UNITED STATES OF AMERICA 90 FERC ¶ 61,345
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James J. Hoecker, Chairman;
William L. Massey, Linda Breathitt,
and Curt Hébert, Jr.

California Independent System Operator Corporation — Docket No. ER00-1365-000

ORDER APPROVING, AS MODIFIED, PROPOSED TARIFF REVISIONS ON AN INTERIM BASIS

(Issued March 31, 2000)

In this order, we approve, as modified and on an interim basis, tariff revisions submitted by the California Independent System Operator Corporation (ISO) as tariff Amendment No. 26. Amendment No. 26 modifies procedures governing the notice provided by the ISO to Scheduling Coordinators that a specific Reliability Must-Run (RMR) unit will be required to provide energy for reliability purposes during the next day. The ISO states that the purpose of the amendment is to eliminate market distortions and operational problems caused by the current timing of notices.

Background

RMR units are generation units in California that must be scheduled and dispatched during certain hours, regardless of the unit's supply bid, because of physical limitations on the transmission grid. Their purpose is mainly to ensure local reliability. RMR units enter into contracts with the ISO that allow the ISO to require that the unit be available to the market during certain hours. Under the RMR contracts, the ISO pays the RMR unit a portion of its fixed costs to stand ready to deliver an hourly minimum energy requirement set by the ISO (annual availability payment). When generating to ensure reliability, the contracts also allow the RMR unit to receive for the energy it produces either the variable cost payment included in the contract or market prices.

The California Power Exchange Corporation (PX) is a scheduling coordinator that runs the largest energy market in California on a day-ahead and hour-ahead basis. In the day-ahead time frame, the PX accepts bids from all market participants, including RMR units, during the early morning of the preceding day. The megawatts that clear this market are given to the ISO as individual unit schedules. In addition, bilateral arrangements into, within, or out of the control area, as well as trades between scheduling coordinators are also submitted to the ISO at this time. The ISO looks at these schedules for an initial picture of the load and generation scheduled in the day-ahead market. The ISO then runs its congestion management process; revised schedules are submitted and the congestion management process is run again on the revised schedules. At this point, the ISO has effectively balanced load and generation. [1] The ISO examines the units scheduled in the day-ahead market and compares them to the reliability needs in the nine RMR areas in California. Dispatch instructions are then issued to RMR units not cleared in the day-ahead market or scheduled as bilaterals. This presents a potential problem for the ISO when forward market schedules do not reflect the RMR generation that must be dispatched for reliability purposes. When an RMR unit produces power to support the reliability of the ISO grid, the system has excess energy which creates an overgeneration condition. Consequently, some unneeded generation is included in the market that must be reduced in real-time to make room for the RMR output. The ISO states that this dispatch process results in operational problems that impact reliability, efficiency, and market prices, including increased ancillary and market clearing prices.

To address these problems, in Amendment No. 26, the ISO proposes three modifications designed to ensure that energy from RMR units that are dispatched by the ISO are scheduled against demand in the forward market. First, RMR units will receive dispatch notices no later than two hours prior to the close of the day-ahead market. The RMR unit must then take steps to ensure that it is scheduled in one of the forward markets, either through the PX or another scheduling coordinator. In addition, the RMR unit must choose in advance whether to be compensated at a market price or at its RMR contract price.

Second, if the RMR unit owner elects compensation through the market (market path), it may continue to bid the amount of RMR energy specified in the dispatch notice into the PX day-ahead market at any price or to arrange a bilateral transaction through another scheduling coordinator. However, if the day-ahead preferred schedule submitted to the ISO does not contain the RMR energy necessary to fulfill its RMR obligation, the RMR owner must direct its scheduling coordinator to bid the amount of energy from the RMR unit specified in the dispatch notice into the PX market for the applicable hour as a zero energy bid. If its energy is then scheduled in the hour-ahead market, the RMR unit owner will be paid the market clearing price for the applicable hours. If the RMR unit follows these procedures but is still unable to schedule its RMR generation into the

[1] The ISO undergoes a similar process in the hour-ahead market, when generation and load may submit revisions to their day-ahead schedules.

forward markets, it will be paid at the price for Uninstructed Imbalance Energy. [2] If the RMR unit fails to follow these bid and scheduling procedures, it must still deliver the energy but will forfeit its right to payment for the energy as a penalty for noncompliance.

