

119 FERC ¶ 61,124
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator
Corporation

Docket No. ER07-613-000

ORDER CONDITIONALLY ACCEPTING FOR FILING,
SUBJECT TO MODIFICATIONS,
TARIFF REVISIONS AND DIRECTING COMPLIANCE FILING

(Issued May 8, 2007)

1. In this order, we conditionally accept for filing, subject to modifications, the California Independent System Operator Corporation's (CAISO) proposed tariff amendments to incorporate certain provisions of the conditionally approved Market Redesign and Technology Upgrade (MRTU) Tariff into the currently effective CAISO tariff, effective May 9, 2007, as requested. We also direct the CAISO to submit within 15 days of the date of issuance of this order a compliance filing reflecting tariff revisions discussed in this order.

Background

2. On February 9, 2006, the CAISO filed its MRTU Tariff and requested an effective date of November 1, 2007. On September 21, 2006, the Commission issued an order conditionally accepting the MRTU Tariff, subject to modifications, and directed the CAISO to make compliance filings with the Commission.¹ In response to the Commission's directive, the CAISO submitted compliance filings on November 20, 2006, and December 20, 2006.

¹ *California. Independent. System. Operator Corporation.*, 116 FERC ¶ 61,274 (2006) (September 2006 Order).

3. On December 19, 2006, the CAISO Board of Governors voted to extend the MRTU implementation date from November 1, 2007 to January 31, 2008. Upon implementation, the conditionally approved MRTU Tariff will implement a market design based on locational marginal prices (LMP), including features such as a day-ahead market with Congestion Revenue Rights (CRR).

4. On March 9, 2007, the CAISO submitted the instant filing, explaining that prior to the start of market operations under MRTU, the CAISO must finalize preparation of its systems to ensure that certain features of the market design are ready when MRTU is launched. Therefore, the CAISO proposes to amend its currently effective tariff with provisions that have already been reviewed and accepted by the Commission as part of the MRTU Tariff. The CAISO states that the instant filing is a necessary step towards implementation of the MRTU, and that it will provide the CAISO with the information and authority it needs to adequately prepare for the startup of MRTU markets. In particular, the CAISO intends to allocate and auction CRRs to market participants in July 2007, and the incorporation of the tariff provisions proposed in the instant filing are necessary to effectuate these processes.

Notice of Filing and Responsive Pleadings

5. Notice of the CAISO's filing was published in the *Federal Register*, 72 Fed. Reg. 13,490 (2007), with interventions and protests due on or before March 30, 2007. The parties listed in Appendix to this order filed motions to intervene. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

6. The Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside (collectively, Six Cities), California Department of Water Resources (CDWR), Imperial Irrigation District (Imperial), the City of Santa Clara d/b/a Silicon Valley Power and the M-S-R Public Power Agency (jointly, SVP/M-S-R), the Metropolitan Water District (Metropolitan), the Modesto Irrigation District (Modesto), the Northern California Power Agency (NCPA), and the Transmission Agency of Northern California (TANC) protested the CAISO's filing. Southern California Edison (SoCal Edison) filed comments.

7. The CAISO filed an answer to protests and comments. PG&E filed an answer to CDWR's protest, and CDWR filed an answer to PG&E's answer. In addition, the CAISO filed a supplemental answer to comments and protests. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest and an answer unless otherwise ordered by the decisional authority. We will accept the CAISO's answer because it has provided information that assisted us in our decision-making process. We, however, are not persuaded to allow the

CAISO's supplemental answer, PG&E's answer to CDWR's protest and CDWR's answer to PG&E's answer, and therefore, reject them.

Discussion

8. The CAISO proposes to incorporate into the current CAISO tariff certain provisions previously proposed as part of the MRTU Tariff, to allow for an earlier effective date, prior to MRTU implementation. These provisions concern Transmission Rights and Transmission Curtailment (TRTC) Instructions. The CAISO states that because these provisions do not pertain to current CAISO operations, these provisions will be included in the CAISO tariff as Appendix BB, Parts A through G. Most of the provisions proposed in the instant filing are the same provisions that were conditionally approved, subject to modification, in the September 2006 Order. The CAISO states that it is necessary to incorporate these provisions into the current tariff and to make them effective prior to the implementation of MRTU so that the CAISO may obtain the necessary information and authority to ensure that the treatment of Existing Transmission Contracts (ETCs),² Transmission Owner Rights (TORs),³ Converted Rights⁴ and CRRs are in place upon implementation of MRTU. In addition, the CAISO proposes minor clarifying edits and additional modifications to some of the previously considered, conditionally approved MRTU Tariff provisions. The CAISO's filing also contains tariff provisions that have not been previously considered by the Commission. These new provisions also follow the section numbers established in the MRTU Tariff. New provisions are addressed in a separate section of the order below.

² ETCs are encumbrances, established prior to the CAISO's operation, in the form of a CAISO Participating Transmission Owner's (PTO) contractual obligation to provide transmission service to another party using transmission facilities owned by the PTO that have been turned over to the CAISO's operational control.

³ TORs refer to existing contracts that establish joint ownership or direct ownership of transmission facilities that are within the CAISO Control Area and have not been turned over to the CAISO's operational control.

⁴ Converted Rights refer to those contractual rights and transmission facilities that were turned over to the CAISO's operational control subsequent to the initial start-up of the CAISO.

1. Incorporation of TRTC Instructions Information into the CAISO Tariff

Background

9. Under MRTU, the CAISO will continue to honor transmission rights for holders of ETCs, TORs, and Converted Rights and will incorporate these rights into the operations of the day-ahead and real-time markets (including the hour-ahead scheduling process or HASP).⁵ The CAISO's proposed treatment for honoring these rights was conditionally approved by the Commission subject to further modification in the September 2006 Order.⁶ The CAISO's proposal included: (1) scheduling the use of these rights in the CAISO markets; (2) settlement and allocation of CAISO charges; and (3) validating the consistency of the submitted schedules with the underlying contractual rights. The CAISO states that it is necessary for the parties to these contracts to provide the exact nature of these rights in the TRTC Instructions in advance of MRTU implementation so that the CAISO can incorporate the information into an automated procedure for validation of ETC, Converted Rights and TORs self-schedules,⁷ provide scheduling priority, and apply the Perfect Hedge settlement mechanism.

The CAISO's Proposal

10. The CAISO requests an early effective date for MRTU sections 16.4 and 17.1 addressing TRTC Instructions for ETCs, Converted Rights and TORs. Proposed section 16.4 was previously accepted for filing in the September 2006 Order.⁸ Section 17.1 was previously filed and conditionally accepted subject to further modification.⁹ In addition, the CAISO proposes additional changes to MRTU sections 16.4.5 and 17.1.4 to reflect

⁵ Under MRTU, the CAISO will provide scheduling priority to valid and balanced self-schedules submitted in accordance with the established TRTC Instructions and will provide the Perfect Hedge (which constitutes a credit of congested charges incurred under LMP) for ETCs and TORs. In addition, the CAISO will apply the Perfect Hedge treatment for valid and balanced self-schedules submitted in the day-ahead market pursuant to Converted Rights. For more detail *see* September 2006 Order, 116 FERC ¶ 61,274 at P 931-955.

