Operator and the ISO so provides;
- (g) Operators;
- (h) Other Market Participants;
- (i) The ISO; and
- (j) FERC

EP 1.7 Liability of ISO

Any liability of the ISO arising out of or in relation to this Protocol shall be subject to Section 14 of the ISO Tariff as if references to the ISO Tariff were references to this Protocol.

EP 1.8 Application of Other Remedies

The activities and remedies authorized under this Protocol are in addition to any other actions or relief that may be available to the ISO elsewhere in the ISO Tariff or under law, regulation or order. Nothing in this Protocol limits or should be construed to limit the right of the ISO to take action or seek relief otherwise available to it, and such action or relief may be pursued in lieu of or in addition to the action or relief specified in this Protocol.

EP 1.9 FERC Authority

In addition to any authority afforded Market Monitoring Unit in this Protocol, FERC shall have the authority to assess the sanctions, and otherwise to enforce the rules as set forth and described in this Protocol. FERC shall have authority to remedy a violation under this Protocol from the date of the violation. Nothing in this Protocol shall be deemed to be a limitation or condition on the authority of FERC or other entities under current law or regulation.

EP 1.10 Administration of the EP

The Market Monitoring Unit will administer the Rules of Conduct specified herein, except for EP 7, which shall be administered by FERC, and except as provided in EP 2.5 and EP 4.4. Nothing in this Protocol limits or should be construed to limit the ability of components of the ISO organization other than the Market Monitoring Unit to analyse data and refer matters to the Market Monitoring Unit for enforcement.

EP 2 COMPLY WITH OPERATING ORDERS

EP 2.1 Compliance with Orders Generally

- (a) **Expected Conduct.** Market Participants must comply with operating orders issued by the ISO as authorized under the ISO Tariff. For purposes of enforcement under this EP 2, an operating order shall be an order(s) from the ISO directing a Market Participant to undertake, a single, clearly specified action (e.g., the operation of a specific device, or change in status of a particular Generating Unit) that is feasible and intended to resolve a specific operating condition. A Market Participant's failure to obey an operating order containing multiple instructions to address a specific operating condition will result in a single violation of EP 2. If some limitation prevents the Market Participant from fulfilling the action requested by the ISO, then the Market Participant must promptly and directly communicate the nature of any such limitation to the ISO. Compliance with ISO operating orders requires a good faith effort to achieve full performance as soon as is reasonably practicable in accordance with Good Utility Practice.
- (b) **Sanctions.** The Sanction for a violation of this Section shall be the greater of the quantity of Energy non-performance multiplied by the applicable Hourly Ex Post Price or the following: for the first violation in a rolling twelve (12) month period, \$5,000; for the second and subsequent violations in a rolling twelve (12) month period, \$ 10,000. Sanctions under EP 2.1 will not be greater than \$10,000 per violation and will be subject to the limitation stated in EP 2.6. If a quantity of energy cannot be objectively determined, then the financial sanctions specified above will apply. A Market Participant may incur Sanctions for more than one violation per day.

EP 2.2 Failure to Curtail Load

- (a) **Expected Conduct.** A UDC or MSS Operator shall promptly comply with any ISO operating order to curtail interruptible or firm load issued pursuant to the ISO's authority under Section 4.4.4 of the ISO Tariff.
- (b) **Sanctions.** The Sanction for non-compliance with an operating order to curtail load will be \$10,000 for each violation.

EP 2.3 Operations & Maintenance Practices

- (a) **Expected Conduct.** Market Participants shall undertake such operating and maintenance practices as necessary to avoid contributing to a major outage or prolonging response time as indicated by Section 2.3.2.9.3 of the ISO Tariff.

- (b) **Sanctions.** The Sanction for a violation of EP 2.3 will be \$10,000.

