



California Independent
System Operator Corporation

April 20, 2011

VIA ELECTRONIC FILING

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20246

RE: Docket Nos. ER09-1048-002 & ER06-615-059

**Amendments to the FERC Electric Tariff of the California
Independent System Operators Corp. in Compliance with the
Commission's January 20, 2011 *Order on Compliance***

Dear Secretary Bose:

The California Independent System Operator Corporation (ISO)¹ submits this filing in compliance with the Federal Energy Regulatory Commission's January 20, 2011 *Order on Compliance Filing*.² In its *January 2011 Compliance Order*, the Commission conditionally accepted for filing, subject to further modifications, the ISO's February 18, 2010 compliance filing in the above-referenced dockets.³ The Commission directed the ISO to submit a compliance filing within 90 days.⁴

¹ The ISO is sometimes referred to as CAISO. Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the currently effective ISO tariff. The ISO is submitting this filing in compliance with Order No. 714, *Electronic Tariff Filings*, FERC Stats. & Regs. ¶ 31,276 (2009).

² *Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,050 (2011) (*January 2011 Compliance Order*).

³ *Cal. Indep. Sys. Operator Corp.*, Compliance Filing, FERC Docket Nos. ER09-1048-002 & ER06-615-059 (Feb. 18, 2010) (February 2010 Compliance Filing).

⁴ The *January 2011 Compliance Order* initially granted the ISO a 30-day compliance timeframe. The ISO subsequently filed a Motion for Extension of Time, requesting a 90-day compliance timeframe. *Cal. Indep. Sys. Operator Corp.*, Motion for Extension of Time, FERC Docket Nos. ER09-1048-002 & ER06-615-059 (Feb. 4, 2011). The Commission granted that request on February 16, 2011.

I. BACKGROUND

In 2008, the Commission issued Order No. 719,⁵ which required independent system operators and regional transmission organizations to evaluate their operations in several areas, including market monitoring. On April 28, 2009, the ISO submitted its initial compliance filing required under Order 719. In response to the April 2009 filing, on November 19, 2009, the Commission issued an *Order on Compliance Filing*.⁶ The *November 2009 Compliance Order* accepted the ISO's April 2009 filing subject to five changes related to market monitoring to be addressed in a subsequent compliance filing. On February 18, 2010, the ISO submitted that compliance filing.

The Commission subsequently issued the *January 2011 Compliance Order*, in which the Commission ordered the ISO to address two areas related to market monitoring. First, the Commission ordered the ISO to make two relatively minor amendments to Appendix O of the ISO's tariff, which contains the provisions relevant to the ISO's Market Surveillance Committee (MSC). Second, the Commission ordered the ISO to review and resubmit section 37 of the ISO's tariff (the Rules of Conduct for market participants) to ensure that section 37 meets the Commission's requirements for when an ISO or RTO, rather than the Commission, can levy penalties for tariff violations (*i.e.*, "traffic ticket penalties"). To assist the ISO's review, the Commission provided examples of particular provisions that it found were inconsistent with the Commission's policy on traffic ticket penalties.

In response to the *January 2011 Compliance Order* the ISO filed a Motion for Clarification or, in the Alternative, Rehearing on several of these findings related to the Rules of Conduct.⁷ On April 8, 2011, the Commission issued an *Order on Clarification and Rehearing*,⁸ in which the Commission offered several points of clarification.

Consistent with the *Order on Clarification*, the ISO hereby submits the instant filing and the accompanying tariff amendments in compliance with the Commission's *January 2011 Compliance Order*.

⁵ *Wholesale Competition in Regions with Organized Electric Market*, 125 FERC ¶ 61,071 (2008) (Order No. 719).

⁶ *Cal. Indep. Sys. Operator Corp.*, 129 FERC ¶ 61,157 (2009) (*November 2009 Compliance Order*).

⁷ *Cal. Indep. Sys. Operator Corp.*, Motion for Clarification or, in the Alternative, Rehearing, FERC Docket Nos. ER09-1048-002 & ER06-615-059 (Feb. 22, 2011) (Motion for Clarification).

⁸ *Cal. Indep. Sys. Operator Corp.*, 135 FERC ¶ 61,016 (2011) (*Order on Clarification*).

II. TARIFF AMENDMENTS AND DISCUSSION OF COMPLIANCE

A. Amendments to Appendix O

Based on its compliance obligation from the *November 2009 Compliance Order*, in the February 2010 Compliance Filing, the ISO elected to re-characterize the MSC as an external market advisory body and no longer refer to it as an external market monitoring unit.⁹ The ISO explained that re-characterizing the MSC as a market advisor would maintain its traditional role and responsibilities. In response, Southern California Edison (SCE) expressed concern that the ISO's compliance filing could be read as diminishing the MSC's independence and efficacy.¹⁰ SCE provided a proposed modification to section 1.1 of Appendix O, which SCE felt would address its concern. The Commission agreed with this proposed amendment and ordered the ISO to make the change on compliance.¹¹ In addition to this provision, the *January 2011 Compliance Order* also ordered the ISO to amend section 9.6 of Appendix O to correct a typographical error.¹² As reflected in the accompanying tariff language, the ISO proposes to make the required amendments to sections 1.1 and 9.6 of Appendix O.

B. Removing Subjective Considerations from the Rules of Conduct and other Conforming Amendments

Under the Commission's rules, an ISO or RTO may treat a tariff violation as a traffic ticket violation if: (1) the requirement or prohibited activity is expressly set forth in the tariff; (2) the activity involves objectively identifiable behavior; and (3) the activity does not subject the party to sanctions other than those approved by the Commission and stated in the tariff.¹³ The *January 2011 Compliance Order* found that several provisions of the ISO's Rules of Conduct do not meet the requirement that penalties only be assessed for objectively defined violations. The Commission ordered the ISO to perform further review and revision of its tariff to address this circumstance, and to address several other aspects of the Rules of Conduct it found problematic.

⁹ February 2010 Compliance Filing, at 5-7.

¹⁰ *Cal. Indep. Sys. Operator Corp.*, Comments of Southern California Edison Company on the California Independent System Operator Corporation's Order 719 Compliance Filing, 2-4, FERC Docket No. ER09-1048-002 (Mar. 11, 2010).

¹¹ *January 2011 Compliance Order*, at P 14.

¹² *Id.* at P 23.

¹³ *Market Monitoring Units in Regional Transmission Organizations and Independent System Operators*, 111 FERC ¶ 61,267, at P 5 (2005).

1. Compliance with Operating Orders

a. *Compliance With Orders Generally and Failure to Curtail Load*

Section 37.2.1.1 requires market participants to comply with operating orders, which are defined as orders that direct a market participant to undertake a specified feasible action. As proposed in the February 2010 Compliance Filing, this section also would require a market participant to “promptly and directly communicate the nature of any . . . limitation or infeasibility” that would prevent compliance with the order. The Commission found that this provision, as proposed, was internally inconsistent and involved imposing a sanction for conduct that was not objectively identifiable, because feasibility is not an objective standard.¹⁴ The Commission thus ordered the ISO to remove any internal inconsistencies from section 37.2.1.1 and then either remove subjective considerations from the tariff provision or make a violation subject to Commission referral.

In compliance with the Commission’s directives, the ISO proposes to remove the notion of feasibility from section 37.2.1.1. To create internal consistency, feasibility will no longer be part of the definition of an operating order. Other references to feasibility are also being struck from this section, as they are redundant. The tariff already refers generally to “limitations” on a market participant’s ability to comply with an order. Because review of such limitations may be viewed as subjective, the ISO has decided to remove the accompanying sanction provision (section 37.2.1.2) and make a violation subject to referral from the ISO’s Department of Market Monitoring (DMM) to the Commission’s Office of Enforcement. This is consistent with the directive in the *January 2011 Compliance Order*.

The ISO additionally proposes to strike section 37.2.2 from the tariff. This rule covers the failure of a UDC or MSS to follow an operating order to curtail load. This separate rule previously was necessary because it had a different penalty than the general penalty that applies for failing to follow all other types of operating orders. Because violations of the general rule regarding following operating orders is now subject to referral, it would be inconsistent to retain a traffic ticket penalty in section 37.2.2.2. With no separate sanction, section 37.2.2.1 is superfluous and would serve no purpose. Accordingly, the ISO proposes to remove it from the tariff.