⁶ *Id.*

⁷ The automated procedure will obviate the need for PTOs and non-PTOs to validate the specific contract rights on a day-to-day basis.

⁸ September 2006 Order, 116 FERC ¶ 61,274 at P 35.

⁹ *Id.* at P 987-990.

the additional detail provided in the CAISO's Business Practice Manuals (BPMs). These additional changes are discussed below. The CAISO also proposes additional minor edits to MRTU sections 16.4 and 17.1 and their sub-sections which, according to the CAISO, will improve consistency in the use of defined terms.

11. The further changes to already accepted sections 16.4 and 17.1 include: (1) a requirement that parties provide physical sources and sinks for validation of ETC and TOR self-schedules, as well as clarification that such physical sources may include generating units and system resources and that such physical sinks may include load PNodes, customer load aggregation points and system resources;¹⁰ (2) a requirement that parties specify which Scheduling Coordinator will be entitled to the Perfect Hedge settlement given that different Scheduling Coordinators may submit ETC, Converted Rights or TOR self-schedules at the applicable source and sinks for such schedule;¹¹ (3) requirement that parties specify the maximum capacity (MW) that can be scheduled;¹² (4) clarification of provisions that require parties to specify the allowable timing of schedule changes pursuant to the ETC, Converted Rights or TOR;¹³ and (5) a requirement that parties identify whether or not the ETC contract provides for the right to self-provide ancillary services.¹⁴ In addition, the CAISO proposes to collect as part of the TRTC Instructions, forecasted usage of ETCs and Converted Rights for the annual and monthly period that CRRs will be in effect.¹⁵

12. The CAISO states that the proposed additions to these sections are necessary to reflect the usage of ETCs, Converted Rights and TORs in the models used in the Simultaneous Feasibility Tests to be conducted for the purpose of allocating and auctioning of CRRs. According to the CAISO, ETCs, Converted Rights and TORs must

¹⁰ See The CAISO's Tariff Filing, Attachment B, proposed sections 16.4.5(5) and 17.1.4(5). The CAISO notes that scheduling priority is provided only to physical sources and sinks.

¹¹ See *id.* proposed sections 16.4.5(7) and 17.1.4(7).

¹² See *id.* proposed sections 16.4.5(8) and 17.1.4(8).

¹³ See *id.* proposed sections 16.4.5(9) and 17.1.4(9).

¹⁴ See *id.* proposed section 16.4.5(13).

¹⁵ See *id.* proposed section 16.4(12). According to the CAISO, the collection of forecast information will have no impact on a party's ability to exercise its rights under MRTU, but is designed to better enable the CAISO to more accurately model the usage patterns of the ETC and Converted Rights.

be accounted for in the allocation and auctioning of CRRs because these rights holders receive a reversal of congestion charges.¹⁶ Because payments made to entities that hold CRRs are funded by the congestion revenues collected through the Locational Marginal Prices (LMPs) charged to entities that use the transmission grid, the CAISO states that it must properly model and evaluate these existing rights in its allocation and auctioning of CRRs to minimize the possibility that the Perfect Hedge will result in insufficient collection of congestion charges which in turn could result in insufficient funds available to cover CRRs.¹⁷

13. According to the CAISO, it is also necessary to collect the TRTC Instruction information prior to implementation of MRTU, so that it can perform various pre-MRTU market functions, including incorporating data into the Master File,¹⁸ preparing the software and systems for validating scheduling priorities, and settling ETCs, Converted Rights and TOR transactions.

14. The CAISO states that for these reasons noted above, it requires the TRTC Instructions to be completed by market participants and returned to the CAISO no later than May 9, 2007, in order to ensure that the CAISO can incorporate such information in time to conduct its first annual allocation of CRRs in July 2007.

Protests

15. Imperial, CDWR and Metropolitan object to the requirements established in sections 16.4.1(5) and 17.4.1(5) to identify “resource names for the physical resources as the eligible sources.” Imperial argues that the CAISO’s proposed changes will diminish grandfathered contracts by requiring ETC and TOR holders to designate specific generators in their TRTC Instructions. Imperial argues that the Commission should reject

¹⁶ The CAISO does not collect congestion revenues from valid and balanced ETC and TOR self-schedules in the day-ahead and real-time markets and from valid and balanced Converted Rights self-schedules in the day-ahead market.

¹⁷ The CAISO proposes to provide full funding for all holders of CRRs and any shortfall in revenues necessary to maintain such full funding will be managed through the CRR balancing account which the CAISO proposes to clear monthly and assign any shortfall or surplus to measured demand. *See* the CAISO’s Filing, Docket No. ER07-475-000 (January 29, 2007).

¹⁸ The Master File provides the CAISO with information about generators (maximum capacity, ramp rates, etc.) and load (location of take-out points) that rarely changes.

the requirements and instead require the CAISO to permit ETC and TOR holders to continue to purchase power from pricing hubs such as SP15,¹⁹ consistent with their existing contract rights.²⁰ Because it must identify specific generator nodes as receipt points, Imperial argues that it would need to enter into new, generator specific contracts and provide any changes to its generator nodes seven days prior to switching to a new generation unit.²¹ Additionally, Imperial asserts that it can make changes to its ETC schedules up to 20 minutes before real time, and therefore, this provision will eliminate its ability to make generator source scheduling changes necessary to deal with unplanned outages and will diminish the value of Imperial's ETC and TOR rights.²²

16. CDWR also argues that the requirements violate Energy Policy Act of 2005 (EPA 2005)²³ protections, are an impermissible collateral attack on the Commission's determinations in the Docket No. ER04-928 proceeding,²⁴ and abrogate CDWR's contract rights on file with the Commission.²⁵ CDWR states that the CAISO fails to

¹⁹ SP15 is an existing congestion management zone that includes most of Southern California.

²⁰ Imperial states that currently it is able to purchase power in the day-ahead or real-time market from any generator within SP15 or from generators outside SP15 and bring the power into Imperial's system through its ETC contract.

²¹ Imperial states that changes to TRTC Instructions are cleared after 7 days notice.

²² Imperial states that it essentially pays for network service where it could draw on the resources of any generator in the system and, under MRTU, will only be able to schedule point-to-point service.

²³ Pub. L. No. 109-58, 119 Stat. 594 (2005).

²⁴ CDWR refers to *Public Utilities With Existing Contracts in the California Independent System. Operator Corporation. Region*, 112 FERC ¶ 61,007 (2005), *reh'g denied*, 117 FERC ¶ 61,087 (2006) (ETC Order). According to CDWR, the Commission previously reviewed and approved specific descriptions of contract rights to various sources and sinks and includes network service whose physical resources are not required to be specified.

²⁵ According to CDWR, the Commission previously reviewed and determined that CDWR's ETC contracts with PG&E and SoCal Edison have both network and point-to-point transmission service which require no identification of "eligible physical resources."

explain why it must have pre-identified “resource names” for each “eligible physical resource” or each “eligible physical sink,” as well as a “unique Contract Reference Number for each [such] source and sink combination.” According to CDWR, the CAISO should be provided a “source” and “sink” reflecting demand and supply and that should be the end of the inquiry.