EP 2.4 Must-Offer Denials/Revocations

- (a) **Expected Conduct.** A Market Participant shall start a Generating Unit and have that Generating Unit operating at minimum load within 30 minutes of the time at which a must-offer waiver revocation becomes effective, or report the derate, outage or other event outside the control of the Market Participant that prevents the Generating Unit from being started by such time. Notwithstanding the foregoing, no violation shall occur unless the Market Participant has been provided advance notice of the waiver revocation consistent with the relevant start-up time set forth in the ISO Master File. A Market Participant that fails to perform in accordance with the expected conduct described in this EP 2.4(a) shall be subject to Sanction.
- (b) **Sanctions.** The Sanctions for a violation of EP 2.4 shall be as follows: for the first violation in a rolling twelve (12) month period, \$5,000; for the second and all subsequent violations in a rolling twelve (12) month period, \$10,000. A Market Participant is limited to one Sanction per Generating Unit per calendar day.

EP 2.5 Enhancements and Exceptions

Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of EP 2.1 through EP 2.4 if an ISO System Emergency exists at the time an operating order becomes effective or at any time during the Market Participant's non-performance. Notwithstanding the foregoing, violations of EP 2.1 through EP 2.4 are subject to penalty under this rule only to the extent that the ISO has issued a separate and distinct non-automated Dispatch Instruction to the Market Participant. Any penalty amount that is tripled under this provision and that would exceed the \$10,000 per day penalty limit shall not be levied against a Market Participant until the ISO proposes and the Commission approves such an enhancement. A Market Participant that is subject to an enhanced penalty amount under this EP 2.5 may appeal that penalty amount to FERC if the Market Participant believes a mitigating circumstance not covered in EP 9.2 exists. The duty of the Market Participant to pay the enhanced penalty amount will be tolled until FERC renders its decision on the appeal.

EP 2.6 Per-Day Limitation on Amount of Sanctions

The amount of Sanctions that any Market Participant will incur for committing two or more violations of EP 2.1 through EP 2.4 on the same day will be no greater than \$10,000 per day.

EP 3 SUBMIT FEASIBLE ENERGY AND ANCILLARY SERVICE BIDS AND SCHEDULES

EP 3.1 Bidding Generally

- (a) **Expected Conduct.** Market Participants must bid and schedule Energy and Ancillary Services from resources that are reasonably expected to be available and capable of performing at the levels specified in the bid and/or schedule, and to remain available and capable of so performing

based on all information that is known to the Market Participant or should have been known to the Market Participant at the time of bidding or scheduling.

- (b) **Consequence for Non-Performance.** A Market Participant that fails to perform in accordance with the expected conduct described in EP 3.1 (a) above shall be subject to having the payment rescinded for any portion of an Ancillary Service that is unavailable.

EP 3.2 Exceptions.

Violations of EP 3.1 that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.2.4.1.2 of the ISO Tariff may be assessed or for which payments have been eliminated under Section 2.5.26 of the ISO Tariff are not subject to Sanction under this section. The submission of a Schedule that causes, or that the ISO expects to cause Intra-Zonal Congestion shall not, by itself, constitute a violation of EP 3.1 unless the Market Participant fails to comply with an obligation under the ISO Tariff to modify Schedules as determined by the ISO to mitigate such congestion or such Schedules violate another element of this Rule.

EP 4 COMPLY WITH AVAILABILITY REPORTING REQUIREMENTS

EP 4.1 Reporting Availability

- (a) **Expected Conduct.** A Market Participant shall report to the ISO Control Center any Outage of a Generating Unit subject to Section 5 of the ISO Tariff within thirty (30) minutes after the Outage occurs, in accordance with Section 2.3.3.9.2 of the ISO Tariff.
- (b) **Sanctions.** The Sanctions for a violation of EP 4.1 shall be as follows: for the first violation in a rolling twelve (12) month period, a warning letter; for the second violation in a rolling twelve (12) month period, \$1,000; for the third violation in a rolling twelve (12) month period, \$2,000; for the fourth and subsequent violations in a rolling twelve (12) month period, \$5,000. A Market Participant shall not be subject to more than one Sanction per Generating Unit per calendar day for violating EP 4.1. A "violation" shall mean each failure to report an Outage as required.

