

109 FERC ¶ 61,183  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

California Independent System Operator  
Corporation

Docket No. ER98-3760-000

ORDER ON OUTSTANDING ISSUES RELATING TO CALIFORNIA  
INDEPENDENT SYSTEM OPERATOR CORPORATION

(Issued November 19, 2004)

**Introduction**

1. In 1999, in the proceeding to address Outstanding Issues concerning the California Independent System Operator Corporation (ISO), the ISO originally identified approximately 680 Outstanding Issues that remained unresolved. In 2002, the Commission issued an order addressing Outstanding Issues that had been raised in requests for rehearing, and it stated that it would address the remaining Outstanding Issues in future orders. In a 2003 letter to the ISO, the Commission staff noted that, with the passage of time, a number of Outstanding Issues not addressed by the 2002 Order may be moot or no longer of practical interest to the proponents and asked the ISO to work with the parties to identify which issues still required a Commission determination. Subsequently, the ISO filed a table that identified approximately 80 Outstanding Issues, out of the original 680, and stated that: the proponents still contest several issues; several issues are being addressed in other Commission proceedings; and several issues have either been withdrawn by the proponent or are moot.<sup>1</sup>

2. In this order, we address Outstanding Issues concerning Ancillary Services requirements, market monitoring, metered subsystems and metering protocols. We also dismiss a number of other issues as moot or withdrawn. The Commission will address

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<sup>1</sup> Approximately 600 Outstanding Issues have been closed since 1999.

the remaining Outstanding Issues in a future order or orders. This order benefits customers by providing further clarity regarding the ISO Tariff and operation of the ISO markets.

### **Background**

3. On July 15, 1998, the ISO submitted a proposed "Clarification" amendment to the ISO's open access transmission tariff (ISO Tariff), which contained, among other things: (1) a clarification matrix listing numerous corrections and changes to its Tariff; and (2) a matrix listing 230 issues which were raised by intervenors in prior proceedings but remained unresolved or pending before the Commission. The ISO proposed a procedure to address issues that were raised, but not addressed, in connection with previous ISO filings.

4. In *California Independent System Operator Corp.*,<sup>2</sup> the Commission directed the ISO and the parties to develop a list of all active issues, to negotiate resolutions with respect to as many of these issues as possible, and to file a report with the Commission within 120 days of the date of the order. The Commission directed that the report include a stipulation of outstanding issues that had been resolved through settlement, and issues that remained for resolution by the Commission.

5. On March 11, 1999, the ISO filed its "Outstanding Issues Report," which included a matrix of approximately 680 issues that the parties had raised in several ISO-related proceedings.<sup>3</sup> From this universe of issues, the report identified issues that had been resolved and issues that participants agreed were ripe for Commission resolution.

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<sup>2</sup> 84 FERC ¶ 61,217 (1998).

<sup>3</sup>The issues were raised in the following proceedings: *Pacific Gas and Electric Co., et al.*, 81 FERC ¶ 61,122 (1997) (October 1997 Order); *Pacific Gas and Electric Co., et al.*, 81 FERC ¶ 61,320 (1997); *California Independent System Operator Corp.*, 82 FERC ¶ 61,312 (1998) (accepting ISO Tariff Amendment No. 1 with modification and rejecting Amendment Nos. 2 and 3); *California Independent System Operator Corp.*, 82 FERC ¶ 61,327 (1998) (accepting ISO Tariff Amendment Nos. 4, 5 and 6 with modification); *California Independent System Operator Corp.*, 83 FERC ¶ 61,209 (1998) (accepting ISO Tariff Amendment No. 7 with modification); the ISO's June 1, 1998 Compliance Filing in Docket Nos. EC96-19-029 and ER96-1663-030; and the ISO's clarification in Docket No. ER98-3760-000.

Further, the ISO report included procedural proposals agreed upon by the participants to (1) submit a settlement for resolved issues and (2) undertake to resolve the remaining issues.

6. In an April 28, 1999 Order, the Commission established procedures to incorporate resolved issues into a settlement and directed the ISO to file a joint statement of issues identifying unresolved issues and identifying the proponents who advocate a change in the status quo for each issue.<sup>4</sup> The parties filed initial briefs, answering briefs and reply briefs. The parties to this proceeding previously intervened in the proceedings cited in footnote 3. Appendix A to this order lists the full names of the parties and their abbreviations used in this order. In the body of this order, we refer to the parties by their abbreviated names.

7. By order issued on November 22, 2002, the Commission addressed outstanding rehearing requests, and it stated that remaining Outstanding Issues would be addressed in future Commission orders and may be subject to further procedures.<sup>5</sup>

8. In a letter to the ISO, dated March 11, 2003, the Commission staff noted the passage of time and the significant changes in the operations of the ISO, and it requested that the ISO work with the parties to identify which of the Outstanding Issues remain open and contested, and thus, require a Commission determination. On October 16, 2003, the ISO filed an updated Identification of Outstanding Issues, including the proponents of each issue.

## **Discussion**

### **Ancillary Services**

9. The ISO Tariff defines Ancillary Services as Regulation, Spinning Reserve, Non-Spinning Reserve, Replacement Reserve, Voltage Support and Black Start together with such other interconnected operation services as the ISO may develop in cooperation with

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<sup>4</sup> California Independent System Operator Corp., 87 FERC ¶ 61,102 (1999) (April 1999 Procedural Order).

<sup>5</sup> *Pacific Gas and Electric Co., et al.*, 101 FERC ¶ 61,219 at P 1 & n.2 (2002) (November 22 Rehearing Order).

Market Participants to support the transmission of energy from generation resources to loads while maintaining reliable operation of the ISO Controlled Grid in accordance with Good Utility Practice.<sup>6</sup>

**A.1. Does the ISO, and in particular Sections 2.5.3.2 and 2.5.20.1 of the ISO Tariff, fail to appropriately credit Scheduling Coordinators for Operating Reserves when they purchase firm energy from inside of the ISO control Area, and is the ISO's failure to provide such credits consistent with the Commission's prior directives in this matter?**

10. ISO Tariff section 2.5.3.2 (Spinning and Non-Spinning Reserves) sets forth requirements for the ISO to maintain an operating reserve.<sup>7</sup> Section 2.5.20.1 (Ancillary Service Obligations) sets forth the methodology for calculating each Scheduling Coordinator's<sup>8</sup> share of Ancillary Services obligations.

11. Proponents SMUD and Southern Cities object to the ISO's refusal to credit Scheduling Coordinators for Operating Reserves when a Scheduling Coordinator purchases firm energy from within the ISO Control Area. They argue that the ISO Tariff provision requires a purchaser of firm power from a resource within the ISO Control Area to pay for Operating Reserves twice, once on the firm power purchase pursuant to the contract and additionally pursuant to the reserve requirement of the ISO Tariff.

12. In its answer, the ISO states that contrary to the Proponents' contentions, the ISO does credit Scheduling Coordinators for Operating Reserves when they purchase firm power from inside the ISO Control Area, as long as the Scheduling Coordinators comply with the Ancillary Services self-provision process set out in the ISO Tariff. The credit is accomplished by the Scheduling Coordinators demonstrating to the ISO, on a pre-scheduled basis, the energy and Replacement Reserves for which they have contracted,

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<sup>6</sup> ISO Tariff, Appendix A (Master Definitions Supplement).