17. Metropolitan also states that proposed section 17.1.4(5)(d) requires identification of the Scheduling Coordinator permitted to submit a TOR self-schedule “for each physical source and sink,” which is in excess of information reasonably necessary for a validation of a self-schedule. Rather, Metropolitan states the CAISO should only require the identification of the Scheduling Coordinators entitled to submit a TOR self-schedule, and the maximum MW that may be submitted at the TOR scheduling points or at any boundaries between the TOR and the CAISO-controlled grid. Metropolitan also asserts that in order to meet these requirements, it must anticipate all potential generating resources from which it might purchase power simply to permit the CAISO to validate Metropolitan’s TOR self-schedule, which would unreasonably limit Metropolitan’s ability to utilize its own transmission lines.

18. Metropolitan objects to the interchangeable use by the CAISO of the terms “Existing Contracts” and “Existing Rights” as it relates to TORs and requests that the Commission direct the CAISO to limit the use of the term Existing Contract to contracts where transmission service is provided by a PTO over the CAISO controlled grid. Metropolitan also states that under proposed section 17.1.4(c),²⁶ the CAISO confuses these terms.

The CAISO’s Answer

19. In response to the above assertions, the CAISO states that the primary purpose of the TRTC Instructions is to implement the Commission’s previously approved method by which it will honor ETCs, Converted Rights and TORs. According to the CAISO, the TRTC Instructions are the tool that it will use to input the characteristics of the ETCs, Converted Rights and TORs into the Master File so that it may, in an automated fashion, validate the ETC, Converted Rights, and TOR self-schedules, provide scheduling priority, and reflect the Perfect Hedge for settlement of such schedules.

20. In addition, the CAISO states by allowing it to obtain meaningful information about the actual use of the contractual rights, it is able to implement the Perfect Hedge

²⁶ We note that this section refers to ETCs, rather than TORs, “for each physical source or sink the maximum Existing Rights capacity (MW) that can be scheduled as an Existing Right under the Existing Contract....”

and scheduling priority based on appropriate use of the ETC and limit the cost to the rest of the market of implementing these rights. Also, the CAISO states that it must account for the use of existing rights in allocating and auctioning CRRs so that it can minimize the risk of revenue inadequacy for CRRs while at the same time maximizing CRR availability. Therefore, the CAISO states that it needs the additional information to adequately model existing rights at a nodal level consistent with the rights holders' reasonably foreseeable usage patterns in order to efficiently release CRRs in the upcoming first annual CRR Allocation and CRR Auction later this year.

21. The CAISO notes that parties were aware of the proposed requirements to identify generating units and system resources and loads for appropriate points of receipt and points of delivery and, therefore, the request should not be burdensome for the majority of existing transmission rights because ETCs are largely based on transmission rights principles which rely on the specification of physical sources and sinks.²⁷ However, the CAISO states that it recognizes the need to consider certain contracts that may be based on a more flexible use of physical rights and that it does not intend to dispute any assertion by any party that may hold existing rights warranting special consideration.²⁸

22. The CAISO also states in response to CDWR, that its proposal is not contrary to EPAct 2005 because it has not sought to convert CDWR's ETC to a new firm use under the CAISO tariff, but has sought to preserve the existing rights. The CAISO further states that it has not engaged in an impermissible collateral attack on the Commission's determination in the ETC Order, because the purpose of that proceeding was to establish which of the ETCs could be modified under the just and reasonable standard of review and which could be modified under the public interest standard of review.

23. In response to Metropolitan, the CAISO adds that with regard to TORs, it has specifically provided that TORs will continue to be honored by providing the Perfect Hedge and scheduling priority like all other transmission system encumbrances, and the information pertinent to the TOR agreements is necessary. The CAISO states that TORs do not provide parties the right to use the CAISO grid beyond their physical points of interconnection to the CAISO grid, and that to afford TOR parties any scheduling priority or Perfect Hedge beyond the use of their own system would be an unjust and unreasonable impingement on the rest of the system. The CAISO agrees with

²⁷ The CAISO notes that even network integration service under the Commission's *pro forma* OATT required specification of network resources that are permissible under the network service.

²⁸ The CAISO states that the PTO should be provided an opportunity to comment on the service provided to CDWR under its ETC with PG&E.

Metropolitan's assertion that ETC and Existing Rights are distinct from TORs. The CAISO agrees that proposed section 17.1.4(5) should be modified accordingly, and commits to reflect such modification in a compliance filing.

Commission Determination

24. We disagree with these protesters that the CAISO's collection of data for ETCs, Converted Rights and TOR contracts will diminish, modify or abrogate existing rights; nor do we find that the data collection pertaining to these contracts is contrary to EPAct 2005. The provision of the additional information will allow the CAISO to incorporate the exact nature and use of such contracts into its market design. We, therefore, find that the additional information the CAISO proposes to collect, including the identification of physical resources as part of source and sink information and the usage date data for ETCs, is necessary for the CAISO to accurately reflect, in modeling its Simultaneous Feasibility Test, the impact of these existing rights. An accurate reflection of these rights will help ensure that the reversal of congestion charges for these rights holders does not affect the revenue adequacy of the CAISO's CRR allocation and CRR auction processes. For this reason, we conclude that the data collection is reasonable and not unduly burdensome.

25. It is our understanding, as also recognized by the CAISO, that while the majority of contracts reflect transmission based on specific physical sources and sinks, there are some unique contracts that warrant special consideration. We also note that section 16.4.1 requires each PTO and rights holder to work with the CAISO to develop the TRTC Instructions²⁹ which, consistent with the terms of the ETCs, make transmission capacity not otherwise utilized by the holder of existing rights available to the CAISO for allocation to market participants. Additionally, the CAISO recognizes the need to consider contracts based on the more flexible use of physical rights and it further states that it does not intend to dispute assertions by any party that its rights warrant special consideration. We support and encourage parties to work to attain this goal and to further engage the dispute resolution process in the ETCs when agreement cannot be reached.

26. Imperial highlights certain flexibilities under its ETC where it may purchase power from any generator within SP15 or from generators outside SP15 and bring the power into Imperial's system. We note that while the CAISO recognizes the need to consider certain contracts which may be based on a more flexible use of physical rights,

²⁹ Proposed section 17.1.4 states that the TRTC Instructions must include the identified information and any other information that the CAISO may reasonably require a non-PTO to provide to enable the CAISO to carry out its functions under the CAISO tariff and Business Practice Manuals.

the information required under section 16.4(5) is not designed to account for such unique contract features. Therefore, we direct the CAISO to consider whether additional modifications are necessary to section 16.4(5) to reflect flexibilities inherent in certain contracts, if the underlying contracts so provide. In addition, if, as Imperial suggests, its contract permits schedule changes up to 20 minutes before real time, it may, in conjunction with the PTO, reflect that information in the TRTC Instructions addressing allowable timeframes for submitting schedule changes.³⁰

27. We also disagree with CDWR's assertion that the data collection by the CAISO is a collateral attack on the Commission's prior determinations in the ETC Order. CDWR argues that the Commission reviewed and approved specific descriptions of contract rights to various sources and sinks in that proceeding. The ETC Order provided guidance and clarification on the scope and characterization of the ETCs and defined the universe of ETCs that would be in place upon implementation of MRTU. The ETC Order did not, as CDWR suggests, approve specific source and sink descriptions of the underlying contracts.