¹⁴ *January 2011 Compliance Order*, at PP 40-42.

b. *Operations & Maintenance Practices*

The February 2010 Compliance Filing proposed to amend sections 37.1.5 and 37.8.2 of the tariff to state that section 37.2.3 (obligation to use maintenance procedures that avoid contributing to major Outages) would be enforced by the Commission, and thus would no longer be a traffic ticket violation. The ISO did not, however, propose to amend section 37.2.3.2, which provides for a \$10,000 sanction per violation of section 37.2.3. The ISO's rationale in maintaining the sanction was that FERC would determine whether a violation occurred and if a violation were found, the ISO would then be able to levy a sanction under its normal Rules of Conduct processes. The Commission found that the ISO could not both refer the conduct to the Commission and then later impose a penalty for the violation.¹⁵ The Commission also highlighted section 7.7.13.3 as being impermissible because it would permit the ISO to levy sanctions for the conduct identified in section 37.2.3. The Commission accordingly ordered the ISO to remove the tariff-defined sanction or modify section 37.2.3 to remove subjective considerations.

In compliance with the Commission's directives, the ISO proposes to strike the sanction provision to reflect that any consequence for violating section 37.2.3 will be determined solely by the Commission. The ISO additionally proposes to strike section 7.7.13.3. Section 7.7.13.3 largely duplicates the mandate in section 37.2.3 that market participants not engage in operating or maintenance practices that lead to major outages. For this reason, section 7.7.13.3 is superfluous and is not necessary. Also, it involves creating a traffic ticket penalty outside the Rules of Conduct, which is contrary to the Commission's requirement that traffic ticket penalties be consolidated in one section of an ISO or RTO tariff. Because the definition of major outage, which was contained in Section 7.7.13.3, is still needed, the ISO has proposed simply to add that definition to section 37.2.3.1.

Although not expressly mentioned in the *January 2011 Compliance Order*, the ISO proposes to amend section 37.2.4.1 to eliminate any potential concerns regarding subjectivity and clarify that the rule is intended to address circumstances where a Resource Adequacy unit fails to start up, or decides to shut down prematurely, in the absence of a derate, outage, or release of its obligation to start up. By ordering Resource Adequacy units to operate consistent with their dispatch instructions, the rule, as it is presently written, could be interpreted as providing a form of uninstructed deviation penalties for Resource Adequacy units. This is not the intent of the provision. To address this circumstance, the ISO proposes to use the term "start," rather than "operate," to define a unit's obligations. While the ISO believes that the proposed revision to section 37.2.4.1 would provide an objective standard for determining whether there has been a violation, the ISO nevertheless does not wish to make a violation of this provision a traffic ticket violation. The severity of the violation,

¹⁵ *Id.* at P 43.

and thus the appropriate penalty, could depend on system conditions at the time of the violation. For example, the failure of a Resource Adequacy unit to operate as required during a period of high demand and scarce supply likely would create more operational concerns than if the same violation occurred during a period of low demand. In large part because of this reason, the ISO believes that a one-size-fits-all penalty would not be appropriate. Accordingly, the ISO proposes to make suspected violations of section 37.2.4.1 subject to Commission referral.

2. Enhancement of Sanctions in Times of System Emergency

Section 37.2.5 allows the ISO to levy treble penalties when certain violations occur during a system emergency. Where the enhanced penalty would exceed \$10,000, the tariff requires the ISO to seek Commission approval before levying the enhanced penalty. While the Commission found that the enhancement was acceptable, requiring prior Commission approval before levying an enhanced penalty was inappropriate because “there is no joint ISO/Commission approval process for ISO sanctions as contemplated in the provision.”¹⁶ The Commission thus ordered the ISO either to apply all sanctions directly based on objective considerations or make violations of section 37.2.5 subject to a DMM referral.

As a consequence of other compliance obligations pursuant to the *January 2011 Compliance Order*, the three sections whose sanctions are enhanced under section 37.2.5 will be struck from the tariff.¹⁷ Accordingly, section 37.2.5 is no longer necessary and, as such, the ISO proposes to strike it from the tariff entirely. For this same reason, the ISO proposes to strike section 37.2.6. Section 37.4.4, which tracks the language of section 37.2.5, will be amended to make clear that the ISO will not seek Commission approval before levying an enhanced penalty.

3. Bidding Behavior

Section 37.3 and its subsections require market participants to submit bids from “resources that are reasonably expected to be available and capable of performing at the levels specified in the Bid” On its own, submitting a bid that either causes congestion or that the ISO would expect to cause congestion is not a violation. The consequence for violating this rule is rescission of payment for ancillary services or RUC Capacity that is unavailable. The Commission found that these sections, taken together, are impermissible because they involve an ISO-imposed penalty for conduct the Commission found

¹⁶ *Id.* at P 47.

¹⁷ As discussed in this filing, section 37.2.1, section 37.2.2, and section 37.2.4 (*i.e.*, the three provisions addressed in section 37.2.5), are no longer traffic ticket violations and instead are enforced by the Commission. It will be for the Commission to determine how the existence of a CAISO System Emergency at the time of a violation should influence the ultimate consequences a market participant will face for violating any of these three sections during a CAISO System Emergency.

to be subjectively defined.¹⁸ The Commission thus ordered the ISO either to remove any subjectivity from these provisions or remove the tariff-defined sanctions.

However, the *Order on Clarification* clarified that rescission of payment for services not delivered is not a sanction for the purposes of the Commission's rules on traffic ticket violations, but is instead "an administrative CAISO function intended to correct market outcomes."¹⁹ While the *Order on Clarification* permits the ISO to maintain its authority to rescind payment in defined circumstances, the ISO believes that it is no longer appropriate to refer to this authority in the Rules of Conduct. As the Commission states in the *Order on Clarification*, "tariff provisions do not implicate our sanction policy if they are corrective in nature and not punishment for objectionable behavior."²⁰ If rescission of payment in the circumstances currently defined in section 37.3.1.2 do not implicate the Commission's sanction policy and are not subject to Commission referral, then there is no reason to define that rescission authority in section 37, especially when the provisions governing rescission are delineated in greater detail in section 11.31. Accordingly, the ISO proposes to strike section 37.3.1.2 from the tariff. Going forward, suspected violations of section 37.3.1.1 will be subject to referral from DMM to the Commission as potential violations of 18 CFR § 1c, 18 CFR § 35.41(b), or any other requirement the violation of which constitutes a Market Violation.

4. Information Provided to the ISO In A Timely Manner

The Commission found that section 37.6.1, which imposes a penalty for failing to submit required information to the ISO "in a complete and timely manner," and section 37.6.2, which imposes a penalty for failing to respond to an ISO investigation in a timely manner, are both impermissible because the word "timely" offers the ISO discretion in imposing Sanctions.²¹ The Commission ordered the ISO either to remove any ambiguity from these provisions or remove the tariff-defined sanctions. Citing potential ambiguity in the *January 2011 Compliance Order*, the ISO's Motion for Clarification requested clarification that it was permissible to define a "timely" submission of information as meaning that the information was submitted within a tariff-defined deadline or within a deadline the ISO has tariff authority to establish. The *Order on Clarification* granted this requested clarification.²² Consistent with its compliance obligations in the *January 2011 Compliance Order*, as clarified in the *Order on Clarification*, the ISO proposes conforming changes to sections 37.4.3.1, 37.4.3.2, 37.6.1.1, 37.6.2.1, and 37.6.3.1.

¹⁸ *January 2011 Compliance Order*, at P 50.

¹⁹ *Order on Clarification*, at P 10.

²⁰ *Id.* at P 11.

²¹ *January 2011 Compliance Order*, at PP 52-54.

²² *Order on Clarification*, at P 18.

5. Investigation and Enforcement Procedures

Section 37.8 delineates the procedures the ISO follows in investigating potential Rules of Conduct violations. The *January 2011 Compliance Order* found several aspects of section 37.8 problematic. Section 37.8.2 permits the ISO to refer sanctions to the Commission for review where the ISO believes the sanction should be modified or excused, or where “the particular circumstances preclude the objective determination that a Rules of Conduct violation did or did not occur.” Section 37.8.7 also requires the ISO to notify a Scheduling Coordinator when the ISO intends to recommend to the Commission that a penalty be modified or excused. The *January 2011 Compliance Order* states that under Commission policies, traffic ticket violations should not be referred to FERC for review.²³ The Commission thus ordered the ISO to amend the tariff to make clear that the ISO should levy the tariff-defined sanction in all circumstances where an objective requirement is violated. In compliance with the Commission’s directives, the ISO proposes conforming revisions to sections 37.8.2 and 37.8.7. The ISO also proposes to amend section 37.8.2 to clarify that the investigative procedures delineated in the Rules of Conduct do not apply to DMM where it investigates a suspected Market Violation for potential referral to the Commission. This amendment will help provide a more clear distinction between traffic ticket violations and DMM referrals.