<sup>7</sup> Operating Reserve is the combination of Spinning and Non-Spinning Reserve required to meet the requirements of the Western Electricity Coordinating Council and the North American Electric Reliability Council for reliable operation of the ISO Control Area.

<sup>8</sup> A Scheduling Coordinator is an entity certified by the ISO for the purpose of undertaking the functions specified in ISO Tariff Section 2.2.6 (Responsibilities of a Scheduling Coordinator), e.g., paying the ISO's charges, submitting schedules, and coordinating modifications in demand and supply.

and by providing energy bids for the associated reserve resources, so that they can be Dispatched by the ISO as necessary. The ISO states that the Commission should uphold the current method through which the ISO credits Scheduling Coordinators for Operating Reserves.

### **Commission Determination**

13. We agree with the ISO. As the Control Area Operator, the ISO is responsible for maintaining minimum contingency Operating Reserves. The ISO Tariff clearly states that the ISO shall determine the quantity and location of the Ancillary Service which is required and which must be under the direct dispatch control of the ISO on an hourly basis each day. Accordingly, we will uphold the current method used by the ISO for crediting Scheduling Coordinators for Operating Reserves, and we deny the protest.

#### **A.2. Does Section 2.5.3.3(e) of the ISO Tariff give the ISO undue discretion to modify its procedures without regard to its Ancillary Services Requirements Protocol, and give the ISO an unfair purchasing advantage over others for Replacement Reserves?**

14. In section 2.5.3.3 (Replacement Reserves),<sup>9</sup> subsections (a)-(e) set forth the factors on which the ISO shall base its determination of the required quantity of Replacement Reserves: historical analysis of the deviation between actual and Day-Ahead forecast demand; historical patterns of unplanned generating unit outages; historical patterns of shortfalls between Final Day-Ahead Schedules and actual generation and demand; historical patterns of transmission outages; and lastly subsection (e), which in short gives the ISO discretion to change the necessary percentage of Replacement Reserve in order to maintain system reliability as the ISO may from time to time determine.

15. In Amendment No. 14 to the ISO Tariff, the ISO proposed what it called the first phase of a comprehensive Ancillary Services market redesign proposal. The ISO's proposal included a so-called "Rational Buyer Protocol," which would allow the ISO to

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<sup>9</sup> Replacement Reserve is generating capacity that is dedicated to the ISO and is capable of starting up if not already operating, being synchronized to the ISO Controlled Grid and ramping to a specified Load point within a 60 minute period, the output of which can be continuously maintained for a two hour period. It is also demand that can be curtailed within 60 minutes and that can remain curtailed for two hours.

substitute higher quality Ancillary Services for lower quality ones, while holding the overall ancillary service capacity demanded constant. The Commission accepted Amendment No. 14 for filing, with modifications.<sup>10</sup>

16. Dynegy argues that the ISO Tariff as originally filed, gives the ISO an unfair purchasing advantage over others for Replacement Reserves since the ISO does not make known to the market the percentage of any Ancillary Service that must be procured. Dynegy claims that the Rational Buyer Protocol adopted in Amendment No. 14 only further adds to the ISO's undue discretion, and had the unintended effect of making it more difficult for purchasers to compete for Ancillary Services. It argues that the ISO should provide market participants purchasing Ancillary Services with relevant and timely information as to the percentage of each ancillary service product that must be procured. Otherwise, Dynegy asserts, the risk of miscalculating Ancillary Services quantities through Scheduling Coordinator trades or self provision can be costly.

17. The ISO responds that regardless of how the ISO adjusts its procurement of different Ancillary Services, a self-providing Scheduling Coordinator need only supply its proportionate share of each required Ancillary Service. The ISO also states that objections to the "rational buyer" approach to the procurement of Ancillary Services is beyond the scope of the Outstanding Issues proceeding. The ISO states that any party that wished to pursue such objections was required to raise them in a request for rehearing of the Commission's order accepting Amendment No. 14.

### **Commission Determination**

18. Section 2.5.3 of the ISO Tariff clearly states the procedure that may be used to determine the quantity and location of the Ancillary Service required by the ISO. We find reasonable Tariff sections 2.5.3.3(a) through (e). As Control Area Operator, the ISO needs to procure additional Replacement Reserves as it sees fit to maintain system reliability. Further, we are not persuaded by Dynegy's argument that the ISO has an unfair purchasing advantage under the terms of the original Tariff. Dynegy and other Scheduling Coordinators can hedge their exposure of having to purchase Replacement Reserves from the ISO by self-providing their required amount of Ancillary Service. The ISO does not operate Ancillary Services markets to compete with Market Participants, but to enable Scheduling Coordinators who are unable or unwilling to self-provide Ancillary Services or to procure the necessary capacity in bilateral transactions to obtain

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<sup>10</sup> See *AES Redondo Beach, L.L.C., et al.*, 87 FERC ¶ 61,208, *order on reh'g*, 88 FERC ¶ 61,096 (1999), *order on reh'g and clarification*, 90 FERC ¶ 61,036 (2000) (*AES Redondo Beach*).

Ancillary Services in an open market. We also find that issues concerning the ISO's Rational Buyer Protocol were resolved in the proceeding concerning Amendment No. 14.<sup>11</sup> Accordingly, we deny Dynegy's protest.

**A.3.a. With respect to Voltage Support: Does Ancillary Services Requirements Protocol (ASRP) Section 7.3 need to be clarified?**

19. ASRP 7.3 (Standards for Voltage Support: Distribution and Location)<sup>12</sup> provides as follows:

Each Generator, Participating TO and UDC shall ensure that sufficient Voltage Support is available in the vicinity of each designated substation bus to maintain voltage within the Voltage Limits prescribed by the ISO in its voltage schedules for each Settlement Period. Each Generator, Participating TO and UDC shall provide sufficient reactive supply in each local area to take into account real power losses created by reactive power flow on the system. Reactive power flow at Scheduling Points shall be maintained within a power factor bandwidth of 0.97 lag to 0.99 lead.

20. Dynegy originally raised this issue.<sup>13</sup> According to Dynegy, ASRP 7.3 is unclear. For instance, it contends that it is unclear how a generator would know what "sufficient reactive supply" is if the generator does not know the substation voltage. In order to provide an adequate level of information to enable generators to make this determination, Dynegy believes that the ISO should designate a party responsible for monitoring voltage and a party responsible for providing the signal to change reactive output, as well as set forth the limitations on what steps the receiver of the signal must take in order to provide this service.

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<sup>11</sup> See *AES Redondo Beach*, *supra* note 10.

<sup>12</sup> Voltage Support consists of services provided by Generating Units or other equipment that are required to maintain established grid voltage criteria. This service is required under normal or system emergency conditions.

<sup>13</sup> See California ISO's Report on Outstanding Issues (March 11, 1999), Attachment C (Agreed Issues) at 6. (Attachment C refers to "ECI" (an abbreviation for Electric Clearinghouse, Inc.) as the proponent of this issue. But, Electric Clearinghouse, Inc., operates under the name Dynegy.)