28. We accept for filing the CAISO's proposal to incorporate MRTU section 16.4 into the currently effective CAISO tariff and we also accept the further modifications proposed herein, effective May 9, 2007, as requested. Because the CAISO's previous submittal of section 17 addressing TORs was conditionally accepted subject to further modification, we accept for filing the CAISO's proposal to incorporate MRTU section 17.1 into the currently effective CAISO tariff and accept the proposed changes herein effective May 9, 2007, subject to the outcome of the CAISO's compliance filing in Docket No. ER06-615-003. We also accept the CAISO's commitment to further modify section 17.1.4(5), in response to Metropolitan, and direct such modifications to be submitted for Commission review in a compliance filing within 15 days of the date of this order.

2. Request for Delay of Effective Date

Protests

29. SVP/M-S-R, Modesto and TANC state that the Commission should not permit the early effectiveness of the proposed provisions related to section 16.4 until the CAISO's collaborative process is complete to allow an opportunity for parties to develop the TRTC

³⁰ Under proposed section 16.4.5(9) and parallel section 17.1.4(9), the CAISO seeks instructions for the allowable timeframes at which the ETC or TOR self-schedule changes may be submitted to the CAISO, including "at or after T-20 minutes and into the Trading Hour of the Trading Day."

Instructions for each ETC.³¹ In the alternative, these parties request that the Commission allow parties to the existing contracts to petition the Commission in the instant docket, if the proposed TRTC Instructions prove unworkable, to ensure that ETCs are fully honored. Imperial also asserts that the period of time for parties to negotiate the TRTC Instructions is too short and should be extended for one month.

The CAISO's Answer

30. In response, the CAISO states that the requests for delay are without merit and the early effective date of these provisions is essential to enable the CAISO to collect information regarding ETCs, Converted Rights and TORs as discussed above. The CAISO suggests that the real issue is whether or not the CAISO should utilize TRTC Instructions submitted by the PTO, absent agreement of the existing rights holder. The CAISO explains³² that under section 16.4.8, parties to the contract should first attempt to jointly agree on any TRTC Instructions, and if the parties cannot agree, they should use the dispute resolution provisions of the existing contract, provided that, until the dispute is resolved and unless the existing contract specifies otherwise, the CAISO shall implement the PTO's TRTC Instructions.³³

31. The CAISO states that it is unnecessary to keep this proceeding open in order to respond to any disputes. The CAISO states that it is in the process of facilitating a comprehensive collaborative process to assist parties in completing the TRTC Instructions.³⁴ The CAISO states that most contract rights in question are consistent with nodal modeling of such rights because the contracts were based on points of receipt and points of delivery. The CAISO states that where special provisions were made for certain customers, the CAISO offers assistance to identify the appropriate modeling points. The

³¹ MRTU section 16.4.1 states that: "the parties to existing contracts will attempt to jointly develop and agree on any TRTC Instructions that will be submitted to the CAISO."

³² We note that section 16.4.8 states that the CAISO will have no role in interpreting existing contracts.

³³ The CAISO states that the format for operating instructions for ETCs and the provision whereby the PTO's instructions govern until the dispute is resolved is consistent with the treatment approved by the Commission upon the commencement of CAISO operations.

³⁴ The CAISO states that it recognizes that the contracts at issue were executed at a time when neither MRTU nor the CAISO had been contemplated, and there is need to work with parties to identify the appropriate nodal information to model existing rights.

CAISO objects to the request for a one month delay in the effective date because the TRTC Instructions are designed to recognize, and not modify, existing rights.

Commission Determination

32. The CAISO has requested and the Commission has granted the requested May 9, 2007 effective date for sections 16.4 and 17.1. As discussed above, in its proposal, the CAISO proposes that the deadline for submission of the TRTC Instructions coincide with the proposed May 9, 2007 effective date so that it may conduct its CRR allocation and auction in July 2007. Parties, however, request delay to allow for ample opportunity to develop the TRTC Instructions for each ETC. While we grant the proposed early effective date for sections 16.4 and 17.1, as discussed above, we believe that the additional data collection warrants a one-week extension beyond the requested May 9, 2007 deadline for submission of the information. We, however, believe that a one-month extension to prepare the TRTC Instructions would be excessive and might cause a delay in conducting the CRR auction currently scheduled for July 2007, and consequently delay MRTU implementation. The TRTC Instructions do not modify existing rights; they are designed to reflect these rights. For these reasons, we find that the one-week extension, through May 16, 2007, will allow parties sufficient time to seek the CAISO's assistance to accurately reflect their rights in the CAISO's modeling of CRRs, consistent with the additional TRTC requirements and the guidance provided in this order. Therefore, we direct the CAISO to allow for submission of the TRTC Instructions through May 16, 2007.

33. We also find it reasonable and consistent with our prior determinations that, in the event that parties to the ETC cannot agree, the TRTC Instructions submitted by the PTO will govern until such time as the dispute is resolved.³⁵

34. In addition, we deny the request to keep this proceeding open in order to respond to any disputes that may arise in the future. We find that the basis for holding the proceeding open is too speculative. In the event that the parties to a contract cannot agree upon TRTC Instructions and contractual dispute resolution mechanisms are not available, parties will have an opportunity to file with the Commission a complaint seeking modification of the TRTC Instructions.

³⁵ *Pacific Gas & Electric Co.*, 81 FERC ¶ 61,122, at 61,473 (1997).

3. Provisions Affecting CRRs

Background

35. Under MRTU, the existing path-specific firm transmission rights created under the CAISO's current zonal congestion management design will be replaced with an LMP-based congestion management design. Under this market design, the CAISO will release CRRs which will allow market participants to obtain financial protection from the risk of congestion charges associated with the LMP congestion management design in MRTU's day-ahead market.

The CAISO's Proposal

36. The CAISO requests an early effective date for certain subsections of MRTU section 36 addressing CRR provisions.³⁶ The CAISO states that it proposes further minor clarifying edits to these provisions regarding CRRs.

Protests

37. Imperial states that proposed section 36.9 regarding CRR allocation discriminates against external LSEs in favor of internal LSEs because the CAISO's proposed allocation rules prevent external LSEs from specifying an intertie point or a generation hub as a valid source location in the early rounds of CRR allocation. Imperial argues that as a result, LSEs within the CAISO have a significant advantage over their external counterparts in acquiring CRRs because external LSEs may only specify imports and hubs as valid sources for CRRs only after CRRs are allocated to internal LSEs. According to Imperial, external LSEs should be treated the same as LSEs within the CAISO Control Area and urges the Commission to require the CAISO to treat all native load service providers, whether inside or outside the CAISO, similarly with respect to allocation of CRRs.