6. Administration of Sanctions

Section 37.9 describes the process the ISO follows to levy sanctions once it determines that a Rules of Conduct violation occurred. Section 37.9.1 provides that the Commission may modify a penalty where an “adjustment is just and reasonable,” and that an adjustment is appropriate where the penalty “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.” Sections 37.9.2.1 through 37.9.2.5 describe five specific factors that would require the Commission to excuse a violation. The Commission found that these provisions were unacceptable because an ISO’s tariff cannot place limitations on the Commission’s authority. While noting that the factors mentioned may inform Commission review of a market participant’s appeal of a sanction, the tariff cannot limit what factors the Commission may consider. The Commission accordingly ordered the ISO to remove sections 37.9.2.1 through 37.9.2.5 and any other tariff-defined limitations on the Commission’s authority to review penalty determinations.

In compliance with the Commission’s directives, the ISO proposes to strike sections 37.9.2.1 through 37.9.2.5 from the tariff. Based on this same rationale, the ISO also proposes to strike section 37.1.4 because it could be viewed as an inappropriate tariff limitation on the Commission’s authority. Further, the ISO proposes to amend section 37.9.1 to remove any suggestion in

²³ *January 2011 Compliance Order*, at PP 57 & 58.

the tariff that the ISO will refer sanction decisions to the Commission. The ISO does, however, reserve the right to request that the Commission waive provisions of section 37 and excuse any accompanying sanctions where a tariff waiver request is justified.

7. Provisions that Duplicate Commission Regulations

Section 37.5.1 prohibits market participants from submitting false or misleading information to the ISO. Section 37.7 prohibits market participants from engaging in fraudulent or deceptive schemes. Both provisions largely duplicate existing Commission regulations. For this reason, in the *January 2011 Compliance Order*, the Commission found that they were redundant, unnecessary, and (to the extent they did not repeat existing regulatory requirements exactly) potentially confusing.²⁴ The Commission thus ordered the ISO either to remove these provisions or justify why they should remain in the tariff. In compliance with the Commission's directives, the ISO proposes to strike sections 37.5.1 and 37.7 from the tariff.

8. Updating the List of Traffic Ticket Violations

As a final matter, the Commission noted that the ISO may need to amend Appendix P, Section 11.1.3 in light of its other compliance obligations.²⁵ The basis of this comment apparently was the view that this provision was the obligatory "separate section that identifies all provisions of the tariff that contain obligations, the violation of which would result in an ISO or RTO sanction."²⁶ The *Order on Clarification* made clear that the ISO may instead identify the list of traffic ticket violations in section 37. The ISO proposes to amend section 37.1.5 to more clearly identify all traffic ticket violations in the tariff. The ISO additionally proposes to amend Appendix P, Section 11.1.3 to clarify that DMM may not refer traffic ticket violations to the Commission.

In compliance with the notion that traffic ticket violations penalties should be defined in the Rules of Conduct and not elsewhere in the tariff, the ISO also proposes to strike section 10.2.9.4 in its entirety and strike a penalty-related sentence from section 8.2.3.3. Section 10.2.9.4 could be read to suggest that the ISO has penalty authority outside of violations defined in the Rules of Conduct. Further, the submission of fraudulent data to the ISO would be sanctioned under section 37.5.2.2 and potentially could be subject to referral as a suspected violation of 18 CFR § 35.41(b). Section 8.2.3.3 establishes various requirements related to voltage support and currently includes a sentence stating that the ISO "will develop and will be authorized to levy penalties against Participating Generators, UDCs or Loads whose Voltage Support does not comply with the CAISO's requirements." The ISO does not currently levy

²⁴ *Id.* at PP 62-65.

²⁵ *Id.* at P 66.

²⁶ *Order on Clarification*, at P 35.

penalties for non-compliance with voltage support requirements. If the ISO wishes to begin levying such penalties, then it will make a separate filing seeking authority to do so.

III. EFFECTIVE DATE

The ISO requests that the amendments included in this filing be made effective on April 20, 2011.

IV. ATTACHMENTS

The following documents, in addition to this transmittal letter, support this filing:

- | | |
|--------------|--|
| Attachment A | Clean sheets of the currently effective tariff showing revisions described in this filing. |
| Attachment B | Sheets showing, in black-line format, the changes to the currently effective tariff described in this filing |

V. CONCLUSION

The ISO respectfully requests that the Commission accept this filing as complying with the directives of its *January 2011 Compliance Order* and requests that the accompanying tariff provisions be made effective immediately. Please do not hesitate to contact the undersigned if you have any questions.

Respectfully submitted,

By: /s/ David Zlotlow

Nancy Saracino

General Counsel

Anthony Ivancovich

Assistant General Counsel

David Zlotlow

Counsel

California Independent System

Operator Corporation

250 Outcropping Way

Folsom, CA 95630

Tel: (916) 608-7007

Fax: (916) 608-7222

dzlotlow@caiso.com

Attorneys for the California Independent
System Operator Corporation

April 20, 2011

CERTIFICATE OF SERVICE

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

Dated at Folsom, CA on this 20th day of April, 2011.

Anna Pascuzzo
Anna Pascuzzo

**Attachment A – Clean Tariff
Order 719 Compliance Filing**

ER11-____-000

California Independent System Operator Corporation

Fifth Replacement FERC Electric Tariff

April 20, 2011

* * *

7.7.13.3 [NOT USED]

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8.2.3.3 Voltage Support

The CAISO shall determine on an hourly basis for each day the quantity and location of Voltage Support required to maintain voltage levels and reactive margins within NERC and WECC reliability standards, including any requirements of the NRC using a power flow study based on the quantity and location of scheduled Demand. The CAISO shall issue daily voltage schedules (Dispatch Instructions) to Participating Generators, Participating TOs and UDCs, which are required to be maintained for CAISO Controlled Grid reliability. All other Generating Units shall comply with the power factor requirements set forth in contractual arrangements in effect on the CAISO Operations Date, or, if no such contractual arrangements exist and the Generating Unit exists within the system of a Participating TO, the power factor requirements applicable under the Participating TO's TO Tariff or other tariff on file with the FERC. All Participating Generators that operate Asynchronous Generating Facilities subject to the Large Generator Interconnection Agreement set forth in Appendix BB or CC shall maintain the CAISO specified voltage schedule for those facilities at the Point of Interconnection to the extent possible, except as permitted under Appendix H of the Large Generator Interconnection Agreement, while operating within the power factor range specified in their interconnection agreements. For all other Generating Units, Participating Generators shall maintain the CAISO specified voltage schedule at the Generating Unit terminals to the extent possible, while operating within the power factor range specified in their interconnection agreements, or, for Regulatory Must-Take Generation, Regulatory Must-Run Generation and Reliability Must-Run Generation, consistent with existing obligations. For Generating Units that do not operate under one of these agreements, the minimum power factor range will be within a band of 0.90 lag (producing VARs) and 0.95 lead (absorbing VARs) power factors. Participating Generators with Generating Units existing at the CAISO Operations Date that are unable to meet this operating power factor requirement may apply to the CAISO for an exemption. Prior to granting such an exemption, the CAISO shall require the Participating TO or UDC to whose system the relevant Generating Units are interconnected to notify it of the existing contractual requirements for Voltage Support established prior to

the CAISO Operations Date for such Generating Units. Such requirements may be contained in CPUC Electric Rule 21 or the Interconnection Agreement with the Participating TO or UDC. The CAISO shall not grant any exemption under this Section from such existing contractual requirements. The CAISO shall be entitled to instruct Participating Generators to operate their Generating Units at specified points within their power factor ranges. Participating Generators shall receive no compensation for operating within these specified ranges.

If the CAISO requires additional Voltage Support, it shall procure this either through Reliability Must-Run Contracts or, if no other more economic sources are available, by instructing a Generating Unit to move its MVar output outside its mandatory range. Only if the Generating Unit must reduce its MW output in order to comply with such an instruction will it be eligible to recover its opportunity cost in accordance with Section 11.10.1.4.