The third modification ensures that if an RMR unit elects to receive the variable cost payment in the contract (the contract path), its energy is actually scheduled against demand in a forward market. The scheduling coordinator for an RMR unit must bid the energy into the day-ahead market as must-take. Any RMR energy that does not clear the day-ahead market must be bid into the hour-ahead market for the applicable dispatch hours, also as a zero bid (or as an hour-ahead bilateral transaction). As with the market path option, if the RMR unit fails to follow these bid and scheduling procedures, it must still deliver the energy but forfeit payment.

The ISO states that taken together the three modifications will eliminate the current market distortions that exist when energy that must run is not scheduled against load. The ISO states that requiring RMR energy to be netted-out against load in the forward markets eliminates an excess generation condition that requires a solution in the real-time market. According to the ISO, the current dispatch procedures result in excessive use of imbalance energy and regulation, high volatility in imbalance prices, and control and reliability problems. In addition, the ISO claims that the failure to net the RMR generation against the demand that it will ultimately serve, requires the PX to purchase excess energy that increases the market clearing price and distorts market price signals.

[2] The price for Uninstructed Imbalance Energy is the hourly price in the real-time energy market.

The ISO explains that the terms and conditions of the RMR contracts were the subject of a partial settlement accepted by the Commission in Docket Nos. ER98-411, et al. [1] The partial settlement (RMR Settlement) included amendments to both the ISO tariff and to the pro forma RMR Service Agreements. The ISO states that, under the RMR Settlement, it is permitted to seek amendment to the ISO tariff to provide for pre-dispatch of RMR units and the RMR owners' option to select the contract path or the market path, on or after October 1, 1999. In addition, the ISO explains that the RMR Settlement provides several conditions for making such a filing, including that the ISO must first conduct a stakeholder process, and that the ISO must recognize in its filing that the proposed amendment alters the basis on which certain RMR owners accepted payment levels in the RMR Settlement. Thus, according to the ISO and pursuant to the terms of the RMR Settlement, the ISO's decision to file this proposal allows these RMR owners to file under Federal Power Act section 205 [2] for revised payment levels.

The ISO states that the software necessary to implement its proposal is not yet ready. Consequently, the ISO requests an effective date of the later of sixty days from the filing date or ten days after notice to the Commission that the software is in place.

Notice and Interventions

Notice of the ISO's filing was published in the Federal Register, 65 Fed. Reg. 7383 (2000), with motions to intervene and protests due on or before February 22, 2000. A notice of intervention was filed by the Public Utilities Commission of the State of California (California Commission). Timely motions to intervene, comments, and protests were filed by Automated Power Exchange, Inc. (APX), the California Department of Water Resources (DWR); California Electricity Oversight Board (Oversight Board); California Power Exchange Corporation (PX); Calpine Corporation and Geysers Power Company, LLC , jointly (Calpine); Cities of Redding and Santa Clara, California and the M-S-R Public Power Agency (Cities/M-S-R); Duke Energy North America, LLC and Duke Energy Trading and Marketing, LLC, jointly (Duke); Dynegy Power Marketing, Inc. (Dynegy); Independent Energy Producers Association (IEPA); Metropolitan Water District of Southern California (Metropolitan); Modesto Irrigation District (Modesto); Northern California Power Agency (NCPA); Reliant Energy Power Generation, Inc. and Williams Energy Marketing & Trading Company, jointly (Reliant); Pacific Gas and Electric Company (PG&E); Sacramento Municipal Utility District (SMUD); Sempra Energy (Sempra); Southern California Edison Company (SoCal Edison); Southern Energy California, L.L.C., Southern Energy Delta, L.L.C., and

[1] See California Independent System Operator Corporation, 87 FERC ¶ 61,250 (1999).

[2] 16 U.S.C. § 824d (1994).

Docket No. ER00-1365-000
Southern Energy Potrero, L.L.C., jointly (Southern); Transmission Agency of Northern California (TANC); Turlock Irrigation District; and Western Power Trading Forum (WPTF).