38. Modesto states that proposed section 39.9.2 requires out of control area entities to prepay the CAISO wheeling access charges for allocated CRRs, and although the CAISO mitigated its proposal by not requiring prepayment for the entire term of the long-term

³⁶ The CAISO proposes to incorporate in the current CAISO tariff as Appendix BB Part C sections 36.8.2.1 and 36.8.2.2 addressing Quantity of Load Eligible for CRRs; section 36.8.6 Load Forecasts Used to Calculate CRR MW Eligibility; section 36.9 addressing CRR Allocation to LSEs serving External Load; section 36.10 addressing CRR Allocation to Metered Subsystems; and as Appendix BB Part D section 36.5 regarding General Requirements for Candidate CRR Holders and CRR Holders.

CRRs, but only on an annual basis, Modesto states that it continues to object to the provision. Modesto requests that the Commission void the prepayment conditions for allocated CRRs.

The CAISO's Answer

39. In response, the CAISO states that Imperial and Modesto's requests to change the manner in which CRRs, including long-term CRRs, are allocated is a collateral attack on the September 2006 Order and its long-term CRR filing pending before the Commission in Docket No. ER07-475-000. The CAISO states that the instant filing does not affect the manner in which CRRs are allocated and, therefore, these protests should be rejected.

Commission Determination

40. We have previously considered the issues raised by Imperial and Modesto. In prior orders, the Commission concluded that with modification, the CAISO's proposal to allocate CRRs to external LSEs is not unduly discriminatory.³⁷ Specifically, the Commission explained that the prepayment requirement for wheeling access charges is appropriate because external LSEs are differently situated with respect to their ongoing reliance on the CAISO grid.³⁸ However, upon reconsideration of these issues we further directed the CAISO to modify its proposal to allow external LSEs to meet their annual prepayment obligation by making monthly installments.³⁹ Furthermore, the Commission explained that upon meeting this prepayment obligation external LSEs should be permitted to request CRRs in the allocation process that are associated with wheel-through transactions and, accordingly, directed additional tariff modifications.⁴⁰ Lastly, in regard to Imperial's concern about its ability to nominate CRRs based on contracts that are not sourced by a specific generator, the Commission previously directed the CAISO to make a compliance filing explaining how such historical contracts will be addressed under MRTU.⁴¹ We therefore accept the proposed section 36 provisions subject to the

³⁷ September 2006 Order, 116 FERC ¶ 61,274 at P 766-769; *California Independent System Operator Corporation*, 119 FERC ¶ 61,076, at P 368-380 (2007) (MRTU Rehearing Order).

³⁸ See MRTU Rehearing Order at P 370.

³⁹ *Id.* at P 378.

⁴⁰ *Id.* at P 379.

⁴¹ *Id.* at P 380.

outcome of compliance filings in Docket No. ER06-615-003 and subject to the further compliance filing required in the MRTU Rehearing Order as noted above.

4. Proposed Inclusion in the CAISO Tariff of Other Miscellaneous MRTU Provisions

41. The CAISO proposes an early effective date for additional MRTU Tariff sections in order to provide context for the incorporation of those sections addressing ETCs, Converted Rights, TORs and CRRs discussed above. These additional sections are proposed under Appendix BB, Part E (Communication with Market Participants), Part F (Miscellaneous sections) and Part G (Definitions) of the CAISO tariff. The CAISO states that it seeks to incorporate these provisions in order to permit Candidate CRR Holders and CRR Holders to make informed preparations for participation in the CRR Allocations and CRR Auctions; provide context for references in other MRTU Tariff provisions being added to Appendix BB; and give appropriate meaning to the provision of the MRTU Tariff for which the CAISO seeks early effectiveness.

42. The CAISO proposes to incorporate certain provisions under Part E of the CAISO tariff, section 6.5.1 governing communication with market participants, CRR participants and the public. According to the CAISO, it proposes to incorporate the already approved provisions of section 6.5.1 with minor revisions to improve the consistency in the use of defined terms.

43. The CAISO also proposes to incorporate as Miscellaneous sections MRTU sections 27.2⁴² and 30.5.3.2⁴³ into the CAISO tariff as Appendix BB Part F in order to provide context for references in other MRTU Tariff provisions being added to Appendix BB.

44. The CAISO further proposes to include under Appendix BB Part G of the CAISO tariff certain definitions in order to give appropriate meaning to the provision of the MRTU Tariff for which the CAISO seeks early effectiveness. The CAISO states that these defined terms are proposed with only minor revisions to improve consistency in the use of the defined terms within the definitions, and the CAISO indicates that some terms are newly defined, for example, Candidate CRR Holder and Custom LAP.

⁴² Section 27.2 addresses the creation of Load Aggregation Points (LAP).

⁴³ This section addresses exceptions to the requirement for submission of demand bids and settlement at the LAP.

Protests

45. NCPA reiterates its concern that in order to gain access to the full network model and other data related to the CRR process, as provided for under proposed 6.5.1.1, the CAISO requires market participants to sign a Non-Disclosure Agreement. NCPA states that the CAISO has offered no explanation why NCPA should give up legal rights to compensate for access to information needed to participate in the market.

46. SoCal Edison states that sections 6.5.1.3.1 and 6.5.1.3.2 of the currently effective tariff are not sufficiently clear and may not provide for the adequate publication of CRR holdings to allow participants to effectively monitor and reconcile CRRs transfers due to load migration, and since load may transfer at any time of the month, it may be necessary to publish information about CRR holdings on a daily basis. In addition, SoCal Edison asserts that the list of items to be published is not inclusive and the tariff should specify the data needed to verify load migration and should be sufficiently clear to indicate that all holdings (*i.e.*, those that are allocated, bought or sold at auction or transferred *via* the secondary registration system should be published.)⁴⁴

The CAISO's Answer

47. In response to NCPA, the CAISO states that its concern is unrelated to the instant filing because the instant filing simply seeks data from certain entities in order to construct a satisfactory model.

48. The CAISO agrees with SoCal Edison that information on CRR holdings should be updated more frequently than monthly and it is the CAISO's intent to update information on CRR holdings as any changes become effective. The CAISO further states that it will post new data on a daily basis and each data set posted will include any outstanding ownership information. The CAISO states that it agrees with those changes proposed by SoCal Edison and will further modify the proposed change to recognize both point-to-point CRRs and multi-point CRRs. The CAISO commits to amending the provisions accordingly in a compliance filing.

Commission Determination

49. We agree with the CAISO that the Non-Disclosure Agreement is beyond the scope of this proceeding and will be addressed in the CAISO's pending compliance filing in Docket No. ER06-615-003.

⁴⁴ SoCal Edison offers suggested edits to sections 6.5.1.3.1 and 6.5.1.3.2. *See* SoCal Edison's Comments at 3.

50. With respect to the issues raised by SoCal Edison regarding sections 6.5.1.3.1 and 6.5.1.3.2 of the CAISO tariff, we accept the CAISO's proposal to file appropriate amendments to these sections in a compliance filing to be submitted within 15 days of the date of this order.