All Loads directly connected to the CAISO Controlled Grid shall maintain reactive flow at grid interface points within a specified power factor band of 0.97 lag to 0.99 lead. Loads shall not be compensated for the service of maintaining the power factor at required levels within the bandwidth. A UDC interconnecting with the CAISO Controlled Grid at any point other than a Scheduling Point shall be subject to the same power factor requirement.

The CAISO will establish voltage control standards with UDCs and the operators of other Balancing Authority Areas and will enter into operational agreements providing for the coordination of actions in the event of a voltage problem occurring.

* * *

10.2.9.4 [NOT USED]

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37.1.3 Application Of Other Remedies

The activities and remedies authorized under this Section 37 are in addition to any other actions or relief that may be available to the CAISO elsewhere in the CAISO Tariff or under law, regulation or order.

Nothing in this Section 37 limits or should be construed to limit the right of the CAISO to take action or

seek relief otherwise available to it, and such action or relief may be pursued in addition to the action or relief specified in this Section 37.

* * *

37.1.4 [NOT USED]

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37.1.5 Administration

The CAISO shall administer the following Rules of Conduct specified herein: Section 37.4.1, Section 37.4.2, Section 37.4.3, Section 37.5.2, Section 37.6.1, Section 37.6.2, and Section 37.6.3. FERC shall administer the following Rules of Conduct specified herein: Section 37.2.1, Section 37.2.3, Section 37.2.4, and Section 37.3.1.

* * *

37.2.1.1 Expected Conduct

Market Participants must comply with operating orders issued by the CAISO as authorized under the CAISO Tariff. For purposes of enforcement under this Section 37.2, an operating order shall be an order(s) from the CAISO 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 intended by the ISO 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 Section 37.2. If some limitation prevents the Market Participant from fulfilling the action requested by the CAISO then the Market Participant must promptly and directly communicate the nature of any such limitation to the CAISO.

* * *

37.2.1.2 [NOT USED]

* * *

37.2.2.1 [NOT USED]

37.2.2.2 [NOT USED]

* * *

37.2.3.1 Expected Conduct

Market Participants shall undertake such operating and maintenance practices as necessary to avoid contributing to a major Outage or prolonging response time to a major Outage. For the purposes of this Section 37.2.3.1, a major Outage is an Outage that affects at least ten (10) percent of the Load served by the Distribution System of a UDC or any Outage that results in major damage to the CAISO Controlled Grid or to the health and safety of personnel.

37.2.3.2 [NOT USED]

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37.2.4.1 Expected Conduct

Subject to Section 40 a Market Participant shall start a Generating Unit listed as a Resource Adequacy Resource and bring it on-line and/or available consistent with a DAM or RUC commitment or Real-Time Dispatch Instructions and once started up, shall not shut down a Generating Unit listed as a Resource Adequacy Resource in a manner that is inconsistent with a DAM or RUC commitment or Real-Time Dispatch Instructions, unless the CAISO releases the Generating Unit after the RUC process is completed, or a derate or Outage prevents the Generating Unit from being on-line and available.

37.2.4.2 [NOT USED]

37.2.5 [NOT USED]

37.2.6 [NOT USED]

* * *

37.3.1.1 Expected Conduct

Market Participants must submit Bids for Energy, RUC Capacity and Ancillary Services and Submissions to Self-Provide an Ancillary Service from resources that are reasonably expected to be available and capable of performing at the levels specified in the Bid, 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 submission. HASP Intertie Schedules for import or export Energy are not subject to the foregoing requirement, but failure to deliver on such HASP Intertie Schedules can be

subject to referral by DMM under Section 11.1, Appendix P where the failure to deliver is suspected to be a Market Violation.

37.3.1.2 [NOT USED]

37.3.2 Exceptions

The submission of a Bid or of a Submission to Self-Provide Ancillary Services that causes, or that the CAISO expects to cause Congestion shall not, by itself, constitute a violation of Section 37.3.1.

* * *

37.4.3.1 Expected Conduct

As required by Section 9.3.10.6, a Market Participant must provide a detailed explanation of a Forced Outage within two (2) Business Days after the Operator initially notifies the CAISO pursuant to Section 9.3.10.3.1 of the change in maximum output capability. To enable the CAISO to review the explanation submitted by the Operator and to prepare a report on the Forced Outage, the CAISO may request that the Market Participant submit additional information regarding the Forced Outage. An Operator must provide information requested by the CAISO within the deadline established in the request for additional information.

37.4.3.2 Sanctions

The Sanction for failing to provide an explanation of Forced Outage within the deadline established in Section 37.4.3.1 and Section 9.3.10.6 shall be \$500 per day for each day the explanation is late. The Sanction for failing to provide a response to a request for additional information regarding the Forced Outage within the deadline established in the request for additional information shall be as specified in Section 37.6.1.

37.4.4 Enhancements And Exceptions

Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of Section 37.4.1 through Section 37.4.3 that occurs during a CAISO System Emergency. Violations of the above rules that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.23 is assessed shall not be subject to Sanction under this Section. 37.4.

37.5.1 [NOT USED]

37.5.1.2 [NOT USED]

* * *

37.5.2.1 Expected Conduct

Market Participants shall provide complete and accurate Settlement Quality Meter Data for each Trading Hour and shall correct any errors in such data no later than forty-three (43) calendar days after the Trading Day (T+43C). The failure to provide complete and accurate Settlement Quality Meter Data, as required by Section 10.3.6 that causes an error to exist in such Settlement Quality Meter Data after forty-three (43) calendar days after the Trading Day (T+43C) shall be a violation of this rule. Scheduling Coordinators that fail to submit Scheduling Coordinator Estimated Settlement Quality Meter Data that is complete and based on a good faith estimate that reasonably represents Demand and/or Generation quantities for each Settlement Period as required by Section 10 and that results in an error that is discovered after forty three (43) calendar days after the Trading Day (T+43C) shall be a violation of this rule.

* * *

37.6.1.1 Expected Conduct

Except as provided below in Section 37.6.4 (Review by FERC), all information that is required to be submitted to the CAISO under the CAISO Tariff must be submitted by the specified deadline. For the purposes of this Section 37.6.1.1, the specified deadline is either the deadline established directly in the CAISO Tariff or, where the CAISO Tariff does not establish a specific deadline, by the deadline that the CAISO has authority to establish under the CAISO Tariff.

37.6.1.2 Sanctions

Except as otherwise provided below, in Section 37.6.2 and Section 37.6.3, the Sanction for a violation of Section 37.6.1.1 shall be \$500 for each day that the required information is late.

* * *

37.6.2.1 Expected Conduct

Except as provided below in Section 37.6.4 (Review by FERC), Market Participants must submit information in response to a written request by the CAISO for information requested in the course of an investigation authorized by the CAISO by the deadline established in the request by the CAISO.

* * *

37.6.3.1 Expected Conduct

Except as provided below in Section 37.6.4 (Review by FERC), Market Participants shall comply with the CAISO's audit and/or test procedures authorized pursuant to Section 10.3.10, and further shall perform and submit an annual self-audit as required by the procedures the ISO establishes pursuant to Section 10.3.10, including procedures established relating to the deadline for submitting the required audit.

37.6.3.2 Sanctions

For failure to submit an audit report as required by Section 10.3.10.1, the Sanction shall be \$1000/day until such report is received by the CAISO. For all other violations of this rule the Sanctions shall be as follows: for the first violation in a rolling twelve (12) month period, \$1000/day; for the second violation in a rolling twelve (12) month period, \$2000/day; for the third and subsequent violations in a rolling twelve (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 CAISO.

37.7 [NOT USED]

37.8.1 Purpose; Scope

The provisions of this Section 37.8 set forth the procedures by which the CAISO will independently investigate potential violations of the Rules of Conduct and administer enforcement activities. Except as hereinafter provided the provisions of this section apply to the Rules of Conduct set forth in Sections 37.2 through 37.6.