On March 9, 2000, the ISO filed an answer.

Positions of the Parties

The California Commission, Metropolitan, DWR, and SoCal Edison filed comments in support of Amendment No. 26, asserting that the changes therein would greatly improve operating conditions in California. DWR, however, asks that the Commission condition its approval, first, on the matters in the unresolved issues proceeding, ER98-3760-000, et al., not being prejudiced by the approval of Amendment No. 26, and, second, on necessary reforms in the California markets not being constrained by "the general precedence that the [RMR] Stipulation and Agreement provides to the Must-Run Agreement over the ISO Tariff." [3]

The remainder of the intervenors with substantive comments protest the filing. A consistent theme of the protests is the allegation that the ISO's proposal will distort PX market clearing prices by dramatically increasing the amount of energy bid at $0. This in turn, they argue, would encourage incumbent utility buyers to manipulate PX prices by withholding load from forward markets. [4] Intervenors also allege that the lower cost of RMR energy would create a disincentive to make transmission upgrades to resolve local transmission constraints. [5] A frequent comment is that the proposal contravenes the "market first" principle, reversing the current California market design. [6] The proposal, IEPA asserts, would require RMR generation to become "must-take" generation, which it was not intended to become.

Several intervenors assert that the proposal discriminates against RMR owners by limiting their ability to participate in the energy and ancillary services markets. This is because RMR owners selecting the market path that do not clear in the day-ahead market must bid into the hour-ahead market for all 24 hours regardless of whether the hour's price will cover their variable costs. [7] In contrast, they contend that non-RMR

[3]DWR at 2-3, quoting ISO transmittal letter at 12.

[4]Southern at 23; Calpine at 6; WPTF at 8-9; Reliant at 15.

[5]Calpine at 9; WPTF at 7; Reliant at 2-3.

[6]Calpine at 4; WPTF at 5, 7-9; Duke at 6-7; Southern at 9-11; IEPA at 3-4.

[7]Calpine at 10-11; Reliant at 4.

generators may choose the hours in which they will bid. Moreover, intervenors object that the proposal will force RMR generators to run at times not economically justified, i.e., at a loss in certain hours. [8]

Dynegy also explains that because RMR owners will lose the option to decide how and when to bid energy (e.g., 50% through the market and 50% hourly or partial bidding); they will have to bid 100% of their output in either one or the other. Dynegy contends that this will increase the risks for RMR owners and cost them if the market does not cover their variable costs. As a result, Dynegy argues that they will take the safer contract path, and thus, the proposal will decrease the amount of energy competitively bid into the day-ahead market. Because of these adverse impacts on RMR generators, Dynegy asserts that the proposal will discourage new generators from locating where they are needed, because if they locate where there is a capacity shortage, they will be designated as an RMR generator and purportedly be kept out of all but the day-ahead and bilateral markets.

Several intervenors object to the proposal on procedural grounds, asserting that the ISO did not conduct a meaningful stakeholder process, and they urge the Commission to hold a technical conference or set the proposal for hearing. [9] The PX objects to the requested effective date because the software it would need in order to implement the proposal will not be ready until June 1, 2000. WPTF asserts that the proposal will become unnecessary when the ISO has redesigned its congestion management process. Similarly, APX argues that the proposal will become unnecessary when the California Commission's mandate that major utility distribution companies trade exclusively in the PX ends, and RMR generation will not likely be bid into the PX. APX adds that, if the Commission accepts the proposal, then it should only be approved until the California Commission mandate ends. Duke and Reliant suggest alternative proposals to Amendment No. 26. [10]

Finally, a number of intervenors object that the ISO's proposal is contrary to the RMR Settlement Agreement and/or contract provisions. Specifically, Dynegy states that the proposal upsets the delicate balance of risks and rewards that were negotiated in both the Settlement Agreement, and the new RMR contracts, by exposing RMR owners to unknown financial risks. [11] Dynegy claims that annual availability payments under the

[8]Dynegy at 16.

[9]Dynegy at 5-6; WPTF at 11-12; Reliant at 29-30; Southern at 23-24.

[10]Duke at 10-11; Reliant at 27-29.

[11]Dynegy at 7-9.