51. We also accept for filing the CAISO's proposal to incorporate sections 27.2 and 27.2.1 into the CAISO tariff. Proposed section 30.5.3.2 is currently pending before the Commission in Docket No. ER06-615-003 and is hereby accepted subject to the outcome of that proceeding. We also accept for filing the definitions and minor edits proposed under Part G to the extent that these definitions are not pending before the Commission in the compliance filing in Docket No. ER06-615-003. To the extent a definition is pending before the Commission in Docket No. ER06-615-003, then the definition is subject to the outcome of the compliance filing proceeding.

5. Proposed Provisions under Appendix BB Pertaining to TRTC Instructions

52. The provisions discussed in this section have not been previously considered by the Commission and are new to the CAISO tariff; they are not provisions of the conditionally approved MRTU Tariff. We find these provisions to be just and reasonable and accept them for filing. We also direct the CAISO to include these provisions in its compliance filing to be submitted in the Docket No. ER06-615 proceeding no later than 180 days filing prior to the MRTU launch.

A. Section 4.3.2.1 Addressing TRTC Instructions for Converted Rights

53. In Appendix BB section 4.3.2.1, the CAISO proposes to require that new PTOs with Converted Rights provide TRTC Instructions for their Converted Rights, in conjunction with the PTO from whose ETCs those Converted Rights are derived.

54. Six Cities state that participation by the PTO in the development of TRTC Instructions for Converted Rights held by the new PTO is appropriate. However, for Converted Rights that derive from a new PTO's ownership of transmission facilities or contractual entitlements in transmission facilities, participation by PTOs is inappropriate because there is no pre-existing involvement by a PTO in such rights.

55. The CAISO agrees with Six Cities that in this instance, the TRTC Instructions should be submitted solely by the new PTO. Accordingly, the CAISO commits to adopt proposed changes submitted by Six Cities regarding section 4.3.2.1.

Commission Determination

56. We conditionally accept for filing, subject to modification, proposed section 4.3.2.1. We accept CAISO's commitment to modify section 4.3.2.1 and direct the

CAISO to include this tariff modification in a compliance filing to be submitted within 15 days of the date of this order.

B. Section 16.4.5(12) Addressing Forecasted Usage Patterns

57. In Appendix BB section 16.4.5(12), the CAISO propose to require parties to indicate the forecasted usage patterns for each ETC for the upcoming annual period of the annual CRR release process as well as for the upcoming monthly period of the monthly CRR release process. The section further notes that this information shall not be used by the CAISO to validate ETC self-schedules when submitted by Scheduling Coordinators and, therefore, shall not affect the Existing Rights holder's ability to utilize its rights under the existing contract.

58. Six Cities are concerned that the CAISO's use of such forecasts may result in revenue insufficiency for released CRRs and give rise to potential claims against ETC rights holders and Converted Rights holders for recovery of such revenue insufficiency. Six Cities state that the CAISO tariff should expressly state that by submitting non-binding forecast usage patterns for ETCs and Converted Rights, the rights holders have no responsibility to make up any CRR revenue insufficiency that may result if actual usage patterns deviate from the forecasts.

59. In response, the CAISO states that the requested additional language is unnecessary. First, the forecasts must be done in good faith and in accordance with Good Utility Practice, and the responsibility to submit accurate data is governed by CAISO tariff section 37.5.1.1. Second, the CAISO requires forecasts from market participants in many different contexts, so the CAISO does not believe it appropriate to single out one type of forecast for additional protection.

Commission Determination

60. We accept proposed Appendix BB section 16.4.5(12) as just and reasonable because the forecasted information ETC rights holders submit for purposes of the Simultaneous Feasibility Test should have no impact on the perfect hedge ETC rights holders receive pursuant to section 11.2.1.5 of the MRTU Tariff. In other words, if an ETC rights holder submits a forecast of 60 percent usage of its contractual rights, but actually submits valid and balanced day-ahead self-schedules for 100 percent of its rights under the ETC, the ETC rights holder will have no responsibility to make up any CRR revenue insufficiency that may result from the fact that its actual usage pattern deviates from the forecast provided under section 16.4.5(12). Moreover, proposed section 16.4.5(12) specifically states that the information will be used by the CAISO in managing its accounting for usage of existing rights in the release of CRRs, but, "shall not be used by the CAISO to validate ETC Self-Schedules when submitted by Scheduling Coordinators and therefore shall not affect the Existing Rights holder's ability to utilize

its rights under the existing contracts.” We therefore conclude that no further modifications are necessary.

C. Section 16.4.5.(13) Addressing Self-Provision of Ancillary Services

61. In Appendix BB section 16.4.5(13), the CAISO proposes to require that parties indicate whether or not the existing contract provides for the right to self-provide ancillary services.

62. Metropolitan states that while section 16.4.5(13) explicitly reflects whether an ETC permits self-provision of Ancillary Services, proposed section 17 addressing TORs does not explicitly recognize this right. In order to eliminate potential confusion, Metropolitan proposes that the CAISO add a new subsection (4) to 17.2 “Treatment of TORs” to recognize the “[t]he holder of a TOR may self-provide Ancillary Services.” In addition, Metropolitan states that section 17.1.4 should be further modified to state that the self-provision of Ancillary Services is permitted in submitted TRTC Instructions for TORs.

63. The CAISO agrees with Metropolitan that TOR holders should be able to utilize their facilities for Ancillary Services; however, the CAISO states that the instant proceeding is not the forum to discuss such changes. The CAISO states that section 17.2 is not at issue in the instant proceeding as the CAISO has not sought to modify that provision. The CAISO commits to reflecting the change in its updated MRTU Tariff. The CAISO further states that a further modification to section 17.1.4 is unwarranted because this section is the parallel to the provision that requires that TRTC Instructions indicate whether or not an ETC can provide ancillary service. Given its agreement to further modify the MRTU Tariff, the CAISO states there is no need to include parallel information in a TRTC Instruction for a TOR, as TORs will have an inherent right to be used for Ancillary Services.

Commission Determination

64. We disagree with the CAISO’s assertion that there is no need for the information because TORs have an inherent right to use ancillary services. It is appropriate in the context of identifying and cataloging specific rights under TOR contracts to require that the option to self-provide Ancillary Services be reflected in TRTC Instructions. We therefore, direct the CAISO to include a provision under section 17.1.4 identifying whether or not the TOR provides the right to self provide ancillary services in its compliance filing within 15 days of the date of this order.

6. New and Revised Provisions Addressing CRRs

A. Registration and Certification Process for Holding CRRs

65. In Appendix BB section 4.10, CAISO proposes a process for registering market participants as a Candidate CRR Holder or a CRR Holder.⁴⁵ The provisions include: an application fee; the procedures with specific deadlines established for applicants and the CAISO; information to be provided in the application; and the administrative, technical and financial requirements. These provisions also require the Candidate CRR Holder or CRR Holder to inform the CAISO of any changes to the submitted information and further describes the procedure for suspending or terminating registration.