37.8.2 Referrals To FERC

Section 37.2.1, Section 37.2.3, Section 37.2.4, and Section 37.3.1 shall be enforced by FERC, in accordance with FERC's rules and procedures. Pursuant to Section 11 of Appendix P, DMM shall refer suspected violations of Section 37.2.1, Section 37.2.3, Section 37.2.4, and Section 37.3.1 to FERC. For

violations of this Section 37 that are enforced by FERC, Section 37.8.3, Section 37.8.4, Section 37.8.5, Section 37.8.6, Section 37.8.7, Section 37.8.8, Section 37.8.9, and Section 37.8.10 shall not apply to any investigation DMM may conduct of a suspected Market Violation to FERC.

37.8.7 Statement Of Findings And Conclusions

Where the investigation results in a Sanction, the CAISO shall state its findings and conclusions in writing, and will make such writing available to the Scheduling Coordinator and, as provided in Section 37.8.4, to the Market Participant(s) that are the subject(s) of the investigation.

* * *

37.9.1 Assessment; Waivers And Adjustments

Penalty amounts for violation of these Rules of Conduct shall be calculated as specified in Section 37.4.1.2, Section 37.4.2.2, Section 37.4.3.2, Section 37.4.4, Section 37.5.2.2, Section 37.6.1.2, Section 37.6.2.2, and Section 37.6.3.2.

37.9.2 [NOT USED]

37.9.2.1 [NOT USED]

37.9.2.2 [NOT USED]

37.9.2.3 [NOT USED]

37.9.2.4 [NOT USED]

37.9.2.5 [NOT USED]

37.9.2.6 [NOT USED]

* * *

37.9.3.1 Settlement Statements

The CAISO will administer any penalties issued under this Section 37 through Initial Settlement Statements T + 38 BD, and Initial Settlement Statement Reissues or Recalculation Settlement Statements, as relevant, issued to the responsible Scheduling Coordinator by the CAISO. Before invoicing a financial penalty through the Settlement process, the CAISO 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 CAISO has sufficient objective information to identify

and verify responsibility of such Market Participants. The description shall include the identity of the Market Participant that committed the violation and the amount of the penalty.

37.9.3.2 Payment

Except as provided in Section 37.8.10 or Section 37.9.3.3 below, the Scheduling Coordinator shall be obligated to pay all penalty amounts reflected on Settlement Statements to the CAISO pursuant to the CAISO's Settlement process, as set forth in Section 11.

* * *

37.9.3.4 [NOT USED]

* * *

37.10.1 Time Limitation

An investigation of events potentially subject to Sanction by the CAISO under this Section 37 must be commenced within ninety (90) days of discovery of the events. Sanctions may be assessed under this Section 37 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.

* * *

40.7.1 Other Compliance Issues

Scheduling Coordinators representing Generating Units, System Units or System Resources supplying Resource Adequacy Capacity that fail to provide the CAISO with an annual or monthly Supply Plan, as applicable, as set forth in Section 40.7, shall be subject to Section 37.6.1. Further, Scheduling Coordinators representing Generating Units, System Units or System Resources supplying Resource Adequacy Capacity that fail to provide the CAISO with information required for the CAISO to determine Net Qualifying Capacity shall not be eligible for inclusion in the Net Qualifying Capacity annual report under Section 40.4.2 for the next Resource Adequacy Compliance Year and shall be subject to any applicable Sanctions under Section 37.6.1.

40.7.2 Penalties For Non-Compliance

The failure of a Resource Adequacy Resource or Resource Adequacy Capacity to be available to the CAISO in accordance with the requirements of this Section 40 and the failure to operate a Resource Adequacy Resource by placing it online or in a manner consistent with a submitted Bid or Generated Bid shall be subject to the applicable Sanctions set forth in Section 37.2.4. However, any failure of the Resource Adequacy Resource to satisfy any obligations prescribed under this Section 40 during a Resource Adequacy Compliance Year for which Resource Adequacy Capacity has been committed to a Load Serving Entity shall not limit in any way, except as otherwise established under Section 40.4.5 or requirements of the CPUC, Local Regulatory Authority, or federal agency, as applicable, the ability of the Load Serving Entity to whom the Resource Adequacy Capacity has been committed to use such Resource Adequacy Capacity for purposes of satisfying the resource adequacy requirements of the CPUC, Local Regulatory Authority, or federal agency, as applicable. In addition, a Reserve Sharing LSE shall not be subject to any sanctions, penalties, or other compensatory obligations under this Section 40 on account of a Resource Adequacy Resource's satisfaction or failure to satisfy its obligations under this Section 40.

* * *

Appendix O CAISO Market Surveillance Committee

* * *

1. Introduction and Purpose

1.1 There shall be established a Market Surveillance Committee (MSC) as a market advisor, whose role it shall be to provide independent external expertise on the CAISO market monitoring process and, in particular, provide independent expert advice and recommendations to the CAISO CEO and Governing Board.

9.6 Members of the MSC shall not accept from a Market Participant any item with a value in excess of \$25.

* * *

Appendix P CAISO Department Of Market Monitoring

* * *

11. Protocol on Referrals of Investigations to the Office of Enforcement.

11.1 DMM shall make a non-public referral to FERC in all instances where DMM has reason to believe that a Market Violation has occurred. DMM's non-public referral shall provide sufficient credible information to warrant further investigation by FERC. Once DMM has obtained sufficient credible information to warrant referral to FERC, DMM shall immediately refer the matter to FERC and desist from independent action related to the alleged Market Violation. DMM may, however, continue to monitor for any repeated instances of the activity by the same or other entities, which would constitute new Market Violations. DMM shall respond to requests from FERC for any additional information in connection with the alleged Market Violation it has referred.

11.1.1 The decision to make such a referral is committed to the sole discretion of DMM. In all such cases of direct referral, DMM shall promptly inform the CAISO Governing Board, the MSC and the CAISO CEO of the fact of and the content of the referral.

11.1.2 For the avoidance of doubt, the CAISO itself is subject to referral by DMM.

11.1.3 Section 11.1 of this Appendix P notwithstanding, DMM shall not refer to FERC a suspected violation of the following provisions of Section 37 of this CAISO Tariff: 37.4.1, 37.4.2, 37.4.3, 37.5.2, 37.6.1, 37.6.2, and 37.6.3. Where conduct constitutes a Market Violation that DMM shall not refer to FERC and DMM has reason to believe that the same conduct also represents a Market Violation other than a Market Violation that, per this Section 11.1.3, DMM shall not refer to FERC, then DMM shall make a non-public referral to FERC only of the Market Violation that it is not prohibited from referring to FERC.

* * *

Attachment B – Marked Tariff

Order 719 Compliance Filing

ER11-____-000

California Independent System Operator Corporation

Fifth Replacement FERC Electric Tariff

April 20, 2011

* * *

7.7.13.3 ~~[NOT USED]~~ Imposing Sanctions

~~If the CAISO finds that the operation and maintenance practices of any Participating TOs, Participating Generators, Eligible Customers, or UDCs prolonged the response time or contributed to the Outage, the CAISO may impose sanctions on the responsible Participating TOs, Participating Generators, Eligible Customers, or UDCs provided that no sanction shall be imposed in respect of actions taken in compliance with the CAISO's instructions or pursuant to a Remedial Action Scheme. The CAISO shall develop and file with FERC a schedule of such sanctions. Any dispute concerning whether sanctions should be imposed under this Section shall be resolved through the CAISO ADR Procedures. The schedule of sanctions filed with FERC (including categories and levels of sanctions) shall not be subject to the CAISO ADR Procedures. The CAISO shall publish on the CAISO Website details of all instances in which a sanction has been imposed.~~

* * *

8.2.3.3 Voltage Support

The CAISO shall determine on an hourly basis for each day the quantity and location of Voltage Support required to maintain voltage levels and reactive margins within NERC and WECC reliability standards, including any requirements of the NRC using a power flow study based on the quantity and location of scheduled Demand. The CAISO shall issue daily voltage schedules (Dispatch Instructions) to Participating Generators, Participating TOs and UDCs, which are required to be maintained for CAISO Controlled Grid reliability. All other Generating Units shall comply with the power factor requirements set forth in contractual arrangements in effect on the CAISO Operations Date, or, if no such contractual arrangements exist and the Generating Unit exists within the system of a Participating TO, the power factor requirements applicable under the Participating TO's TO Tariff or other tariff on file with the FERC. All Participating Generators that operate Asynchronous Generating Facilities subject to the Large Generator Interconnection Agreement set forth in Appendix BB or CC shall maintain the CAISO specified voltage schedule for those facilities at the Point of Interconnection to the extent possible, except as permitted under Appendix H of the Large Generator Interconnection Agreement, while operating within the power factor range specified in their interconnection agreements. For all other Generating Units,