21. Dynegy and the ISO reached a proposed settlement on this issue, pursuant to which they would delete the existing ASRP 7.3 in its entirety and substitute the following language:

The ISO shall determine on an hourly basis for each day the quantity of Voltage support required at various locations on the ISO Controlled Grid to maintain voltage levels and reactive margins within [the Western Electricity Coordinating Council] and [the North American Electric Reliability Council] criteria using a power flow study based on the quantity and location of scheduled Demand. The ISO shall issue daily voltage schedules based on that determination to any Generators and Loads that are requested to change their voltage levels. Each Generating Unit owned by a Participating Generator shall maintain the ISO specified voltage schedule at the transmission interconnection points to the extent possible while operating within the power factor range required by Section 2.5.4.4 (within a band of 0.90 lag and 0.95 lead unless otherwise specified in an agreement specified in that Section). Other Generating Units shall operate within the power factor range required by Section 2.5.3.4. Each Load directly connected to the ISO Controlled Grid shall maintain voltage levels and power factors as required under Section 2.5.3.4 (within a power factor band of 0.97 lag to 0.99 lead). Each [Utility Distribution Company] shall maintain reactive power flow at the Scheduling Points with which it is interconnected with the ISO Controlled Grid within the range of 0.97 lag to 0.99 lead, unless otherwise specified in its [Utility Distribution Company] agreement.

22. CAC/EPUC oppose the proposed revision, expressing concern that it could harm Qualifying Facilities (QFs). They contend that the ISO Tariff is vague and ill-defined in many key provisions and that QF operations were not contemplated in the development of the ISO Tariff. Thus, they urge that ASRP 7.3 apply only to Participating Generators that choose to supply Voltage Support to the ISO and that the ISO not have authority to issue unilateral orders except in an emergency. Further, they contend that this issue has been raised in a proceeding in Docket Nos. ER98-997-000 and ER98-1309-000, in which the ISO filed proposed pro forma Participating Generator Agreements (Participating Generator Agreements), and that this issue should be addressed in that proceeding.

23. The ISO responds that, although it believes that the current provision is just and reasonable, it continues to support the compromise that it agreed upon with Dynegy. It also contends that CAC/EPUC lack standing to pursue this issue because they failed to

intervene and protest or seek rehearing in the relevant original proceedings. Also, the ISO disputes CAC/EPUC's claim that this issue is being addressed in the proceeding concerning its proposed QF Participating Generator Agreement.

### **Commission Determination**

24. We find that CAC/EPUC's concerns regarding QFs have been resolved in a proceeding in Docket Nos. ER98-997 and ER98-1309, in which the ISO filed a proposed Participating Generator Agreement. In that proceeding, CAC/EPUC intervened and protested, arguing that ISO should establish a Participating Generator Agreement that was specific to QFs. An initial decision, affirmed by the Commission in Opinion No. 464,<sup>14</sup> determined that the ISO's proposed pro forma agreement was not just and reasonable when applied to QFs and directed the ISO to file a QF-specific Participating Generator Agreement that reflected the initial decision's findings.

25. With respect to the scope of the proceeding in Docket Nos. ER98-997 and ER98-1309, the initial decision found that the Commission intended the resolution of that proceeding to have a "generic effect" regarding QFs.<sup>15</sup> Further, the Commission, in conditionally accepting the ISO's compliance filing pursuant to Opinion No. 464, stated that its order "will implement a QF-specific [Participating Generator Agreement] to accommodate the distinct characteristics of QFs."<sup>16</sup> Therefore, the proceeding in Docket Nos. ER98-997 and ER98-1309 addressed the same issue raised by CAC/EPUC in this proceeding. Also, we need not reach the ISO's argument that CAC/EPUC lack standing to raise the QF issue in this proceeding, because the QF issue has been resolved by Opinion No. 464. Accordingly, the QF issue raised here by CAC/EPUC is dismissed.

26. With respect to the proposed revision to ASRP 7.3 agreed upon by the ISO and Dynegy, we find that the change proposed by the ISO and Dynegy is sufficiently clear for setting the standard for Voltage Support. Accordingly, we direct the ISO to make the agreed upon change to ASRP 7.3 in the compliance filing ordered below.

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<sup>14</sup> *California Independent System Operator Corp.*, Initial Decision, 96 FERC ¶ 63,015 (2001), *aff'd*, Opinion No. 464, 104 FERC ¶ 61,196 (2003).

<sup>15</sup> 96 FERC ¶ 63,015 at 65,133.

<sup>16</sup> *See California Independent System Operator Corp.*, 108 FERC ¶ 61,273 (2004) at P1.

**A.3.c. With respect to Voltage Support, should Participating Generators that do not meet minimum ISO Tariff criteria for Voltage Support be required to obtain Ancillary Services to make up for their shortfall, and should Participating Generators that are called upon by the ISO to exceed minimum ISO Tariff Voltage Support criteria be compensated for so doing?**

27. ISO Tariff section 2.5.3.4 (Voltage Support), which concerns a Participating Generator's Voltage Support obligations, provides in part, "The ISO shall be entitled to instruct Participating Generators to operate their Generating Units at specified points within their power factor ranges. Generators shall receive no compensation for operating within these specified ranges." Section 2.5.18 (Voltage Support) contains additional Voltage Support provisions.

28. CAC/EPUC reiterate their concern about QFs that they raise in Issue A.3.a, i.e., that the ISO Tariff does not contemplate QF operations. This issue is dismissed for the same reasons we give in our determination regarding the QF issue in Issue A.3.a

29. DWR argues that a thin Ancillary Services market has been and remains a problem. It believes that all Ancillary Services should be separately identified, priced and offered in competitive markets. DWR proposes criteria for Ancillary Services markets: market participants requiring a higher degree of services than the ISO criteria provide, as well as market participants who are unwilling or unable to operate their systems to self-provide Ancillary Services at required minimum levels, must pay for the extra services they use; just as no market participant should "lean" on the ISO without purchasing appropriate Ancillary Services, and the ISO should not "lean" on a market participant whose facilities consistently exceed minimum required operating criteria, to the benefit of the grid overall; and if a market participant's facilities or operations benefit the grid overall, by consistently exceeding minimum tariff criteria, that benefit should be designated as an ancillary service that may be competitively priced and bid to the ISO and/or market participants.

30. The ISO responds that it agrees that entities that do not meet the VAR requirement should not be permitted to lean upon those that do. The ISO states that it has not authorized any exemption from the Voltage Support provisions under section 2.5.3.4 of the ISO Tariff. Also, the ISO states that it is committing to post information regarding exemptions if they are granted in the future, thereby addressing DWR's informational concerns. The ISO states that DWR's additional proposed modifications to section 2.5.18 of the ISO Tariff are unwarranted. The ISO states that the October 1997 Order specifically rejected DWR's suggestions and that DWR has provided no basis for modifying that Commission determination.

31. DWR replies that this issue is one of equity. It states that all existing generators reflect the Voltage Support that was expected of them when they were installed, whereas a new generator is at least on notice for the current ISO standard. It would be unfair to impose a retroactive penalty on any existing generator, according to DWR.