RMR contract will not compensate them for non-performance penalties associated with bidding $0 into the PX day-ahead market. For example, Dynegy argues that if it bids zero into the PX day-ahead market and suffers an outage, it won't be compensated under the fixed option payment. Southern asserts that the ISO has violated the Agreement by failing to have a meaningful stakeholder process as required in the Settlement Agreement. Further, Southern claims that the proposal violates the RMR contract by dictating to the RMR owner not only the amount and time of energy delivery but also the price that the RMR owner may obtain for the entire dispatch period.

Discussion

Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, [12] the notice of intervention and the timely, unopposed motions to intervene serve to make the above-listed intervenors parties to this proceeding. Although answers to protests generally are prohibited under 18 C.F.R. § 385.213 (a)(2), we nevertheless find good cause to allow the ISO's answer in this proceeding because it provides additional information that assists us in the decision-making process.

Predispatch Proposal

We agree with the ISO's assessment that its current RMR dispatch policy, in which RMR units are called upon in real-time after forward market schedules have become final, has caused operational problems.[13] Energy supplied in response to RMR dispatch notices appears in real-time unscheduled against demand. This operating procedure is inconsistent with the ISO's market practice which requires scheduling coordinators to submit balanced load and energy schedules. Thus, in order to maintain the reliability of

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[12] 18 C.F.R. § 385.214 (1999).

[13] See Attachment E of the ISO's filing (Declaration of Kellan Fluckiger). Also, the ISO's Department of Market Analysis (DMA) reports that during the 17 months from April 1998 to August 1999, approximately 25 percent of the RMR energy dispatched after the day-ahead market had to be accommodated by decrementing energy from scheduled generation in real-time. The DMA reports that the ISO is often forced to rely on out-of-market and out-of-control-area calls for decremental energy and has often resolved over-generation conditions by accepting negative decremental energy bids which implies that the generator is being paid by the ISO not to generate. See Attachment F to the ISO's filing, Pre-Dispatch and Scheduling of RMR Energy in Day-Ahead Market, Department of Market Analysis, September 1999 (September 1999 Report).

the ISO grid, the ISO must reduce the output of other generation in the real-time market using Imbalance Energy Resources. Rather than use these resources to adjust for normal variances in load estimates or weather variances, the ISO requires additional resources to absorb (through decremental bids) the overgeneration resulting from excess energy supplied by RMR units.

In order to maintain the reliability of the ISO grid, the ISO is also required to carry a significantly larger supply of Regulation service than what was historically required. [14] Moving the RMR energy from real-time to the forward markets will significantly reduce the amount and number of changes to generator outputs and loads in order to maintain their balance. Correspondingly, with less excess energy in the real-time markets, the level of Regulation reserves can be reduced thereby permitting Regulation service to follow load (and maintain frequency) rather than compensate for large amounts of generator output being reduced. This will increase the amount of capacity available to be bid into both the energy and other ancillary service markets.

We disagree with intervenors that predispatch of RMR units reverts to command and control regulation by the ISO. As noted by the ISO, it determines its RMR requirements through the ISO's Day-Ahead Demand Forecast. [15] Therefore, the ISO's determination of RMR requirements is, with one exception, completely independent of the level and location of market generation submitted through the PX. [16] Amendment No. 26 will not change the ISO's method for determining its RMR requirements nor does it impose any additional command and control regulation on RMR units then the current practice. Moreover, the output of RMR units has always been must-take generation because the output is needed to serve load that cannot be reliably served by any other resources. In light of the above, it is reasonable to require RMR energy to be pre-scheduled and balanced with load.

We find that the ISO's proposal in Amendment No. 26, as amended below, is a reasonable approach to address these problems, at this time. However, we continue to believe that most of these problems are due in large part to the current congestion

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[14]The ISO currently carries Regulation reserves of 6 - 12 percent of load rather than 1.5 - 3 percent. This contrasts with the Regulation requirements the Commission found reasonable in Opinion No. 432, Kentucky Utilities Company, 85 FERC ¶ 61,274 (1998) (1.25 percent) and Opinion No. 440, American Electric Power Service Corporation, 88 FERC ¶ 61,141 (1999) (1.5 percent).