EP 4.2 Scheduling and Final Approval of Outages

- (a) **Expected Conduct.** A Market Participant shall not undertake an Outage except as approved by the ISO Outage Coordination Office in accordance with Sections 2.3.3.2, OCP 4.2, and OCP 5.1 of the ISO Tariff. A Market Participant shall not commence any Outage without obtaining final approval from the ISO Control Center in accordance with Sections 2.3.3.8, OCP 4.3.6, OCP 4.3.8, OCP 5.7, OCP 5.8, and OCP 6 of the ISO Tariff.

- (b) **Sanctions.** The Sanctions for a violation of EP 4.2 shall be as follows: for the first violation within a rolling twelve (12) month period, \$5,000; for subsequent violations within a rolling twelve (12) month period, \$10,000. A "violation" shall mean each Outage undertaken for which all required approvals were not obtained.

EP 4.3 Explanation of Forced Outages

- (a) **Expected Conduct.** A Market Participant, within two working days of the commencement of a Forced Outage, must provide an explanation of the Forced Outage to the ISO that includes a description of the equipment failure or other cause and a description of all remedial actions taken by the Operator, in accordance with Section 2.3.3.9.5 of the ISO Tariff. An Operator must promptly provide information requested by the ISO to enable the ISO to review the explanation submitted by the Operator and to prepare a report on the Forced Outage.
- (b) **Sanctions.** The Sanction for failing to provide a timely explanation of Forced Outage shall be \$500 per day for each day the explanation is late. The Sanction for failing to provide a timely response to information requested shall be as specified in EP 6.1.

EP 4.4 Enhancements and Exceptions

Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of EP 4.1 through EP 4.3 that occurs during an ISO System Emergency. Violations of the above rules that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.2.4.1.2 of the ISO Tariff may be assessed shall not be subject to Sanction under this EP 4. A Market Participant that is subject to an enhanced penalty amount under this EP 4.4 may appeal that penalty amount to FERC if the Market Participant believes a mitigating circumstance not covered in EP 9.2 exists. The duty of the Market Participant to pay the enhanced penalty amount will be tolled until FERC renders its decision on the appeal.

EP 5 PROVIDE FACTUALLY ACCURATE INFORMATION

EP 5.1 Accurate Information Generally

- (a) **Expected Conduct.** All applications, Schedules, reports, and other communications by a Market Participant or agent of a Market Participant to the ISO, including maintenance and outage data, bid data, transaction information, and load and resource information, must be submitted by a responsible company official who is knowledgeable of the facts submitted. The Market Participant shall provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with FERC, FERC-approved market monitors, FERC-approved regional transmission organizations, or FERC-approved independent system operators, or jurisdictional transmission providers, unless the Market Participant exercised due diligence to prevent such occurrences.

- (b) **Sanctions.** The Sanctions for a violation of EP 5.1 shall be as follows:
for the first violation within a rolling twelve (12) month period, \$2,500; for
the second violation within a rolling twelve (12) month period), \$5,000;
subsequent violations within a rolling twelve (12) month period, \$10,000.

EP 5.2 Inaccurate Meter Data

- (a) **Expected Conduct.** Market Participants shall provide complete and accurate Settlement Quality Meter Data for each Trade hour and shall correct any errors in such data prior to the issuance of Final Settlement Statements. Failure to provide complete and accurate Settlement Quality Meter Data, as required by Section 10 of the ISO Tariff and that results in an error that is discovered after issuance of Final Settlement Statements, shall be a violation of this rule.
- (b) **Sanctions.** Violations under this EP 5.2 shall be subject to Sanction described in Appendix A to this EP.
- (c) **Disposition of Sanction Proceeds.** For purposes of redistributing collected penalties, any amounts collected under this provision shall be applied first to those parties affected by the conduct. Any excess amounts shall be disposed of as set forth in EP 9.4.

EP 6 PROVIDE INFORMATION REQUIRED BY ISO TARIFF

EP 6.1 Required Information Generally

- (a) **Expected Conduct.** Except as provided below in EP 6.4 (Review by FERC), all information that is required to be submitted to the ISO under the ISO Tariff, ISO protocols, or jurisdictional contracts must be submitted in a complete, accurate, and timely manner. Market Participants must comply with requests for information or data by the ISO authorized under the ISO Tariff, including timelines specified in the ISO Tariff for submitting Schedules and other information.
- (b) **Sanctions.** Except as otherwise provided below, in EP 6.2 and EP 6.3, a violation of this rule is subject to a penalty of \$500 for each day that the required information is late.