Participating Generators shall maintain the CAISO specified voltage schedule at the Generating Unit terminals to the extent possible, while operating within the power factor range specified in their interconnection agreements, or, for Regulatory Must-Take Generation, Regulatory Must-Run Generation and Reliability Must-Run Generation, consistent with existing obligations. For Generating Units that do not operate under one of these agreements, the minimum power factor range will be within a band of 0.90 lag (producing VARs) and 0.95 lead (absorbing VARs) power factors. Participating Generators with Generating Units existing at the CAISO Operations Date that are unable to meet this operating power factor requirement may apply to the CAISO for an exemption. Prior to granting such an exemption, the CAISO shall require the Participating TO or UDC to whose system the relevant Generating Units are interconnected to notify it of the existing contractual requirements for Voltage Support established prior to the CAISO Operations Date for such Generating Units. Such requirements may be contained in CPUC Electric Rule 21 or the Interconnection Agreement with the Participating TO or UDC. The CAISO shall not grant any exemption under this Section from such existing contractual requirements. The CAISO shall be entitled to instruct Participating Generators to operate their Generating Units at specified points within their power factor ranges. Participating Generators shall receive no compensation for operating within these specified ranges.

If the CAISO requires additional Voltage Support, it shall procure this either through Reliability Must-Run Contracts or, if no other more economic sources are available, by instructing a Generating Unit to move its MVar output outside its mandatory range. Only if the Generating Unit must reduce its MW output in order to comply with such an instruction will it be eligible to recover its opportunity cost in accordance with Section 11.10.1.4.

All Loads directly connected to the CAISO Controlled Grid shall maintain reactive flow at grid interface points within a specified power factor band of 0.97 lag to 0.99 lead. Loads shall not be compensated for the service of maintaining the power factor at required levels within the bandwidth. A UDC interconnecting with the CAISO Controlled Grid at any point other than a Scheduling Point shall be subject to the same power factor requirement.

~~The CAISO will develop and will be authorized to levy penalties against Participating Generators, UDCs or Loads whose Voltage Support does not comply with the CAISO's requirements. The CAISO will~~

establish voltage control standards with UDCs and the operators of other Balancing Authority Areas and will enter into operational agreements providing for the coordination of actions in the event of a voltage problem occurring.

* * *

10.2.9.4 ~~[NOT USED]CAISO Imposed Penalties and Sanctions~~

~~The CAISO shall have the authority to impose penalties and sanctions, including but not limited to Sanctions set forth in Section 37 and the applicable Business Practice Manual and suspension of trading rights, if a CAISO Metered Entity provides fraudulent metering data to the CAISO. Such penalties shall be approved by FERC.~~

* * *

37.1.3 Application Of Other Remedies

The activities and remedies authorized under this Section 37 are in addition to any other actions or relief that may be available to the CAISO elsewhere in the CAISO Tariff or under law, regulation or order.

Nothing in this Section 37 limits or should be construed to limit the right of the CAISO 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 Section 37.

* * *

37.1.4 ~~[NOT USED]FERC Authority~~

~~In addition to any authority afforded in this Section 37, FERC shall have the authority to assess the Sanctions, and otherwise to enforce the rules as set forth and described in this Section 37. FERC shall have authority to remedy a violation under this Section 37 from the date of the violation. Nothing in this Section 37 shall be deemed to be a limitation or condition on the authority of FERC or other entities under current law or regulation.~~

* * *

37.1.5 Administration

~~The~~As provided in Section 37.8.2, the CAISO shall will administer the following Rules of Conduct specified herein, ~~except for~~ Section 37.4.1, Section 37.4.2, Section 37.4.3, Section 37.5.2, Section 37.6.1, Section

37.6.2, and Section 37.6.3. FERC shall administer the following Rules of Conduct specified herein:1 and Section 37.2.1,7, which shall be administered by FERC, and except as provided in Section 37.2.3, Section 37.2.4,5 and Section 37.3.14-4.

* * *

37.2.1.1 Expected Conduct

Market Participants must comply with operating orders issued by the CAISO as authorized under the CAISO Tariff. For purposes of enforcement under this Section 37.2, an operating order shall be an order(s) from the CAISO 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 by the ISO~~ to resolve a specific operating condition. ~~Deviation from an ADS Dispatch Instruction shall not constitute a violation of this Section 37.2.1.1.~~ 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 Section 37.2. If some limitation prevents the Market Participant from fulfilling the action requested by the CAISO ~~or the action is otherwise infeasible~~, then the Market Participant must promptly and directly communicate the nature of any such limitation ~~or infeasibility~~ to the CAISO.

* * *

37.2.1.2 [NOT USED]Sanctions

~~The Sanction for a violation of this Section shall be the greater of the quantity of Energy non-performance multiplied by the applicable Dispatch Interval Locational Marginal 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 Section 37.2.1 will not be greater than \$10,000 per violation and will be subject to the limitation stated in Section 37.2.6. 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.~~

* * *

37.2.2.1 [NOT USED]Expected Conduct

~~A UDC or MSS Operator shall promptly comply with any CAISO operating order to curtail interruptible or firm Load issued pursuant to the CAISO's authority under Section 7.7.11.3.~~

37.2.2.2 [NOT USED]Sanctions

~~The Sanction for non-compliance with an operating order to curtail Load will be \$10,000 for each violation.~~

* * *

37.2.3.1 Expected Conduct

Market Participants shall undertake such operating and maintenance practices as necessary to avoid contributing to a major Outage or prolonging response time to a major Outage. For the purposes of this Section 37.2.3.1, a major Outage is an Outage that affects at least ten (10) percent of the Load served by the Distribution System of a UDC or any Outage that results in major damage to the CAISO Controlled Grid or to the health and safety of personnel. as indicated by Section 7.7.13.3.

37.2.3.2 [NOT USED]Sanctions

~~The Sanction for a violation of Section 37.2.3 will be \$10,000.~~

* * *

37.2.4.1 Expected Conduct

Subject to Section 40 a A-Market Participant shall startoperate a Generating Unit listed as a Resource Adequacy Resource and bring it on-line and/or available consistent with a DAM or RUC commitment or Real-Time Dispatch Instructions and once started up, shall not shut down a Generating Unit listed as a Resource Adequacy Resource in a manner that is inconsistent with a DAM or RUC commitment or Real-Time Dispatch Instructions, subject to Section 40, unless the CAISO releases the Generating Unit after the RUC process is completed, or a derate or Outage prevents the Generating Unit from being on-line and available. A Market Participant that fails to perform in accordance with the expected conduct described in this Section 37.2.4.1 shall be subject to Sanction.

37.2.4.2 [NOT USED]Sanctions

~~The Sanctions for a violation of Section 37.2.4 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.~~

37.2.5 [NOT USED]Enhancements and Exceptions

~~Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of Section 37.2.1, Section 37.2.2 or Section 37.2.4 if a CAISO 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 Section 37.2.1, Section 37.2.2 and Section 37.2.4 are subject to penalty under this Section 37.2 only to the extent that the CAISO 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 CAISO proposes and the Commission approves such an enhancement. A Market Participant that is subject to an enhanced penalty amount under this Section 37.2.5 may appeal that penalty amount to FERC if the Market Participant believes a mitigating circumstance not covered in Section 37.9.2 exists. The duty of the Market Participant to pay the enhanced penalty amount will be tolled until FERC renders its decision on the appeal.~~

37.2.6 [NOT USED]Per Day Limitation on Amount OF Sanctions

~~The amount of Sanctions that any Market Participant will incur for committing two or more violations of Section 37.2.1(, Section 37.2.2 or) Section 37.2.4 on the same day will be no greater than \$10,000 per day.~~

* * *

37.3.1.1 Expected Conduct

Market Participants must submit Bids for Energy, RUC Capacity and Ancillary Services and Submissions to Self-Provide an Ancillary Service from resources that are reasonably expected to be available and capable of performing at the levels specified in the Bid, 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 submission. HASP Intertie Schedules for import or export Energy are

not subject to the foregoing requirement, but failure to deliver on such HASP Intertie Schedules can be subject to referral by DMM under Section 11.1, Appendix P where the failure to deliver is suspected to be a Market Violation~~violate the anti-manipulation provisions in Section 37.7 and in any regulations issued by FERC. The requirements of this Section 37.3.1.1 do not apply to the submission of Virtual Bids.~~