[15]ISO Answer at 14.

[16]The ISO explains that, with the exception of one load pocket, RMR units are the only resources that can satisfy the local reliability requirements. Id.

management system that permits the forward market schedules to be determined without regard to intra-zonal constraints, a practice that often approves schedules that are physically infeasible. While a revised congestion management system will resolve a number of these problems, we agree with the ISO that because of local market power concerns, the ISO may continue to need some level of RMR units after any redesign of intra-zonal congestion management takes place.

On January 7, 2000, we issued an order directing the ISO to redesign its congestion management procedure after we found it fundamentally flawed. [17] We believe that a properly designed procedure will result in realistic scheduling and accurate price signals, which, excluding any potential local market power concerns, will render the ISO's pre-dispatch proposal unnecessary. Therefore, we will accept the ISO's proposal as modified below, on an interim basis only. We will require the ISO to file for continuation of its RMR procedures or new procedures on the earlier of the date it files its new congestion managements plan (which it has committed to file by October 31, 2000) or January 15, 2001, the date that its compliance filing is due under Order No. 2000. [18] As previously discussed, we believe that the concerns that the instant filing addresses will be reduced or eliminated by a comprehensive congestion management plan. Reducing the amount of RMR capacity may help alleviate the need for pre-dispatch. We also note that January 15, 2001, is the deadline for the ISO to present to the Commission the results of a top-to-bottom analysis of how it will comply with the RTO Order, and such an analysis will require a comprehensive assessment of the RMR procedures.

Under either option, we believe that the ISO will have sufficient operational experience and data by this time to assess whether the benefits of pre-dispatching RMR units were obtained or whether any of the concerns expressed by intervenors have materialized.   We will also require the ISO and the PX to direct the Market Surveillance Committee and the Market Monitoring Committee, respectively, to perform independent assessments of the impact of the proposed RMR procedures on markets. The ISO should provide information to these committees about the timing of its filing in order to incorporate the results of their reports in its filing. We will also require that interested parties be allowed to participate in a meaningful stakeholder process before the filing is made. All interested parties must be provided an opportunity to engage in a dialogue and not be restricted to responding to documents distributed by the ISO.

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[17]California Independent System Operator Corporation, 90 FERC ¶ 61,006 (2000), reh'g pending.

[18]Regional Transmission Organizations, Order No. 2000, 65 Fed. Reg. 809 (Jan. 6, 2000), FERC Stats. & Regs. ¶ 31,089 (2000), 89 FERC ¶ 61,285 (1999), order on reh'g, Order No. 2000-A, 90 FERC ¶ 61,201 (2000) (RTO Order).

While we are persuaded that failure to pre-dispatch has created operational difficulties, we are not persuaded that it has produced any systematic price increases. The evidence presented by the ISO suggests that the current dispatching mechanism has not inflated forward market prices, and that pre-dispatch will not lower them. For example, a study by the ISO's Department of Market Analysis indicates that, on average, PX forward market prices have not been higher than the ISO's real-time energy prices. [19] The ISO's consultant, Professor Robert Wilson of Stanford University, similarly concludes that "[t]he evidence is strong, however, that there is no systematic difference between the day-ahead and real-time prices, and there is no indication that any future scenario would entail a systematic divergence in prices." [20] Thus, based upon our analysis of the ISO's market reports, we are not persuaded by the arguments of certain intervenors and the ISO that predispatching will necessarily reduce energy prices in the forward markets.

Risk Associated with "Market Path" Option

A number of intervenors complain that, under the ISO's proposal, owners of RMR units that elect to be compensated under a "market path" option would face an unreasonable risk.[21] Specifically, intervenors object to having to choose, prior to the running of the day-ahead markets, whether to be compensated under the "market path" or the "contract path" for all hours of the dispatch period. Duke states that the proposal effectively requires RMR owners to decide, prior to the day-ahead markets, whether to accept a variable cost payment or seek market revenues for the full amount of, and for all hours covered by, the ISO's RMR dispatch notice. Calpine complains that this places

[19] The DMA notes a seasonal trend, with PX prices being higher than ISO prices during lower demand months, and ISO prices being higher during high demand months. See, Attachment F to the ISO's filing, September 1999 Report, at 15-19.