EP 6.2 Investigation Information

- (a) **Expected Conduct.** Except as provided below in EP 6.4 (Review by FERC), Market Participants must submit timely information in response to a written request by the ISO for information reasonably necessary to conduct an investigation authorized by the ISO Tariff.
- (b) **Sanctions.** The Sanction for a violation of EP 6.2 shall be as follows: for the first violation in a rolling 12-month period, \$1000/day; for the second violation in a rolling 12-month period, \$2000/day; for the third and subsequent violations in a rolling 12-month period, \$5000/day. For purposes of this subsection, a violation shall be each failure to provide a full response to a written request and the Sanction shall be determined from the date that the response was due until a full response to the request is received.

EP 6.3 Audit Materials

- (a) **Expected Conduct.** Except as provided below in EP 6.4 (Review by FERC), Market Participants shall comply with the ISO's audit and/or test procedures, and further shall perform and timely submit an annual self-audit as required under the ISO Tariff.
- (b) **Sanctions.** For failure to submit an annual SC Self Audit report, the Sanction shall be \$1000/day until such report is received by the ISO. For all other violations of this rule the Sanctions shall be as follows: for the first violation in a rolling 12-month period, \$1000/day; for the second violation in a rolling 12-month period, \$2000/day; for the third and subsequent violations in a rolling 12-month period, \$5000/day. For purposes of this subsection, a "violation" shall be each failure to provide all information required under the audit or test, from the date that the information was due until all required information is received by the ISO.

EP 6.4 Review by FERC

A Market Participant who objects to an information, audit or test obligation that is enforceable under EP 6.1, 6.2 or 6.3 above shall have the right immediately (and in all events, no later than the due date for the information) to seek review of the obligation with FERC. In the event that such review is sought, the time for submitting the response or other information to the ISO shall be tolled until FERC resolves the issue.

EP 7 NO MARKET MANIPULATION

EP 7.1 Market Manipulation Generally

- (a) **Expected Conduct.** Actions or transactions that are without a legitimate business purpose and that are intended to or foreseeably could manipulate market prices, market conditions, or market rules for electric energy or electricity products are prohibited. Actions or transactions by a Market Participant that are explicitly contemplated in the ISO Tariff or are undertaken at the direction of the ISO are not in violation of this Rule of Conduct.
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.2 Wash Trades

- (a) **Expected Conduct.** Market Participants shall not engage in pre-arranged offsetting trades of the same product among the same parties, which involve no economic risk and no net change in beneficial ownership (sometimes called "wash trades").
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.3 False Information

- (a) **Expected Conduct.** A Market Participant shall not engage in transactions predicated on submitting false information to transmission providers or other entities responsible for operation of the transmission grid (such as inaccurate load or generation data; or scheduling non-firm service or products sold as firm), unless the Market Participant exercised due diligence to prevent such occurrences.
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.4 Artificial Congestion

- (a) **Expected Conduct.** A Market Participant shall not engage in transactions in which it first creates artificial congestion and then purports to relieve such artificial congestion (unless the Market Participant exercised due diligence to prevent such an occurrence).
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 7.5 Collusion

- (a) **Expected Conduct.** Market Participants shall not engage in collusion with another party for the purpose of manipulating market prices, market conditions, or market rules for electric energy or electricity products.
- (b) **Sanctions.** Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.

EP 8 PROCESS FOR INVESTIGATION AND ENFORCEMENT

EP 8.1 Purpose; Scope

The provisions of this EP 8 set forth the procedures by which the Market Monitoring Unit will independently investigate potential violations of the Rules of Conduct and administer enforcement activities. Except as hereinafter provided, and except as provided in EP 2.5 and EP 4.4, the provisions of this section apply to the Rules of Conduct set forth in EP 2 through EP 7.