66. The CAISO also proposes to modify section 12.1 of the CAISO tariff to state that the credit requirements of section 12 will apply to Candidate CRR Holders and CRR Holders and also proposes to modify the definition of Market Participant to include Candidate CRR Holders and CRR Holders. The CAISO states that all existing creditworthiness provisions will apply to these entities. In addition, the CAISO proposes new sections 12.6.1 and 12.6.2 under the CAISO tariff, which will establish credit obligations for CRR Holders and Candidate CRR Holders.

Protest and CAISO's Answer

67. Imperial argues that proposed section 4.10 requires CRR holders to enter into "a legal and operational relationship with the CAISO" in order to be CRR holders; however, details of the contractual relationship have not been provided under the BPMs. Therefore, Imperial argues that the CRR holder would have to sign a contract with undisclosed terms. Imperial also urges the Commission to reject the CAISO's proposed CRR model until the CAISO finalizes all the BPMs that go with its proposed tariff changes. Imperial asserts that the CAISO has not provided the BPM explaining how the estimated liability for CRR obligations discussed in proposed section 12.6.1 will be calculated. Imperial further indicates that while proposed section 4.10.2.1.1 requires Imperial to inform the CAISO of any changes in the information submitted by it to the CAISO, the BPM that explains what information is required of a CRR Holder is still under development and has not been posted on the CAISO's website.

⁴⁵ In order to ensure adequate time to collect and verify all the required information, the CAISO states that it will post the documents that contain the application materials for interested parties to submit and therefore requests an effective date of May 9, 2007 for the proposed provisions in order to conduct its first CRR allocation in July 2007.

68. The CAISO states that Imperial's proposal to delay implementation by preventing execution of the CRR Entity Agreement prior to finalization of the BPMs is without merit. The CAISO states that in the September 2006 Order, the Commission approved an orderly process for review of the BPMs prior to the completion of the MRTU market design and it has posted drafts of the BPMs and is actively engaged with market participants in an effort to finalize the documents and ensure they reflect the market design approved by the Commission.

Commission Determination

69. The CAISO is correct in its assertion that the Commission has established a process for finalizing the BPMs prior to MRTU implementation. However, recognizing that some BPMs would need to be completed well in advance of MRTU implementation, we directed the CAISO to submit "information identifying which BPMs will be put into effect prior to MRTU implementation, and the timeline to ensure completion of those BPMs in advance of their effective date."⁴⁶ We share Imperial's concern over the lack of information currently available to market participants intending to be CRR holders. We are particularly troubled that proposed section 4.10 requires a candidate CRR holder to submit with its application financial security for potential CRR holdings, in accordance with proposed section 12.6, when those financial requirements have not yet been determined.

70. We, therefore, direct the CAISO to finalize any BPMs necessary for the first annual CRR allocation within 30 days of the date of this order and to submit those BPMs to the Commission on an informational basis.⁴⁷ This includes, but is not limited to, the BPM for Candidate CRR Holder Registration, the BPM for CRRs and the BPM addressing the CAISO's credit policy. While we accept the proposed tariff sheets, we will suspend the requirement that a candidate CRR holder submit financial security until the CAISO makes a filing in which section 12.6.2 contains the requisite details.

⁴⁶ MRTU Rehearing Order, 119 FERC ¶ 61,076, at P 660.

⁴⁷ We note that this is not the timeline previously established for BPM review in the September 2006 Order. However, it is imperative that stakeholders and this Commission are apprised of all the provisions governing the CRR allocation and auction process in advance of the CAISO's July commencement date.

B. CRR Entity Agreement

71. The CAISO proposes to amend the CAISO tariff⁴⁸ to include a *pro forma* service agreement that must be executed by any party who will hold CRRs (CRR Entity Agreement). The CAISO explains that once parties have completed the registration and qualification process, such parties must execute the CRR Entity Agreement that requires the Candidate CRR Holders or CRR Holders to comply with all requirements of the tariff that apply to such entities. The CAISO states that the CRR Entity Agreement is necessary because parties that will participate in the CRR process may not be Scheduling Coordinators.⁴⁹ The *pro forma* agreement requires Candidate CRR Holders and CRR Holders to: comply with the tariff; comply with all creditworthiness requirements; establish an account for settlement purposes; pay penalties assessed in accordance with the tariff; and take corrective measures requested by the CAISO under the tariff.

72. SVP/M-S-R, Modesto, Imperial and Six Cities argue that section 11.9 of the proposed CRR Entity Agreement is unduly discriminatory because, although it provides that the just and reasonable standard of review will apply when the CAISO seeks to make modifications to the CRR Entity Agreement, the section provides for the more strict public interest standard of review when either the Commission or any signatory or non-signatory entity seeks to propose modifications to the Agreement. SVP/M-S-R and Modesto argue that the CAISO did not justify this discriminatory treatment. Imperial argues that these disparate contract terms put the CRR holder on unequal footing with the CAISO. Six Cities states that section 11.9 should provide for parallel section 205 and section 206 rights both subject to the “just and reasonable” standard of review. SVP/M-S-R and Modesto request that the Commission order their proposed revisions to section 11.9 to provide consistency with respect to the standard of review provisions in all other CAISO *pro forma* agreements on file with the Commission.

73. In addition, SVP/M-S-R and Modesto argue that proposed sections 3.1, 3.2.1 and 3.2.2 of the CRR Entity Agreement provide the CAISO the option not to file the CRR Entity Agreement and are thus, contrary to FPA sections 205(c) and section 205(d). SVP/M-S-R request that these sections be revised to require a filing of the agreements.

74. Six Cities state that under proposed section 4.10.3.1(d) if a CRR Entity Agreement is terminated, the CAISO will release any financial security support provided by the

⁴⁸ The CAISO states that it intends to amend the MRTU Tariff in the future to incorporate the *pro forma* CRR Entity Agreement.

⁴⁹ The CAISO states that even if they are Scheduling Coordinators, new tariff provisions will apply that do not apply to Scheduling Coordinators.

terminated Candidate CRR Holder or CRR Holder within thirty days of “being satisfied that no sums remain owing by the Candidate CRR Holder or CRR Holder ...” According to Six Cities, since maintaining a CRR Entity Agreement is a prerequisite to holding CRRs, then CRRs held by the terminated CRR Holder should terminate simultaneously with the CRR Entity Agreement. However, Six Cities state that if the terminated CRR Holder holds CRRs that are expected to result in payment obligations over the remaining term, termination of such CRR obligations could result in revenue insufficiency.⁵⁰ Six Cities states that the CAISO should retain security for estimated financial obligations associated with unexpired CRRs and the proposed tariff language should be revised to make clear the CAISO’s ability to do so.

75. The CAISO states, upon reconsideration, it agrees that the standard of review under section 11.9 should be modified to reflect the “just and reasonable” standard of review for both section 205 filings brought by the CAISO and section 206 complaints instituted by either the Commission or other parties. The CAISO agrees to modify section 11.9 in a compliance filing.

76. Contrary to assertions raised by SVP/M-S-R and Modesto, the CAISO states that its proposal is consistent with the Commission’s Order No. 2001⁵¹ which allows for agreements that conform to the form of service agreement in a public utility’s approved tariff shall be reflected in the Electric Quarterly Reports (EQR), with non-conforming service agreements filed separately under section 205. The CAISO states that, consistent with Order No. 2001, it will file non-conforming CRR Entity Agreements and will list on its EQR conforming service agreements.