### Commission Determination

32. As the ISO notes, DWR reiterates arguments that it previously raised and that the Commission rejected in the October 1997 Order. There, the Commission agreed with DWR that Participating Generators unable to meet the minimum standards for Voltage Support should not lean on the ISO or other market participants, and that Participating Generators unable to satisfy the ISO's standards must either pay for their ancillary service requirement or self-provide them from another source. However, the Commission rejected DWR's interpretation of section 2.5.3.4 as providing for exemptions from the ISO's VAR requirement, and rejected DWR's request to revise section 2.5.18 in the same manner that DWR seeks to revise that section in this proceeding.

33. In its request for clarification, or alternatively, rehearing of the October 1997 Order's discussion of section 2.5.3.4, DWR argued that the October 1997 Order's discussion was entirely in the context of existing contractual requirements. But, citing the need for the system to stay in balance in terms of reactive power, DWR requested that the Commission "clarify its discussion of section 2.3.4 to ensure that entities with such exempt Generators would still have to either comply with or pay for VAR support...."<sup>17</sup> We deny the request for clarification. The October 1997 Order was clear regarding the requirements of section 2.3.4, and no useful purpose would be served by re-stating that market participants must comply with the Tariff. Further, DWR did not seek rehearing concerning the October 1997 Order's denial of its request to revise section 2.5.18. Thus, we deny DWR's argument concerning section 2.5.18 as an untimely request for rehearing of the October 1997 Order.

**A.4. Has the ISO unreasonably precluded certain entities from providing competitive Black Start and Voltage Support Services to the ISO Grid and should the ISO Tariff, including Tariff Section 2.5.3.4 (Voltage Support) and Ancillary Services Requirements Protocol (ASRP) 7.5.1 (Long-Term Voltage Support), be revised to require competitive procurement of Black Start and Voltage Support Services?**

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<sup>17</sup> California Dept. of Water Resources' Request for Clarification or, in the Alternative, Rehearing at 12-13, Docket No. EC96-19-009, et al. (Dec. 1, 1997).

34. Proponents Southern Cities, DWR and Metropolitan contend that, throughout the development of the ISO, it was anticipated that the ISO would obtain Voltage Support and Black Start services through a competitive solicitation, but, instead, the ISO amended its Tariff to provide that it would, on a temporary basis, obtain those services from Reliability Must-Run (RMR) units. They assert that it is unknown when, or if, the ISO plans to undertake a competitive solicitation for such services. They ask that the Commission order the ISO to undertake a competitive solicitation as soon as possible.

35. The ISO responds that, contrary to proponents' assertions, the October 1997 Order appropriately recognized that the ISO must have the ability to procure necessary Voltage Support as needed, and should not be constrained to only those resources that have submitted adjustment bids. Also, the ISO states that it never intended to procure, on an indefinite basis, Voltage Support or Black Start services from RMR units.

#### **Commission Determination**

36. We find that Tariff section 2.5.3.4 and ASRP 7.5.1 provide the ISO with a reasonable means for procuring Black Start and Voltage Support. In the event that additional resources can provide reliable and economical Black Start and Voltage Support, we encourage the ISO to explore these options.

#### **A.6. Is the ISO's use of out-of-market purchases based on extra-Tariff criteria rather than the use of Ancillary Services and Supplemental Energy bids in price order, just and reasonable?**

37. Proponents EPMI and WPTF claim that the ISO does not follow its tariff in its acquisition and dispatch of Ancillary Services and supplemental energy. Instead, they claim that the ISO uses out-of-market purchases instead of Ancillary Services and supplemental energy bids in price order, and uses extra-Tariff criteria in accepting and dispatching the resources. According to the proponents, section 2.5.12 of the Tariff (Bid Evaluation Rules) sets forth the principles guiding the ISO's evaluation of bids, and section 2.5.22.3.1 (Dispatch of Competitively Procured and Self-Provided Ancillary Services) requires that generating units be dispatched based on the units' energy bid prices. However, they claim that the ISO will often dispatch generation out of order based, at times, on its own subjective determination about market conditions, and, at other times, simply because of operator error. When this occurs, they assert that the ISO's dispatch procedure is not transparent, market participants are not aware of when the ISO is not following the Tariff and the necessity for deviation from the Tariff procedures cannot be verified independently. They argue that the ISO's failure to adhere to the rules specified in the Tariff makes it difficult for market participants to make

reasonable judgments in pricing the resources they bid into the Ancillary Services market. As a result, they contend that Scheduling Coordinators cannot predict - and thus cannot hedge - risk.

38. The ISO responds that its dispatch of generation out of bid sequence is just and reasonable. It contends that the proponents' proposal to eliminate out-of-sequence dispatch is extreme and unjustified, particularly in light of improvements that the ISO plans to institute.

39. In its reply brief, SMUD supports the proponents' argument, but it suggests that the Commission resolved this issue in a January 7, 2000 order regarding the ISO's proposed Tariff Amendment No. 23.<sup>18</sup>

### **Commission Determination**

40. To the extent that proponents challenge the ISO's out-of-sequence/out-of-market (OOS/OOM) dispatch authority generally, we find that the ISO's use of OOS/OOM calls is just and reasonable. The ISO dispatches OOS/OOM Resources to (1) mitigate Intra-Zonal Congestion when RMR units are not available or effective, (2) to maintain or enhance system reliability, and, (3) to provide energy when market Energy Bids are not sufficient to meet Operating Reserve Requirements. To improve transparency of outage events and OOS/OOM Resource calls, the ISO has implemented several upgrades to the Scheduling and Logging for the ISO of California system. These enhancements include automated data entry through a Web-based system, electronic data transfers between the ISO and transmission and generation owners, and the ability to download and upload batch reports on outage requests, history and updates.

41. However, to the extent that proponents' argument is a narrower question of whether the ISO improperly dispatches generation based on its subjective determination of whether the bids for Ancillary Services are the result of a sufficiently competitive market, we agree with SMUD that this issue was resolved by the Amendment No. 23 Order. In that proceeding, the ISO asserted that the Tariff allowed it to use its out-of-market authority to direct the dispatch of generating units to manage intrazonal congestion, not only when there are insufficient bids, but also when it determines that the bids that are submitted will not be the result of a competitive market. The Commission rejected the ISO's proposal to evaluate bids based on the ISO's evaluation of the competitiveness of the market, finding that:

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<sup>18</sup> See *California Independent System Operator Corp.*, 90 FERC ¶ 61,006, *reh'g denied*, 91 FERC ¶ 61,026 (2000) (Amendment No. 23 Order).