EP 8.2 Referrals to FERC

EP 7 shall be enforced by FERC, in accordance with FERC's rules and procedures. The Market Monitoring Unit shall refer to FERC and its staff all matters in which it has formed a reasonable belief that a violation of EP 7 may have occurred. Although EP 2 through EP 6 will generally be enforced by the Market Monitoring Unit, the Market Monitoring Unit shall refer to FERC any matter for which the particular circumstances preclude the objective

determination of a Rules of Conduct violation, and shall refer to FERC any Sanction that it believes should be modified in accordance with EP 2.5, EP 4.4, or EP 9.1. The time limitation contained in EP 10.1 to assess a Sanction under this Protocol shall be determined as of the date that a Sanction is initially assessed by the ISO, excluding the time required for FERC to investigate a potential Rules of Conduct violation and/or determine a Sanction in accordance with this section, EP 2.5, EP 4.4, or EP 9.1.

EP 8.3 Investigation

The Market Monitoring Unit shall conduct a reasonable investigation seeking available facts, data, and other information relevant to the potential Rules of Conduct violation.

EP 8.4 Notice

The Market Monitoring Unit shall provide notice of the investigation in sufficient detail to allow for a meaningful response to the Scheduling Coordinator and, as limited below, to all Market Participants the Scheduling Coordinator represents that are the subject(s) of the investigation. The Market Monitoring Unit shall contact the Market Participant(s) that may be involved, so long as the ISO has sufficient objective information to identify and verify the role of the Market Participant(s) in the potential Rules of Conduct violation. Such Market Participant(s) will likely have an existing contractual relationship with the ISO (e.g., UDC, MSS, ISO Metered Entity, Participating Transmission Owner, Participating Generator, or Participating Load).

EP 8.5 Opportunity to Present Evidence

The Market Monitoring Unit shall provide an opportunity to the Market Participant(s) that are the subject(s) of the investigation to present any issues of fact or other information relevant to the potential Rules of Conduct violation being investigated. The Market Monitoring Unit shall consider all such information or data presented.

EP 8.6 Results of Investigation

The Market Monitoring Unit shall notify the Market Participant(s) that are the subject(s) of the investigation of the results of the investigation. The Market Participant(s) shall have 30 days to respond to the findings of the Market Monitoring Unit before the Market Monitoring Unit makes a determination of whether a Sanction is required by this EP.

EP 8.7 Statement of Findings and Conclusions

Where the investigation results in a Sanction, the Market Monitoring Unit shall state its findings and conclusions in writing, and will make such writing available to the Scheduling Coordinator and, as provided in EP 8.4, to the Market Participant(s) that are the subject(s) of the investigation.

EP 8.8 Officer Representative

Where an investigation results in a Sanction by the Market Monitoring Unit, the Market Monitoring Unit shall direct its notice of such result to a responsible representative of the Scheduling Coordinator and, as provided in EP 8.4, to the Market Participant(s) that are the subject(s) of the investigation at the officer level.

EP 8.9 Record of Investigation

Where an investigation results in a Sanction, the Market Monitoring Unit will maintain a record of the investigation until its decision has been finally reviewed, if review is sought, or until the period for seeking review has expired.

EP 8.10 Review of Determination

A Market Participant that receives a Sanction may obtain immediate review of the Market Monitoring Unit's determination by directly appealing to FERC, in accordance with FERC's rules and procedures. In such case, the applicable Scheduling Coordinator shall also dispute the Preliminary Settlement Statement containing the financial penalty, in accordance with Section 11 of the ISO Tariff. The Preliminary Settlement Statement dispute and appeal to FERC must be made in accordance with the timeline for raising disputes specified in Section 11.7.2 of the ISO Tariff. The penalty will be tolled until FERC renders its decision on the appeal. The disposition by FERC of such appeal shall be final, and no separate dispute of such Sanction may be initiated under Section 13 of the ISO Tariff, except as provided in EP 9.3(d). For the purpose of applying the time limitations set forth in EP 10.1, a sanction will be considered assessed when it is included on a Preliminary Settlement Statement, whether or not the ISO accepts a Scheduling Coordinator's dispute of such Preliminary Settlement Statement pending resolution of an appeal to FERC in accordance with this section or EP 9.3(c).