[20] Attachment D, Appendix E of the ISO's filing, Opinion of Prof. Robert Wilson, at 2. A major reason why predispatching may have no systematic price effect is that loads can shift their demands between the forward and real-time markets. As noted by the ISO, because RMR units are not currently pre-dispatched, loads have had an incentive to under-schedule in the forward markets in anticipation of greater RMR supplies being dispatched in real-time. Under-scheduling load tends to reduce the PX forward market prices and thus offset the higher prices that would otherwise result from failure to pre-dispatch RMR units. Pre-dispatching would reduce the incentive of load to under-schedule.

[21] Southern at 22; Calpine at 11; Reliant at 11, 13; Duke at 4-5; Dynegy at 15-16; IEPA at 5; WPTF at 9.

RMR owners at risk of being paid during some hours based on market clearing prices that fall below their variable operating costs. Calpine notes that because non-RMR owners may submit bid quantities and prices that vary each hour of the day, they are able to avoid scheduling their resources to provide energy when prices are expected to fall below variable operating costs. Reliant argues that the proposal effectively eliminates the market path option as a real choice for RMR owners. Dynegy states that, under the contract path option, RMR owners at least have the assurance that all of their variable costs will be covered.

Also, some of the intervenors claim that this aspect of the ISO's proposal is inconsistent with the rights of RMR owners under the tariff and the RMR contract, and is not among the issues preserved for subsequent modification by the ISO in the April 1999 stipulation.[22]

In reply, the ISO recognizes the concerns of intervenors that having to choose a payment option applied to the entire dispatch period complicates the decision to choose the market or contract path. Accordingly, the ISO proposes to modify its filing to bifurcate the day such that RMR owners would be free to choose one payment option for peak periods and a different payment option, if it so desires, for non-peak periods.

We will require the ISO to modify Amendment No. 26 to permit the RMR Owners the option of choosing which hours during the dispatch notice that they will receive the contract path payment and which hours they want to receive the market path payment. Consistent with the terms of Amendment No. 26, no later than one hour before the close of the PX day-ahead market for the trading day, the RMR owner must notify the ISO with its choice for the hours it will receive the contract payment and the hours it will receive the market payment. Accordingly, we will direct the ISO to submit a compliance filing reflecting this modification.

RMR owners now have almost two years of experience dealing with bidding behavior, market clearing prices, and the time periods when their variable costs are greater than the market clearing price. Based upon its experience, the RMR owner can select the contract path for the hours it believes that its variable costs will exceed the market clearing price and be assured a full recovery of its costs, and the RMR owner can select the market path to maximize its revenue stream when it believes that the market clearing price will exceed its variable cost. In any event, RMR owners may always choose the "contract path" and avoid all risk of underrecovering their variable costs. We believe that permitting the RMR owners the option of choosing which hours they wish to

[22]Southern at 22; Dynegy at 15; WPTF at 9.

receives a contract or market payment adequately responds to intervenor concerns that in some instances an RMR unit may receive less than its variable cost during some hours.

We disagree with intervenors that Amendment No. 26 moves away from the market first principles that the ISO uses to procure its necessary services. The pre-dispatch notice simply provides RMR units with early notice that they will be called upon for reliability needs. RMR units still have the incentive to bid into the day-ahead market for the required amount of dispatch energy when they believe that their bid will clear the market. Thus, the ISO will still rely upon the market to provide it with the necessary services needed to operate the grid. If an RMR owner does not enter the market, it will still be paid under the terms of the RMR contract.

While we agree with intervenors that the ISO's proposal may limit their ability to participate in the ancillary service markets, we are not convinced that predispatch will cause irreparable harm to RMR owners. Currently, RMR units may be selected in the ancillary service markets prior to receiving a dispatch notice from the ISO. In such an event, if the RMR unit must withdraw from an ancillary service market, it receives an opportunity cost payment (Pre-empted Dispatch Payment). Predispatch will eliminate these revenues. However, to the extent that the ISO's proposal reduces revenues to RMR owners, they are free under the RMR Settlement to file for higher availability payments to offset any revenue reductions. Of course, RMR owners can still bid into the energy and ancillary service markets any additional amount of energy from the RMR unit that is greater than the energy requirement of the dispatch notice, as well as the entire output of the RMR unit for the hours outside of the discrete dispatch period.