Section 5.1.3 and other sections of the ISO Tariff which describe the situations in which the ISO has the authority to direct generators that have not bid into the market to dispatch their resources are clearly limited to situations when the supply that has bid into the market is less than the amount needed to *physically* satisfy the ISO's need, e.g., the supply that has bid cannot be dispatched due to transmission constraints. There is nothing in the ISO Tariff that suggests that the ISO can disregard market bids that have the physical ability to meet the ISO's needs and to either direct those same bidding generators to perform at a different price (the OOM price) or dispatch a generating unit that has not bid into the market.<sup>[19]</sup>

### **Marketing Monitoring**

#### **D.1. Whether the ISO's role in market monitoring should be limited to data collection and monitoring only, but should not include an enforcement or police function?**

42. Proponents EPMI, WPTF and Dynege contend that the activities of the ISO's Division of Market Analysis (DMA)<sup>20</sup> and Market Surveillance Committee should be limited to the gathering of information voluntarily provided by Market Participants and the reporting of findings to the Commission. They contend that the ISO should have no role in the enforcement of rules against market abuse. They argue that: (1) the Commission cannot delegate its enforcement authority to the ISO; (2) even if the Commission can delegate its authority, it did not retain the authority to review the ISO's enforcement actions; and (3) the ISO failed to delete provisions from the ISO Tariff relating to enforcement as required by the October 1997 Order.

43. In its answering brief, the ISO argues that the issue is not ripe for decision, because the October 1997 Order directed it to file any proposed sanctions under FPA section 205 prior to imposing such sanctions, and it has not made such a filing. The ISO further argues that the Commission did not delegate its enforcement authority under the Federal Power Act (FPA) to the ISO, but rather accepted tariff provisions that allow the ISO to enforce the tariff's proscription of gaming and the exercise of market power in the markets that the ISO administers. Further, the ISO notes that it may not impose sanctions until it has filed with the Commission the specific sanctions and the criteria for their imposition, an entity may contest sanctions through the ISO's dispute resolution process,

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<sup>19</sup> Amendment No. 23 Order, 90 FERC ¶ 61,006 at 61,011 (emphasis in original).

<sup>20</sup> The DMA was formerly known as the Market Surveillance Unit.

and the outcome of the dispute resolution process is subject to appeal to the Commission on the grounds that it violates the law, the Commission's regulations, or the Tariff. The ISO further argues that the Commission approved the concept of enforcement penalties, but directed the ISO to revise the Tariff to describe the penalties.

44. In their answering briefs, SoCal Edison (supported by PG&E), SMUD and TURN/UCAN respond to Issues D.1 - D.4, collectively. They oppose any weakening of the ISO's market monitoring authority. According to SoCal Edison, market monitoring authority may need to be considerably broad in nascent markets. It contends that it may be appropriate to scale back such authority once markets have a record of workable competition, but California is not yet at that point. SMUD argues that the ISO must have the authority to monitor and police the market and to impose sanctions for actions that violate market behavior or inhibit competition. According to SMUD, the Commission cannot monitor all markets on a day-to-day basis, but must ensure nonetheless that they are monitored. TURN/UCAN asserts that, if anything, the ISO has not done enough concerning enforcement.

45. In their reply brief, EPMI, WPTF and Dynegy argue that the reasonableness of the MMIP is ripe for decision, because the ISO had not removed the original provisions from the Tariff, and, thus, the provisions that the Commission found unacceptable in the October 1997 Order are still on file.

### **Commission Determination**

46. We dismiss this issue because it has been resolved in another proceeding. The Commission intended that the ISO's role in market monitoring would be greater than data collection and monitoring. In its October 1997 Order,<sup>21</sup> the Commission "approve[d] of the concept of having the ISO . . . being authorized to impose sanctions" and "generally support[ed] the enforcement process and the concept under which appropriate penalties (which have been filed with the Commission) could be ordered by the ISO." The Commission further required that the ISO revise its Tariff to describe specific proposed sanctions, including the criteria for when it would impose them, prior to the imposition of sanctions.<sup>22</sup> The ISO subsequently made such a filing, Amendment No. 55, in July 2003. The Commission conditionally accepted the ISO's Enforcement Protocol for filing, subject to the ISO making a compliance filing that demonstrates its independence.<sup>23</sup>

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<sup>21</sup> *Pacific Gas and Electric Co., et al.*, 81 FERC ¶ 61,122 (1997).

<sup>22</sup> 81 FERC ¶ 61,122 at 61,553.

Thus, the Commission determined that, subject to the conditions stated in that order, it would allow the ISO to impose penalties for objectively determined market rule violations.<sup>24</sup>

**D.2. Does Section 2 of the Market Monitoring and Information Protocol of the ISO Tariff (MMIP) that allows the ISO to monitor the activities of Market Participants and take corrective action and other action against what it believes to be “anomalous market behavior” provide the ISO with overbroad authority and deny market participants due process?**

47. The proponents Dynegy, EPMI and WPTF argue that the MMIP violates the filed rate doctrine, because it does not afford market participants notice of the terms and conditions of service. They also argue that the MMIP’s gaming provisions, such as the prohibition against “anomalous market behavior,” are vague and subjective, thus violating the Commission’s policy set forth in an order involving the New York Independent System Operator, which required the New York ISO to set forth clear standards in its market monitoring provisions.<sup>25</sup>

48. In their answering briefs, SMUD and the ISO argue that *New York ISO* is distinguishable from the instant case. The ISO argues that the Commission rejected the New York ISO’s proposed authority to impose three specific sanctions on market participants, because the New York ISO had not adequately defined criteria for those sanctions.<sup>26</sup> SMUD argues that the Commission rejected the New York ISO’s proposed enforcement authority because it gave the New York ISO too much discretion in price-setting and other similar regulatory functions without Commission review.<sup>27</sup> The ISO

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<sup>23</sup> *California Independent System Operator Corp.*, 106 FERC ¶ 61,179, *order on reh’g*, 107 FERC ¶ 61,118 (2004), *reh’g denied*, 109 FERC ¶ 61,089 (Amendment No. 55 Order). The Amendment No. 55 Order also provides that the Commission will enforce the Enforcement Protocol until the ISO demonstrates its independence. 106 FERC ¶ 61,179 at P 154, *order on reh’g*, 107 FERC ¶ 61,118 at P 9-11, P 16.

<sup>24</sup> Amendment No. 55 Order, 106 FERC ¶ 61,179 at P 100-01.

<sup>25</sup> *See New York Independent System Operator, Inc.*, 89 FERC ¶ 61,196 (1999) (*New York ISO*).

<sup>26</sup> *See id.* at 61,602.

<sup>27</sup> *See id.* at 61,605.

and SMUD argue that the California ISO lacks the authority that the New York ISO sought. SMUD further argues the California ISO's authority allows it to correct past market abuses and in so doing deter other market participants from such behavior.

49. In their reply brief, EPMI, WPTF and Dynegy argue that the ISO does not dispute their interpretation of *New York ISO* and that SMUD reads that case too narrowly. They assert that the Commission specifically determined that the New York ISO did not have the right to take unilateral action.

### Commission Determination

50. EPMI, WPTF and Dynegy read *New York ISO* too narrowly. In that order, the Commission did not determine that the New York ISO could never act unilaterally. Rather, the Commission rejected the New York ISO's proposed market mitigation measures as giving the New York ISO too much discretion without Commission review, and it required the New York ISO to propose specific mitigation measures.<sup>28</sup> In that regard, *New York ISO* and the October 1997 Order are consistent. Further, as discussed concerning Issue D.1 above, the Commission resolved the California ISO's market monitoring and enforcement authority in the Amendment No. 55 Order. Accordingly, this issue is dismissed.