EP 9 ADMINISTRATION OF SANCTIONS

EP 9.1 Assessment; Waivers and Adjustments

Penalty amounts for violation of these Rules of Conduct shall be calculated as specified in EP 2 through 7. A Sanction specified in this EP may be modified by FERC when it determines that such adjustment is just and reasonable. The ISO may make a recommendation to FERC to modify a Sanction. An adjustment generally shall be deemed appropriate if the prescribed Sanction appears to be insufficient to deter the prohibited behavior, or if the circumstances suggest that the violation was inadvertent, unintentional, or some other mitigating circumstances exist.

EP 9.2 Excuse

The following circumstances shall excuse a violation of a Rule of Conduct under the terms of this Protocol:

- (a) **Uncontrollable Force.** No failure by a Market Participant to satisfy the Rules of Conduct shall be subject to penalty to the extent and for the period that the Market Participant's inability to satisfy the Rules of Conduct is caused by an event or condition of Uncontrollable Force affecting the Market Participant; provided that the Market Participant gives notice to the ISO of the event or condition of Uncontrollable Force as promptly as possible after it knows of the event or condition and makes all reasonable efforts to cure, mitigate, or remedy the effects of the event or condition.
- (b) **Safety, Licensing, or Other Requirements.** Failure by a Market Participant to perform its obligations shall not be subject to penalty if the Market Participant is able to demonstrate that it was acting in accordance with Section 2.3.1.2.1 of the ISO Tariff.
- (c) **Emergencies.** Failure by a Market Participant to perform its obligations may not be subject to penalty if the Market Participant is able to demonstrate that it was acting in good faith and consistent with Good Utility Practice to preserve System Reliability in a System Emergency, unless contrary to an ISO operating order.
- (d) **Conflicting Directives.** To the extent that any action or omission by a Market Participant is specifically required by a FERC Order or ISO operating order, the Market Participant may not be subject to penalty for that act or omission.

EP 9.3 Settlement

- (a) **Settlement Statements.** The ISO will administer any penalties issued under this Enforcement Protocol through Preliminary Settlement Statements, and Final Settlement Statements issued to the responsible Scheduling Coordinator by the ISO. Before invoicing a financial penalty through the Settlement process, the ISO will provide a description of the penalty to the responsible Scheduling Coordinator and all Market Participants the Scheduling Coordinator represents that are liable for the penalty, when the ISO has sufficient objective information to identify and verify responsibility of such Market Participants. The ISO shall specify whether such penalty is **modified** pursuant to EP 2.5, EP 4.4, or EP 9.1. The description shall include the identity of the Market Participant that committed the violation and the amount of the penalty. Where FERC has determined the Sanction, the ISO will provide such of the above information as is provided to it by FERC. The ISO also may publish this information under the ISO Home Page after Final Settlement Statements are issued.
- (b) **Payment.** Except as provided in EP 2.5, EP 4.4, **EP 8.10**, or EP 9.3(c) below, the Scheduling Coordinator shall be obligated to pay all penalty amounts reflected on the Preliminary and Final Settlement Statements to the ISO pursuant to the ISO's Settlement process, as set forth in Section 11 of the ISO Tariff.
- (c) **Other Responsible Party.** Where a party or parties other than the Scheduling Coordinator is responsible for the conduct giving rise to a penalty reflected on a Preliminary or Final Settlement Statement, and where the Scheduling Coordinator bears no responsibility for the conduct, such other party or parties ultimately shall be liable for the penalty. Under such circumstances, the Scheduling Coordinator shall use reasonable efforts to obtain payment of the penalty from the responsible party(ies) and to remit such payment to the ISO in the ordinary course of the settlement process. In the event that the responsible party(ies) wish to dispute the penalty, or the Scheduling Coordinator otherwise is unable to obtain payment from the responsible parties, the Scheduling Coordinator shall notify the ISO and dispute the Preliminary Settlement Statement. The ISO promptly shall notify FERC. If the ISO finds that a Market Participant separate from the Scheduling Coordinator that is unable to obtain payment from the responsible party(ies) is solely responsible for a violation, the Scheduling Coordinator that is unable to obtain payment may net its payment of its Invoice amount by the amount of the penalty in question. The ISO may refuse to offer further service to any responsible party that fails to pay a penalty, unless excused under the terms of the Tariff or this Enforcement Protocol, by providing notice of such refusal to the Scheduling Coordinator. Following such notice, the Scheduling Coordinator shall be liable for any subsequent penalties assessed on account of such responsible party.