37.3.1.2 [NOT USED]Consequence for Non-Performance

~~A Market Participant that fails to perform in accordance with the expected conduct described in Section 37.3.1.1 above shall be subject to having the payment rescinded for any portion of an Ancillary Service or RUC Capacity that is unavailable. If a Market Participant fails to deliver on a HASP Intertie Schedule for import or export Energy, it shall be subject to any charge that may apply in Section 11.31 and to any penalty or sanction FERC may impose for violation of Section 37.7, but shall not be subject to Sanctions pursuant to any other provision of Section 37, including this Section 37.3.~~

37.3.2 Exceptions

The submission of a Bid or of a Submission to Self-Provide Ancillary Services that causes, or that the CAISO expects to cause Congestion shall not, by itself, constitute a violation of Section 37.3.1 ~~unless the Market Participant fails to comply with an obligation under the CAISO Tariff to modify Bids as determined by the CAISO to mitigate such Congestion or such Bids violate another element of this rule.~~

* * *

37.4.3.1 Expected Conduct

As required by Section 9.3.10.6, a Market Participant must provide a detailed explanation of a Forced Outage within two (2) Business Days after the Operator initially notifies the CAISO pursuant to Section 9.3.10.33.1 of the change in maximum output capability. To~~An Operator must promptly provide information requested by the CAISO to enable the CAISO to review the explanation submitted by the Operator and to prepare a report on the Forced Outage, the CAISO may request that the Market Participant submit additional information regarding the Forced Outage. An Operator must provide information requested by the CAISO within the deadline established in the request for additional information.~~

37.4.3.2 Sanctions

The Sanction for failing to provide ~~ana~~ timely explanation of Forced Outage within the deadline established in Section 37.4.3.1 and Section 9.3.10.6 shall be \$500 per day for each day the explanation is late. The Sanction for failing to provide a ~~timely~~ response to a request for additional information regarding the Forced Outage within the deadline established in the request for additional information requested shall be as specified in Section 37.6.1.

37.4.4 Enhancements And Exceptions

Except as otherwise specifically provided, penalty amounts shall be tripled for any violation of Section 37.4.1 through Section 37.4.3 that occurs during a CAISO System Emergency. Violations of the above rules that result in circumstances in which an Uninstructed Deviation Penalty under Section 11.23 ~~is~~ may be assessed shall not be subject to Sanction under this Section, 37.4. A Market Participant that is subject to an enhanced penalty amount under this Section 37.4.4 may appeal that penalty amount to FERC if the Market Participant believes a mitigating circumstance not covered in Section 37.9.2 exists. The duty of the Market Participant to pay the enhanced penalty amount will be tolled until FERC renders its decision on the appeal.

37.5.1 [NOT USED] Accurate Information Generally

All applications, Bids, Submissions, reports, and other communications by a Market Participant or agent of a Market Participant to the CAISO, 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.

37.5.1.2 [NOT USED] Sanctions

The Sanctions for a violation of Section 37.5.1 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.

* * *

37.5.2.1 Expected Conduct

Market Participants shall provide complete and accurate Settlement Quality Meter Data for each Trading Hour and shall correct any errors in such data no later than forty-three (43) calendar days after the Trading Day (T+43C). The failure to provide complete and accurate Settlement Quality Meter Data, as required by Section 10.3.6 that causes an error to exist in such Settlement Quality Meter Data after forty-three (43) calendar days after the Trading Day (T+43C) shall be a violation of this rule. Scheduling Coordinators that fail to submit Scheduling Coordinator Estimated Settlement Quality Meter Data that is complete and based on a good faith estimate that reasonably represents Demand and/or Generation quantities for each Settlement Period as required by Section 10 and that results in an error that is discovered after forty three (43) calendar days after the Trading Day (T+43C) shall be a violation of this rule.

* * *

37.6.1.1 Expected Conduct

Except as provided below in Section 37.6.4 (Review by FERC), all information that is required to be submitted to the CAISO under the CAISO Tariff, ~~CAISO Business Practice Manuals, or jurisdictional contracts~~ must be submitted in a complete and timely manner. ~~Market Participants must comply with requests for information or data by the specified deadline. For the purposes of this Section 37.6.1.1, the specified deadline is either the deadline established directly in the CAISO Tariff or, where the CAISO Tariff does not establish a specific deadline, by the deadline that the CAISO has authority to establish~~ authorized under the CAISO Tariff, ~~including timelines specified for submitting Bids and other information.~~

37.6.1.2 Sanctions

Except as otherwise provided below, in Section 37.6.2 and Section 37.6.3, the Sanction for a violation of Section 37.6.1.1 shall be this rule is subject to a penalty of \$500 for each day that the required information is late.

* * *

37.6.2.1 Expected Conduct

Except as provided below in Section 37.6.4 (Review by FERC), Market Participants must submit ~~timely~~ information in response to a written request by the CAISO for information requested in the course of reasonably necessary to conduct an investigation authorized by the CAISO by the deadline established in the request by the CAISO ~~Tariff~~.

* * *

37.6.3.1 Expected Conduct

Except as provided below in Section 37.6.4 (Review by FERC), Market Participants shall comply with the CAISO's audit and/or test procedures authorized pursuant to Section 10.3.10, and further shall perform and ~~timely~~ submit an annual self-audit as required ~~by~~ under the procedures the ISO establishes pursuant to Section 10.3.10, including procedures established relating to the deadline for submitting the required audit ~~CAISO~~ ~~Tariff~~.

37.6.3.2 Sanctions

For failure to submit an ~~annual Scheduling Coordinator Self A~~ audit report as required by Section 10.3.10.1, the Sanction shall be \$1000/day until such report is received by the CAISO. For all other violations of this rule the Sanctions shall be as follows: for the first violation in a rolling twelve (12) month period, \$1000/day; for the second violation in a rolling twelve (12) month period, \$2000/day; for the third and subsequent violations in a rolling twelve (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 CAISO.

37.7 [NOT USED] ~~Prohibition OF Electric Energy Market Manipulation~~

~~It shall be a violation of this CAISO Tariff for an entity, directly or indirectly, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the FERC, (i) to use or employ any device, scheme, or artifice to defraud, (ii) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or (iii) to engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any entity. Violations or potential violations of this rule shall be referred to FERC for appropriate sanction.~~

~~Actions or transactions by a Market Participant that are explicitly contemplated in the CAISO Tariff or are undertaken at the direction of the CAISO are not in violation of this Rule of Conduct.~~

37.8.1 Purpose; Scope

The provisions of this Section 37.8 set forth the procedures by which the CAISO will independently investigate potential violations of the Rules of Conduct and administer enforcement activities. Except as hereinafter provided, ~~and except as provided in Section 37.2.5 and Section 37.4.4,~~ the provisions of this section apply to the Rules of Conduct set forth in Sections 37.2 through 37.6~~7~~.

37.8.2 Referrals To FERC

~~Section 37.2.1, Section 37.2.3, Section 37.2.4~~5~~.1, and Section 37.3.1~~7~~~~ shall be enforced by FERC, in accordance with FERC's rules and procedures. Pursuant to Section 11 of Appendix P, DMM shall refer suspected violations of ~~Section 37.2.1, Section 37.2.3, Section 37.5.1, and Section 37.7 to FERC.~~ Although ~~Sections 37.2 through 37.6, with the exceptions of Section 37.2.3, Section 37.2.4, and Section 37.3.1 to FERC.~~ For violations of this Section 37 that are~~5.1,~~ will generally be enforced by FERC, Section 37.8.3, Section 37.8.4, Section 37.8.5, Section 37.8.6, Section 37.8.7, Section 37.8.8, Section 37.8.9, and Section 37.8.10the CAISO, the CAISO shall not applyrefer to FERC any investigation DMM may conduct of a suspected Market ViolationSanction that it believes would be modified in accordance with Sections 37.2.5, 37.4.4, or 37.9.1 or excused pursuantto Section 37.9.2. The CAISO shall refer to FERC any matter for which the particular circumstances preclude the objective determination that a Rules of Conduct violation did or did not occur. The time limitation contained in Section 37.10.1 to assess a Sanction under this Section 37 shall be determined as of the date that a Sanction is initially assessed by the CAISO, excluding the time required for FERC to investigate a potential Rules of Conduct violation and/or determine a Sanction in accordance with this section, Sections 37.2.5, 37.4.4, 37.9.1, or 37.9.2.