### **D.3. Does Section 2.3.2 of the MMIP, which allows the ISO to publicize allegedly abusive activities or behavior of Scheduling coordinators before a Commission finding of wrongdoing is reached, deny Scheduling Coordinators due process?**

51. Under MMIP section 2.3.2 ("Further Actions"), where the DMA's "monitoring activities or any consequent investigations" reveal that activities or behavior of Market Participants undermine the ISO markets or provide an unfair competitive advantage over other Market Participants, the DMA shall fully investigate and analyze the effect of such activities or behavior and make recommendations to the ISO's chief executive officer (ISO CEO) and the ISO's governing board for further action by the ISO or, where necessary, by other entities. Section 2.3.2 further provides as follows:

The ISO may publicize such activities or behavior and its recommendations thereof, in whatever medium it believes most appropriate.

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<sup>28</sup> 89 FERC ¶ 61,196 at 61,605.

52. Proponents EPMI and WPTF oppose the publication by the ISO of alleged improper activities or behavior. They argue that in *New York ISO*, the Commission prohibited the New York ISO from publishing its findings concerning market abuse or gaming.<sup>29</sup> They argue that, under *New York ISO*, the California ISO should not be allowed to publicize alleged improper activities or behavior. They also argue that market participants could be damaged by premature or inaccurate reports.

53. The ISO responds that *New York ISO* merely held that the New York ISO was not required to publicize every instance of market power but instead authorized the New York ISO to use its discretion to publish some instances of market power and keep others confidential. It also contends that participants are protected against damage by the availability of civil remedies if the ISO were to intentionally or negligently defame them.

54. In their reply brief, EPMI and WPTF reiterate their interpretation of *New York ISO*. They further contend that it is unsound policy to allow market participants to investigate other market participants and then publish those findings before the Commission has any opportunity to review them.

### **Commission Determination**

55. Since this issue was not raised in the proceeding concerning Amendment No. 55, it is appropriate that we address it here.<sup>30</sup> We do not believe that the ISO should publicize preliminary findings of alleged improper activities and behavior before the investigative and appeal processes have concluded. Section 2.3.2 concerns “Further Actions” by the ISO in response to evidence of possible improper activities or behavior, and publicizing such activities or behavior is a form of enforcement action against a market participant based on that evidence. Since all enforcement action will be administered by the Commission until the ISO demonstrates its independence, it is inappropriate for the ISO to take such action at this time. Further, the ISO’s conditionally approved enforcement authority rests with the Enforcement Protocols addressed in the Amendment No. 55 Order. Moreover, premature or inaccurate reports could irreparably harm market participants financially, notwithstanding the potential to

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<sup>29</sup> See *New York ISO*, 89 FERC ¶ 61,196 at 61,603.

<sup>30</sup> In its Amendment No. 55 filing, which included proposed changes to the MMIP, the ISO did not propose to change the above-quoted MMIP provision concerning publication of activities or behavior. In the Amendment No. 55 Order, the Commission, in its description of the pre-existing MMIP, referred to this provision, but it was not at issue in that proceeding. 106 FERC ¶61,179 at P 144.

seek civil remedies for defamation. Accordingly, we direct the ISO, in its compliance filing, to remove the following language from section 2.3.2 of the MMIP: “The ISO may publicize such activities or behavior and its recommendations thereof, in whatever medium it believes most appropriate.”

**D.4. Are the informational demands contained in MMIP Section 4.5 unjust and unreasonable?**

56. MMIP section 4.5 (Market Participants) concerns the collection and dissemination of information and data by the ISO. Section 4.5.1 permits the DMA to request market participants or other entities whose operations may affect the operation of the ISO markets to submit “any information or data determined by the [DMA] to be potentially relevant.”

57. Proponents EPMI, WPTF and Dynegy contend that the ISO’s authority to collect “any information or data” deemed to be “potentially relevant” is overly broad. By comparison, the New York ISO filed a list of data to be collected. Proponents also assert that New York ISO’s information provision is voluntary whereas failure to provide information to the California ISO can lead to sanctions.

58. The ISO responds that the Commission accepted a similar information requirement by New England Power Pool, which required that participants provide ISO New England with any information that ISO New England deems necessary to perform its obligations. Further, the ISO contends that a market participant’s refusal to provide information to the New York ISO triggers procedures to resolve the issue, which may include binding arbitration or judicial or regulatory procedures. The ISO also points out that, with regard to its information requirement, the market participant would be given the opportunity to explain its alleged failure to provide information before the ISO could impose sanctions.

59. In their reply brief, the proponents argue that in the New York ISO, if a party refuses to voluntarily comply with a discovery request, it could be subject to an alternative dispute resolution procedure where the reasonableness of that refusal is subject to arbitration. They contend that such a procedure provides at least a minimal safeguard against excessive demands. They also argue that not allowing the ISO to impose discovery demands on market participants would be consistent with the

Commission's position in Order No. 2000<sup>31</sup> that RTOs should not have mandatory discovery rights, but should be limited to data that they collect in the ordinary course of business.<sup>32</sup>

### Commission Determination

60. In Amendment No. 55, the ISO did not propose to change the provision for the collection of "any information or data determined . . . to be potentially relevant," except to provide that the DMA would be the entity collecting the information. The ISO did propose penalties for not providing such information, and there were protests of the proposed penalties. In the Amendment No. 55 Order, the Commission did not revise the DMA's discretion to collect information, but it held that the ISO and DMA could not penalize behavior-related tariff provisions until the ISO has demonstrated independence. Moreover, we find that the requirement that market participants provide information deemed potentially relevant enables the ISO to effectively perform its market monitoring duties and, thus, it is just and reasonable. Accordingly, we deny the protest on this issue.

### Metered Subsystems<sup>33</sup>

**E.1. Has the ISO unreasonably delayed implementation of the Metered Subsystem (MSS) concept and failed to fully and appropriately describe what an entity must do to operate as a metered subsystem? Should the ISO establish specific target dates for implementation of the Metered Subsystem concept, or should the Commission remedy the ISO's failure to propose a workable Metered Subsystem, including providing for literal Self-Provision of Ancillary Services and the bidding and sale of Ancillary Services and Energy to the PX and ISO from a "System Unit"? Should the definition of Existing Operating Agreement, in Appendix A to the ISO Tariff, be modified to eliminate the requirement that the agreement must be entered into "prior to the ISO Operations Date"?**

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<sup>31</sup> *Regional Transmission Organizations, Order No. 2000*, 65 Fed. Reg. 809 (Jan. 6, 2000), FERC Statutes & Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,089 (1999), *order on reh'g*, Order No. 2000-A, 65 Fed. Reg. 12,088 (Mar. 8, 2000), FERC Statutes & Regulations, Regulations Preambles July 1996-December 2000 ¶ 31,092 (2000), *aff'd sub nom. Public Utility District. No. 1 of Snohomish County, Washington v. FERC*, 272 F.3d 607 (D.C. Cir. 2001).

<sup>32</sup> They cite Order No. 2000, FERC Stats. & Regs. ¶ 31,089 at 31,156.