77. In response to Six Cities regarding termination of the CRR Entity Agreement, the CAISO discusses two possible termination scenarios, including termination by the CRR holder and termination by the CAISO. If the CRR Holder seeks termination, the CAISO notes that under section 3.3.2 of the CRR Entity Agreement, the CRR Entity can only terminate the agreement if it “is no longer a CRR holder” that is, it has transferred any remaining rights and obligations associated with CRRs to another qualified market participant. With respect to termination by the CAISO, the CAISO agrees that a CRR Holder should not be relieved of any payment obligations associated with the unexpired

⁵⁰ Six Cities state that under this circumstance, the terminated CRR Holder may not “owe” any amounts to the CAISO in the form of outstanding unpaid invoices but it should not be relieved of any payment obligations associated with the unexpired CRRs.

⁵¹ *Revised Public Utility Filing Requirements*, Order No. 2001, 67 FR 31043, FERC Stats. & Regs. ¶ 31,127, *reh'g denied*, Order No. 2001-A, 100 FERC ¶ 61,074, *reconsideration denied*, Order No. 2001-B, 100 FERC ¶ 61,342 (2002).

CRRs and the CAISO should retain security consistent with its credit policy, including security for estimated financial obligations for the entire term of the CRR associated with unexpired CRRs until the liability has been transferred or expires. This, according to the CAISO is consistent with existing tariff authority in section 4.5.4.4 of the CAISO tariff.⁵²

Commission Determination

78. We accept for filing, subject to modification, the CAISO's proposed *pro forma* CRR Entity Agreement. Pursuant to Order No. 2001, the CAISO is not required to file with the Commission each agreement with a CRR Holder, as long as the agreement at issue conforms to the Commission-accepted *pro forma* agreement. The proposed language in the *pro forma* CRR Entity Agreement is consistent with this requirement.

79. Further, we accept the CAISO's proposal to modify the proposed agreement to provide for the just and reasonable standard of review for challenges by both parties, the CAISO and a CRR Holder.

80. With respect to the issue raised by Six Cities, the CAISO agrees that a CRR Holder should not be relieved of any payment obligations associated with unexpired CRRs and the CAISO should retain security consistent with its credit policy. We conclude that the proposed *pro forma* CRR Entity Agreement at section 3.2.2 indicates that the CRR Entity Agreement may be terminated on 90 days written notice; however, any outstanding financial right or obligation must be satisfied prior to termination. Thus, we conclude that no further change is required.

C. Other Issues

81. Imperial states that it is customary for Scheduling Coordinators to sign similar agreements on behalf of non-jurisdictional entities. Therefore, Imperial requests that the Commission make explicit that the Scheduling Coordinator could enter into these agreements with the CAISO or, alternatively, the Commission allow non-jurisdictional entities to negotiate more limited CRR Entity Agreements with the CAISO.

82. According to Six Cities, the proposed definition of Seasonal CRR Load Metric is inconsistently defined in the proposed amendment. Specifically, section 36.8.2.1 (Original Sheet No. 1270) correctly describes an LSE's Seasonal CRR Load Metric as,

⁵² Section 4.5.4.4 of the current CAISO Tariff addresses termination of Scheduling Coordinators. Specifically, this section provides that the CAISO is obligated to release any credit support only after it has been satisfied that no sums remain owing by the Scheduling Coordinator under the CAISO tariff.

“the MW level of Load that is exceeded only in 0.5 [percent] of the hours based on the LSE’s historical Load data.” In contrast, Six Cities states that the definition of Seasonal CRR Load Metric in the CRR Entity Agreement (Original Sheet No. 1302) incorrectly defines the term as “[t]he lowest value among the Monthly CRR Load Metrics for a Load Serving Entity calculated across the relevant season.” Six Cities state that the definition under section 36.8.2.1 is correct.

83. NCPA states that although it does not object to the CRR Entity Agreement *per se*, it is concerned that the agreement does not accommodate NCPA’s business structure for the CRR Allocation process. The requirement that LSEs enter into a CRR Entity Agreement would disrupt and complicate NCPA and member operations⁵³ if individual members must attend training and demonstrate creditworthiness on an individual basis.

84. In response to Six Cities’ assertion, the CAISO agrees that the definition under section 36.8.2.1 is correct and agrees to modify CRR Entity Agreement, Original Sheet No. 1302 accordingly in a compliance filing.

85. The CAISO agrees that NCPA’s current role should be reflected and respected and further proposes to address the agency relationship between NCPA and its members specifically for the CRR Entity Agreement and participation in the CRR processes through a separate agency agreement.

Commission Determination

86. In regard to Imperial’s request that the CAISO provide for a limited version of the CRR Entity Agreement for non-jurisdictional entities, we direct the CAISO to explain in a compliance filing to be submitted for Commission review within 15 days of the date of this order whether or not it is appropriate to develop a separate *pro forma* CRR Entity Agreement for non-jurisdictional entities.⁵⁴

87. We accept the CAISO’s commitment to address the concern raised by NCPA through a separate agency agreement and direct the CAISO to submit the agreement in its compliance filing no later than 15 days after the issuance of this order.

⁵³ NCPA schedules and manages the aggregated loads and resources as a pool and provides all credit assurances required by the CAISO on behalf of the NCPA member entities.

⁵⁴ We do not believe that it is appropriate for Scheduling Coordinators to execute the CRR Entity Agreement on behalf of its customers, as each CRR Holder must execute an individual CRR Entity Agreement with the CAISO.

88. We also accept CAISO's proposal to modify Original Sheet No. 1302 of the *pro forma* CRR Entity Agreement accordingly within 15 days of the date of this order.

The Commission orders:

(A) The CAISO's tariff filing is hereby conditionally accepted for filing, subject to modifications, and subject to the outcome of the Docket No. ER06-615 proceeding, as discussed in this order, effective May 9, 2007.

(B) The CAISO is hereby directed to submit a compliance filing, as discussed in the body of this order, within 15 days of the date of this order.

(C) The CAISO is hereby directed to include the tariff provisions addressed in this order in its compliance filing to be submitted in the Docket No. ER06-615 proceeding no later than 180 days filing prior to the MRTU launch.

(D) The CAISO is hereby directed to finalize any BPMs necessary for the first annual CRR allocation within 30 days of the date of this order and to submit those BPMs to the Commission on an informational basis.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Appendix

**Motions to Intervene
Docket No. ER07-613-000**

Alliance for Retail Energy Markets
California Department of Water Resources
California Electricity Oversight Board
Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside
City of Santa Clara and the M-S-R Public Power Agency
EPIC Merchant Energy LP
Imperial Irrigation District
Metropolitan Water District
Modesto Irrigation District
Northern California Power Agency
NRG Companies
Pacific Gas & Electric Company
Powerex Corp.
Southern California Edison Company
Transmission Agency of Northern California
Western Area Power Administration
Williams Power Company