37.8.7 Statement Of Findings And Conclusions

Where the investigation results in a Sanction, the CAISO shall state its findings and conclusions in writing, and will make such writing available to the Scheduling Coordinator and, as provided in Section 37.8.4, to the Market Participant(s) that are the subject(s) of the investigation. ~~The CAISO also shall specify whether it has recommended or intends to recommend to FERC that a Sanction for violation of this Section 37 be modified pursuant to Section 37.9.1 or excused pursuant to Section 37.9.2.~~

* * *

37.9.1 Assessment; Waivers And Adjustments

Penalty amounts for violation of these Rules of Conduct shall be calculated as specified in Section 37.4.1.2, Section 37.4.2.2, Section 37.4.3.2, Section 37.4.4, Section 37.5.2.2, Section 37.6.1.2, Section 37.6.2.2, and Section 37.6.3.2. ~~2 through Section 37.7.~~ A Sanction specified in this Section 37 may be modified by FERC when it determines that such adjustment is just and reasonable. The CAISO 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.

37.9.2 [NOT USED]Excuse

A violation of a Rule of Conduct under the terms of this CAISO Tariff shall be excused if FERC determines that any of the circumstances described in Sections ~~37.9.2.1, 37.9.2.2, 37.9.2.3, 37.9.2.4, or 37.9.2.5~~ apply.

37.9.2.1 [NOT USED]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 CAISO 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.

37.9.2.2 [NOT USED]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 ~~4.2.1.~~

37.9.2.3 [NOT USED]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 a CAISO operating order.

37.9.2.4 [NOT USED]Conflicting Directives

~~To the extent that any action or omission by a Market Participant is specifically required by a FERC order or CAISO operating order, the Market Participant may not be subject to penalty for that act or omission.~~

37.9.2.5 [NOT USED]Good Faith Effort to Comply with Operating Orders

~~For violations of Section 37.2.1.1 of this CAISO Tariff, a Market Participant's good faith effort to achieve full performance of an operating order as soon as is reasonably practicable in accordance with Good Utility Practice shall excuse a violation.~~

37.9.2.6 [NOT USED]Procedures for Application

~~Where the CAISO believes that an excuse existed under this Section 37.9.2, it may recommend to FERC that a violation be excused. Unless otherwise specified in this Section 37, if a Market Participant believes that an excuse existed under this Section 37.9.2, it may petition FERC for review pursuant to Section 37.8.10.~~

* * *

37.9.3.1 Settlement Statements

The CAISO will administer any penalties issued under this Section 37 through Initial Settlement Statements T + 38 BD, and Initial Settlement Statement Reissues or Recalculation Settlement Statements, as relevant, issued to the responsible Scheduling Coordinator by the CAISO. Before invoicing a financial penalty through the Settlement process, the CAISO 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 CAISO has sufficient objective information to identify and verify responsibility of such Market Participants. ~~The CAISO shall specify whether such penalty is modified pursuant to Section 37.2.5 or Section 37.4.4.~~ 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 CAISO will provide such of the above information as is provided to it by FERC. The CAISO also may publish this information under the CAISO Website after Recalculation Settlement Statements are issued.~~

37.9.3.2 Payment

Except as provided in ~~Section 37.2.5, Section 37.4.4, Section 37.8.10 or Section 37.9.3.3~~ below, the Scheduling Coordinator shall be obligated to pay all penalty amounts reflected on Settlement Statements to the CAISO pursuant to the CAISO's Settlement process, as set forth in Section 11.

* * *

37.9.3.4 [NOT USED] Dispute of FERC Sanctions

~~The right that a Market Participant may otherwise have under the CAISO Tariff to dispute a penalty that has been determined by FERC shall be limited to a claim that the CAISO failed properly to implement the penalty or other Sanction ordered by FERC, except as provided by Section 37.2.5 and Section 37.4.4.~~

* * *

37.10.1 Time Limitation

An investigation of events potentially subject to Sanction by the CAISO under this Section 37 must be commenced within ninety (90) days of discovery of the events. Sanctions may be assessed under this Section 37 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.

* * *

40.7.1 Other Compliance Issues

Scheduling Coordinators representing Generating Units, System Units or System Resources supplying Resource Adequacy Capacity that fail to provide the CAISO with an annual or monthly Supply Plan, as applicable, as set forth in Section 40.7, shall be subject to Section 37.6.1. Further, Scheduling Coordinators representing Generating Units, System Units or System Resources supplying Resource Adequacy Capacity that fail to provide the CAISO with information required for the CAISO to determine Net Qualifying Capacity shall not be eligible for inclusion in the Net Qualifying Capacity annual report under Section 40.4.2 for the next Resource Adequacy Compliance Year and ~~shall~~ may be subject to any applicable Sanctions under Section 37.6.1.

40.7.2 Penalties For Non-Compliance

The failure of a Resource Adequacy Resource or Resource Adequacy Capacity to be available to the CAISO in accordance with the requirements of this Section 40 and the failure to operate a Resource Adequacy Resource by placing it online or in a manner consistent with a submitted Bid or Generated Bid shall be subject to the applicable Sanctions set forth in Section 37.2.4.- However, any failure of the Resource Adequacy Resource to satisfy any obligations prescribed under this Section 40 during a Resource Adequacy Compliance Year for which Resource Adequacy Capacity has been committed to a Load Serving Entity shall not limit in any way, except as otherwise established under Section 40.4.5 or requirements of the CPUC, Local Regulatory Authority, or federal agency, as applicable, the ability of the Load Serving Entity to whom the Resource Adequacy Capacity has been committed to use such Resource Adequacy Capacity for purposes of satisfying the resource adequacy requirements of the CPUC, Local Regulatory Authority, or federal agency, as applicable. In addition, a Reserve Sharing LSE shall not be subject to any sanctions, penalties, or other compensatory obligations under this Section 40 on account of a Resource Adequacy Resource's satisfaction or failure to satisfy its obligations under this Section 40.

* * *

Appendix O CAISO Market Surveillance Committee

* * *

1. Introduction and Purpose

1.1 There shall be established a Market Surveillance Committee (MSC) as a market advisor, whose role it shall be to ~~serve as an external market advisor to the CAISO CEO and CAISO Governing Board.~~ The MSC shall provide independent external expertise on the CAISO market monitoring process and, in particular, - provide independent expert advice and recommendations to the CAISO CEO and Governing Board.

9.6 Members of the MSC shall not accept ~~anything~~ from a Market Participant any item with a value in excess of \$25.

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Appendix P CAISO Department Of Market Monitoring

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11. Protocol on Referrals of Investigations to the Office of Enforcement.

11.1 DMM shall make a non-public referral to FERC in all instances where DMM has reason to believe that a Market Violation has occurred. DMM's non-public referral shall provide sufficient credible information to warrant further investigation by FERC. Once DMM has obtained sufficient credible information to warrant referral to FERC, DMM shall immediately refer the matter to FERC and desist from independent action related to the alleged Market Violation. DMM may, however, continue to monitor for any repeated instances of the activity by the same or other entities, which would constitute new Market Violations. DMM shall respond to requests from FERC for any additional information in connection with the alleged Market Violation it has referred.

11.1.1 The decision to make such a referral is committed to the sole discretion of DMM. In all such cases of direct referral, DMM shall promptly inform the CAISO Governing Board, the MSC and the CAISO CEO of the fact of and the content of the referral.

11.1.2 For the avoidance of doubt, the CAISO itself is subject to referral by DMM.

11.1.3 Section 11.1 of this Appendix P notwithstanding, DMM ~~shall~~ ~~may, but need~~ not, refer to FERC a suspected violation of the following provisions of Section 37 of this CAISO Tariff: ~~37.4.2.1;~~ ~~37.2.2;~~ ~~37.2.4;~~ ~~37.3.4;~~ ~~37.4.2;~~ ~~37.4.3;~~ ~~37.5.2;~~ ~~37.6.1;~~ ~~37.6.2;~~ and 37.6.3. Where conduct constitutes a Market Violation that DMM shall not refer to FERC and DMM has reason to believe that the same conduct also represents a Market Violation other than a Market Violation that, per this Section 11.1.3, DMM shall not refer to FERC, then DMM shall make a non-public referral to FERC only of the Market Violation that it is not prohibited from referring to FERC.

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