<sup>33</sup> We address Issue E.1 here. Issues E.2-E.5 have been withdrawn.

61. The joint proponents are Cities/M-S-R, LADWP, PG&E, SMUD and Turlock. The proponents have since either withdrawn the issue or informed the ISO that the issue has been resolved, or may be affected, by the outcome of the ISO's filing of Amendment No. 46 to the ISO Tariff, which we discuss below. Also, NCPA, which did not brief this issue in 2000, nonetheless suggests that metered subsystem issues may be partially mooted by metered subsystem agreements that it entered into with the ISO, and it would be concerned that decisions based on briefs filed in 2000 not adversely impact its current arrangements with the ISO.

### **Commission Determination**

62. In July of 2002, the ISO filed Amendment No. 46, in which it proposed to modify ISO Tariff provisions concerning the operational relationship of metered subsystem operators to the ISO. The proposed modifications generally defined the nature of the relationship of a metered subsystem to the ISO, including: Ancillary Services obligations of the metered subsystem operator; the load following capabilities of the metered subsystem operator; information sharing requirements between the metered subsystem operator and the ISO; the settlement procedures of ISO charges; and metered subsystem operator load shedding for emergency and reliability purposes. Amendment No. 46 also included three metered subsystem agreements between the ISO and governmental entities, including NCPA. The Commission conditionally accepted Amendment No. 46 for filing.<sup>34</sup> In so doing, the Commission stated that the ISO's revisions in Amendment No. 46 were designed to allow governmental entities and non-participating transmission owning entities to participate in the ISO markets. Because issues concerning metered subsystems were resolved in the Metered Subsystem Order, this issue is dismissed.<sup>35</sup>

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<sup>34</sup> *California Independent System Operator Corp.*, 100 FERC ¶ 61,234 (2002), *reh'g denied*, 102 FERC ¶ 61,146 (2003) (Metered Subsystem Order).

<sup>35</sup> Issues concerning metered subsystems were also raised in another proceeding, which concerned the ISO's Amendment No. 27. However, parties to that proceeding later stipulated that issues concerning the treatment of metered subsystems were not at issue, and would not be determined, in that proceeding. The stipulation was unopposed, and an initial decision, currently pending on exceptions, approved and adopted the stipulation. *See California Independent System Operator Corp.*, Initial Decision, 106 FERC ¶ 63,026 at P 339-40 (2004).

### Metering Protocols

#### **F.1. Is the language in ISO Tariff Section 10.6.6.2 unduly restrictive because it grandfathers existing metering arrangements only for End Use Meters?**

63. The October 1997 Order directed the ISO to modify the ISO Tariff to grandfather all End Use meters in place as of the ISO's operations date.<sup>36</sup>

64. The proponents, Southern Cities, contend that the ISO's compliance filing was too limited because it did not also grandfather existing metering arrangements for wholesale customers such as Southern Cities.

65. The ISO answers that its limitation of grandfathering only to the meters of end use customers was consistent with the October 1997 Order and that Southern Cities failed to preserve this issue by seeking rehearing of the October 1997 Order's determination to grandfather only End Use customers' meters. However, the ISO further responds that this issue may be moot because it believes that the current metering configuration for each of the Southern Cities is satisfactory and that there are appropriate meters and metering procedures in place on each transmission line. Based on the ISO's answer, Southern Cities reply that it is no longer necessary for the Commission to address the scope of the grandfathering provision for meters in place on the date the ISO commenced operations.

### Commission Determination

66. The ISO's Identification of Outstanding Issues states that Issue F.1 "[r]emains an issue" for Southern Cities. However, based on the ISO's answering brief and Southern Cities' reply brief, we find that this issue has been resolved between the parties and, thus, does not require further consideration by the Commission. Accordingly, this issue is dismissed.

#### **F.2. Should ISO Tariff Section 10.2.2 and Section 5.1.1 of the Metering Protocol be modified so that the ISO would not be permitted to impose additional metering requirements except to the extent such additional facilities are necessary to fulfill obligations with respect to the ISO Controlled Grid?**

67. Proponents Southern Cities and the ISO agreed on revisions to Tariff Section 10.2.2 (Duty to Install and Maintain Meters) and Metering Protocol 5.1.1 (ISO Authority to Require Additional Metering Facilities) to provide that the ISO will consider costs and

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<sup>36</sup> October 1997 Order, 81 FERC ¶ 61,122 at 61,516.

benefits before deciding whether to direct meter upgrades. In the November 22 Order, the Commission found the proposed revisions reasonable.<sup>37</sup>

68. CAC/EPUC argue that the ISO Tariff is too vague concerning the ISO's authority with regard to the operations of QFs. They further note that this issue is being addressed in the proceeding related to the ISO's proposed pro forma QF Participating Generator Agreement in Docket Nos. ER98-997-000 and ER98-1309-000, and they request that issues related to QF operations be resolved in that proceeding.

#### **Commission Determination**

69. The issue raised by Southern Cities has been resolved by the November 22 Order and is moot. Accordingly, this issue is dismissed.

70. As noted above in Issue A.3.a, the QF issue raised by CAC/EPUC has been resolved in the proceeding involving the ISO's pro forma Participating Generator Agreement. Accordingly, this issue is dismissed.

#### **Issues Dismissed As No Longer Contested**

71. As noted above, the ISO, at the Commission's request, asked each of the parties to identify which of their Outstanding Issues remain open and contested. On some issues, parties expressly informed the ISO that they had withdrawn the issue or that the issue was moot or being addressed in another proceeding. On other issues, the proponents did not respond to the ISO. We interpret the lack of a response on an issue as meaning that the proponent no longer wished to pursue that issue in this proceeding. Several parties that did not respond to the ISO on some issues did, in fact, respond to the ISO that other issues were open and contested. Thus, while some parties expressly withdrew issues, we believe that other parties did so implicitly, choosing simply not to respond to the ISO where they no longer wish to pursue an issue. Accordingly, these issues, which are listed in Appendix B, are dismissed.

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<sup>37</sup> November 22 Order, 101 FERC ¶ 61,219 at P123, P127.

Docket No. ER98-3760-000

24

The Commission orders:

(A) The Commission hereby resolves certain Outstanding Issues in the Unresolved Issues proceeding, as discussed in the body of this order.

(B) Certain Outstanding Issues in the Unresolved Issues proceeding are hereby dismissed, as discussed in the body of this order.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.