- (d) **Dispute of FERC Sanctions.** The right that a Market Participant may otherwise have under the Tariff or this Enforcement Protocol to dispute a penalty that has been determined by FERC shall be limited to a claim that the ISO failed properly to implement the penalty or other Sanction ordered by FERC, except as provided by EP 2.5 and EP 4.4.

EP 9.4 Disposition of Proceeds

The ISO shall collect penalties assessed pursuant to this EP and deposit such amounts in an interest bearing trust account. After the end of each calendar year, the ISO shall distribute the penalty amounts together with interest earned through payments to Scheduling Coordinators as provided herein. For the purpose of this EP 9.4, "eligible Market Participants" shall be those Market Participants that were not assessed a financial penalty pursuant to this EP during the calendar year.

Each Scheduling Coordinator that paid GMC during the calendar year will identify, in a manner to be specified by the ISO, the amount of GMC paid by each Market Participant for whom that Scheduling Coordinator provided service during that calendar year. The total amount assigned to all Market Participants served by that Scheduling Coordinator in such calendar year (including the Scheduling Coordinator itself for services provided on its own behalf), shall equal the total GMC paid by that Scheduling Coordinator.

The ISO will calculate the payment due each Scheduling Coordinator based on the lesser of the GMC actually paid by all eligible Market Participants represented by that Scheduling Coordinator, or the product of a) the amount in the trust account, including interest, and b) the ratio of the GMC paid by each Scheduling Coordinator on behalf of eligible Market Participants, to the total of such amounts paid by all Scheduling Coordinators. Each Scheduling Coordinator is responsible for distributing payments to the eligible Market Participants it represented in proportion to GMC collected from each eligible Market Participant.

Prior to allocating the penalty proceeds, the ISO will obtain FERC's approval of its determination of eligible Market Participants and their respective shares of the trust account proceeds. If the total amount in the trust account to be so allocated exceeds the total GMC obligation of all eligible Market Participants, then such excess shall be treated in accordance with SABP 6.5.2(b).

EP 10 MISCELLANEOUS

EP 10.1 Time Limitation

An investigation of events potentially subject to Sanction under this Protocol must be commenced within 90 days of discovery of the events. Sanctions may be assessed under this Protocol up to one year after discovery of the events constituting the violation, but no later than three years after the date of the violation. Nothing in this section shall limit the rights or liabilities of any party under any other provision of applicable laws, regulations or tariff provisions.

EP 10.2 No Limitation on Other Rights

Nothing contained in this Protocol shall limit the ability of the ISO to collect information from Market Participants or to establish new provisions pursuant to Section 19 of the ISO Tariff.

EP 10.3 Amendments

Amendments to this protocol shall be made pursuant to the ISO Protocol amendment process set forth in Section 16 of the ISO Tariff.

APPENDIX A

1. Method for Calculating Inaccurate Meter Data Penalty

There is no Sanction for the submission of inaccurate meter data used for Preliminary Settlement Statements. However, an error in submitted meter data that is discovered after issuance of Final Settlement Statements constitutes a Rule of Conduct violation. The level of the Sanction depends on whether the Scheduling Coordinator or the ISO discovered the error. An increased penalty will apply for errors that are discovered by the ISO.

Table A1 below shows how the level of the Sanction depends on the following factors: whether or not the Scheduling Coordinator finds the error; whether or not the Scheduling Coordinator owes the market, and whether or not the ISO reruns settlement of the market. If the ISO reruns the market, then settlement to all Scheduling Coordinators is recalculated, and the impact of such reruns on charges assessed will be considered. A charge equal to 30% of the estimated value of the Energy error will apply if the Scheduling Coordinator discovers the error, or 75% of the estimated value of the Energy error if the ISO discovers the error. Penalty assessment and disposition of penalty proceeds will be administered as described in EP 9.1 and 9.4 respectively. A Sanction will not be imposed unless such Sanction is more than \$1,000 for at least one Trading Day during the period for which there was incomplete or inaccurate meter data.