However, we disagree with intervenors that the terms of the RMR Settlement Agreement and/or contract provisions preclude the ISO's filing of Amendment No. 26. Article VI of the RMR Settlement Agreement (included as Attachment G to the filing) clearly provides the ISO with the right to file with the Commission a proposal to pre-dispatch RMR units and request an advance payment option based upon a contract or market path. [23] In return, RMR owners who have not waived the right may make a

[23]Article VI, paragraph C, of the RMR Settlement states:

> Subject to the procedures set forth below, the ISO shall not be precluded by this Stipulation from seeking on or after October 31, 1999, to modify its Tariff to provide for dispatch of RMR Energy at any time prior to the ISO's establishment of Final Schedules for the PX Day-Ahead Market, with an option by the seller of RMR Energy to accept payment under the RMR Contract or through the market, and a requirement that the Energy for which the RMR Owner elects the contract payment be treated as "must-take" in the PX Day-Ahead Market. . . .

section 205 filing with the Commission to revise the level of the fixed option payment in their RMR contract if Amendment No. 26 alters their revenue stream (including any potential exposure to increased market risks). We believe that the ISO's peak and non-peak proposal will limit the financial risks to RMR owners. However, they may file proposed revisions to the annual RMR availability payments derived from the RMR Settlement Agreement if the need arises.

Regarding intervenors' complaints about the ISO's stakeholder process, we believe that the ISO provided ample opportunity for comment. The ISO presented a proposal to stakeholders in August 1999 and two months later circulated proposed language for the tariff amendment; Amendment No. 26 was filed three months thereafter. We do not wish to micromanage how the ISO conducts its stakeholder discussions, and we are satisfied in the context of this case that there was adequate process. Moreover, the ISO followed the predetermined procedures specified in the RMR Settlement.

In response to concerns raised by APX and Dynegy, we note that our acceptance of the ISO's requirement that RMR generators must be scheduled in a PX forward market (i.e., by requiring RMR units to bid in a PX market) is not meant to confer any special role upon the PX nor is it meant to imply any obligation of any market participant to bid into the PX after the transition period. The ISO states in its Answer (at page 33) that the concerns raised by APX and Dynegy are legitimate, but that they are most appropriately addressed at the time the mandate for Utility Distribution Companies to trade in the PX expires. We direct the ISO to file revised procedures prior to the date that the mandate expires. In addition, our approval of Amendment No. 26 does not prejudice any unresolved issues in Docket No. ER98-3760-000, et al.

Effective Date

The ISO requests an effective date of the later of 60 days from the filing date or ten days after notice to the Commission that the software is in place. The ISO states that, because unnecessary costs to consumers from the current protocols are most pronounced during the spring and summer months, it is important that these changes be in place before the period of peak demand. The PX requests that the effective date be suspended until June 1, 2000, when it will be able to complete tracking changes in its software. In reply, the ISO states that an effective date that coincides with the ten day notice of software modification satisfies the PX's concerns. We concur. Therefore, the effective date will be ten days after both the PX and ISO have completed their necessary software modifications.

The Commission orders:

(A) The ISO is hereby directed to submit a compliance filing as discussed in the body of this order within 30 days of the date of this order.

(B) The ISO's proposed tariff changes, as modified in Ordering Paragraph (A), are hereby accepted for filing on an interim basis, without suspension or hearing, to become effective as discussed in the body of this order.

(C) The ISO is hereby directed to file for continuation of its RMR procedures or to revise those procedures, as discussed in the body of this order.

(D) The ISO and the PX are hereby required to direct the Market Surveillance Committee and the Market Monitoring Committee to prepare reports, as directed in the body of this order.

(E) The ISO is hereby informed that the rate schedule designations will be supplied in a future order. Consistent with our prior orders, we hereby direct the California ISO to promptly post the revised OATT on the Western Energy Network.

By the Commission.

(S E A L)

Linwood A. Watson, Jr.,
Acting Secretary.