Table A1 – Calculation of Inaccurate Meter Data Penalty When There Is A Market Rerun

Case	Does SC Owe Market?	
Case 1: SC Identifies Inaccurate Meter Data	Yes	Charge = (MWh x Hourly Ex Post Price ¹) x 0.30
Case 1: SC Identifies Inaccurate Meter Data	No	Charge = (MWh x Hourly Ex Post Price ¹) x 0.30
Case 2: ISO Identifies Inaccurate Meter Data	Yes	Charge = (MWh x Hourly Ex Post Price ¹) x 0.75
Case 2: ISO Identifies Inaccurate Meter Data	No	Charge = (MWh x Hourly Ex Post Price ¹) x 0.75

Notes to Table A1:

1 The applicable price will be the greater of the Hourly Ex Post Price or \$10/MWh. The Hourly Ex Post Price used will be the value posted under the ISO Home Page for each Trading Hour of the applicable Trading Day.

2. Method for Calculating Inaccurate Meter Data Penalty When The Market Is Not Re-Run

If the Market is not re-run, for cases of inaccurate meter data, Table A2 will be used to determine and allocate the penalty proceeds. This method approximates the financial impact on the market; however, it does not completely reflect all the settlement consequences of inaccurately submitted meter data. This will be considered a market adjustment. The approximated value of the inaccurate meter data in question will be calculated and returned to the Market based on the average of the pro rata share of Unaccounted For Energy (UFE) charged in the UDC territory during the period of the inaccurate meter data event. The 30% or 75% penalty will be distributed as discussed in EP 9.4. For cases where the market is not re-run and the SC does not owe the market, then no market adjustment will be performed.

TABLE A2- Calculation Of Inaccurate Meter Data Penalty When There Is No Market Re-Run

Case	Does SC Owe Market?	ISO does not perform a market settlement re-run
Case 1: SC Identifies Inaccurate Meter Data	Yes	Market Adjustment = (MWh x Hourly Ex Post Price ¹) Penalty = (MWh x Hourly Ex Post Price ¹) x 0.30
Case 1: SC Identifies Inaccurate Meter Data	No	No Market Adjustment will be made Penalty = (MWh x Hourly Ex Post Price ¹) x 0.30
Case 2: ISO Identifies Inaccurate Meter Data	Yes	Market Adjustment = (MWh x Hourly Ex Post Price ¹) Penalty = (MWh x Hourly Ex Post Price ¹) x 0.75
Case 2: ISO Identifies Inaccurate Meter Data	No	No Market Adjustment will be made Penalty = (MWh x Hourly Ex Post Price ¹) x 0.75

Notes to Table A2:

1 The applicable price will be the greater of the Hourly Ex Post Price or \$10/MWh. The Hourly Ex Post Price used will be the value posted under the ISO Home Page for each Trading Hour of the applicable Trading Day.

A Sanction will be imposed only if the Sanction is more than \$1,000 for at least one Trading Day during the period for which there was incomplete or inaccurate meter data.

If the error is to the detriment of the responsible Scheduling Coordinator (e.g., under-reported generation or over-reported load), and the ISO does not rerun the market, then no correction will be made, representing an implicit penalty of 100% of the value of the Energy. If the market is rerun after the error is corrected, then the Scheduling Coordinator will be given credit for the additional Energy through the normal Settlement process. If the Scheduling Coordinator is paid for an error due to a market rerun, then a Sanction will be assessed to assure that market reruns do not diminish the incentive to correct such errors. This Sanction would be 30% of the Energy value of the error if the Scheduling Coordinator discovers the error, or 75% estimated value of the error if the ISO discovers the error.

If the error is to the detriment of the market, then a charge equal to 30% or 75% of the estimated value of the error, as appropriate, will be added to the charge for the Energy. If there is no market rerun, then the cost of Energy supplied by the ISO (and inappropriately charged to the market as Unaccounted for Energy) must be recovered as well, and the charge will be equal to 130% or 175% of the estimated value of the error, as appropriate.