Docket No. ER98-3760-000

25

**APPENDIX A**

**Parties that Filed Briefs Individually or Jointly**

Cogeneration Association of California and Energy Producers and Users Coalition (CAC/EPUC)

Public Utilities Commission of the State of California (California Commission)

California Independent System Operator Corporation (California ISO or ISO)

California Power Exchange Corporation (California PX or PX)

Cities of Redding, Santa Clara and Palo Alto, California, and the M-S-R Public Power Agency (Cities/M-S-R)

California Department of Water Resources (DWR)

Dynegy Power Marketing, Inc. (Dynegy)

Enron Power Marketing, Inc. (EPMI or Enron)

Los Angeles Department of Water and Power (LADWP)

Metropolitan Water District of Southern California (Metropolitan)

Modesto Irrigation District (Modesto)

Northern California Power Agency (NCPA)

Pacific Gas and Electric Company (PG&E)

San Diego Gas & Electric Company (SDG&E)

Sacramento Municipal Utility District (SMUD)

Southern California Edison Company (SoCal Edison)

Cities of Anaheim, Riverside, Azusa, Banning and Colton, California (Southern Cities)

Transmission Agency of Northern California (TANC)

Docket No. ER98-3760-000

26

Turlock Irrigation District (Turlock)

The Utility Reform Network and the Utility Consumers Action Network (TURN/UCAN)

City of Vernon, California (Vernon)

Western Power Trading Forum (WPTF)

**APPENDIX B****Issues Dismissed As No Longer Contested****Ancillary Services**

A.3.b. With respect to Voltage Support: With respect to ASRP section 7.3 and section 2.5.3.4 of the ISO Tariff, are power factors for Participating Generators not operating under specified agreements improperly inconsistent with the power factors of section 2.5.3.4 and should ASRP 7.3 address Voltage Support requirements for Loads as does section 2.5.3.4?

A.5. Should section 5.6.2 of the ISO Tariff be modified to remove the words System Resource?

**Inter-Zonal Congestion Management**

B.1.a. Is the provision of the ISO Tariff that affords higher priority on congested pathways such as Path 15 to conditional firm service under Existing Contracts than such service had prior to the start of the ISO operations anticompetitive or unduly discriminatory to new market entrants?

B.1.b. Has the ISO improperly allowed PG&E to retain operational control over Path 15 in violation of its tariff?

B.2.c. Whether adjustment bids left standing after the close of the Hour-ahead market should be converted into Supplemental Energy bids?

B.2.d. Whether the ISO has improperly restricted Adjustment Bids with respect to Inter-Scheduling Coordinator trades?

**Dispatch Authority**

B.5.a. Is section 5 of the ISO Tariff unduly discriminatory because it requires a Participating Generator Agreement for schedulers of Ancillary Services from within the

ISO Controlled Grid, but Amendment No. 10 does not require a Participating Generator Agreement for generation provided from outside the ISO controlled Area?<sup>38</sup>

B.5.h. Should the ISO be required to clarify in section 7.3.2 of the ISO Tariff, regarding the ISO's authority to redispatch a Scheduling Coordinator's resources, that it will operate in a manner consistent with section 2.3.2.3.1 of the ISO Tariff?

### **ISO Communications with Generators**

B.6.a. Whether the ISO properly complied with the Commission's October 30 Order with respect to its modifications to sections 2.5.6.2 and 2.5.22.10 of the ISO Tariff?

B.8. Has the ISO unreasonably delayed implementing the direction from the October 30, 1997 Order that the ISO compute for each Advisory and Final Schedule in the Day-Ahead and Hour-Ahead markets the Dispatch and Usage Charges that would have resulted if the ISO had been allowed to resolve Congestion without the restriction that Scheduling Coordinators keep their schedules balanced?

B.10. Has the ISO complied with the Commission's October 30, 1997 order requiring the filing of generation unit availability standards, or whether the ISO should be ordered "to file availability standards with the Commission as part of the mitigation proposal as soon as practicable," in order to prevent abuses of market power?

### **Operating Protocols**

B.11. Should the term "ISO Operating protocols" in section 2.3.1.2.2 of the ISO Tariff be a defined term?

B.12. With respect to ISO Tariff Amendment No. 7, should the Commission require the ISO to revise the "temporary rule" to impose a price cap for Imbalance Energy bids evaluated by the ISO's BEEP software?

B.13.c. Is section 23.2.1 of the ISO Tariff reasonable? Does the statement in section 2.5.23.1 that the ISO will follow its BEEP software "to the extent practical" afford the ISO unreasonable latitude?

B.13.d. Is section 23.2.1 of the ISO Tariff reasonable? Should the ISO be ordered at

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<sup>38</sup> The proponent Turlock did not respond to the ISO concerning this issue. We also note that this issue was addressed in another proceeding in which an initial decision, which became final, determined that the ISO did not unduly discriminate against Turlock.

section 2.5.23.2 to implement the necessary changes to its software in order to make the prices associated with the 10 minute posted price for instructed deviations the final price?

### **Metered Subsystem**

E.2. Is the amendment to section 2.4.24 of the ISO Tariff, that gives the ISO the ability to take direct control of the Metered Subsystem for any reliability reason even before it turns to other Ancillary Services bids, unreasonably broad in its scope of potential control, unjustly violative of Existing Contracts or unduly discriminatory as allowing the ISO to assume greater control over Metered Subsystems than any other type of Generating Unit, in contravention of section 5.1.3?

E.3. Whether the definition of Metered Subsystem, in Appendix A of the ISO Tariff, should be modified to eliminate the requirement that a Control Area operator operate its system in accordance with an Existing Contract?

E.4. Are the ISO's proposed amendments to section 2.5.20.3 of the ISO Tariff, which give the Metered Subsystem the ability to utilize a System Unit to participate in the procurement process of the ISO in relation to any Ancillary Service other than Regulation just and reasonable and not unduly discriminatory? Are the ISO's proposed amendments to the definition of Metered Subsystem, which eliminate the Metered Subsystem's right to bid Ancillary Services into the PX and Ancillary Services market just and reasonable and not unduly discriminatory?

E.5. Should the ISO make Metered Subsystems available to Scheduling Coordinators and is its failure to do so while committing to provide incumbents with Metered Subsystems unduly discriminatory?

### **Metering Protocols**

F.3. Whether the Metering Protocol should describe the powers and authority of the ISO in the event of a party's failure to comply with the ISO's audit or test procedures in order to consistently define the authority of the ISO?

### **Generator Maintenance Procedures**

G.1. Whether sections 2.3.1.1.4, 2.3.3.1, and 2.3.3.5 of the ISO Tariff are reasonable?

G.3. Should section 2.3.3.6.1 of the ISO Tariff be modified to establish a time frame within which the Operator must provide written justification for refusing a request for a Maintenance Outage?

**California Power Exchange Corporation (PX)**

I.1 Whether the changes to the ISO Schedules and Bids Protocol and Scheduling Protocol in Amendment No. 7 that describe priorities for Reliability Must-Run Generation and Existing Contract rights are unjust and unreasonable as applied to the PX?

I.2. Does the ISO Tariff fail to provide the appropriate degree of separation between the ISO and the PX, and does the ISO Tariff accord the PX preferential treatment with respect to Generation Meter Multipliers?

**Scheduling**

J.2. Should the ISO Tariff address the nature and scope of a Scheduling Coordinator's responsibilities to the Eligible Customers it serves?

**Settlement And Billing**

K.2. Is the process for collecting defaulting amounts under Settlement and Billing Protocol § 6.9(c) unjust and unreasonable?

**Transmission Control Agreement**

M.2. Should section 4.7.1(i) of the Transmission Control Agreement be modified to require that facilities that were accepted by the ISO during the application process under section 4.1.1, and not refused in accordance with section 4.1.3, cannot then be "released" under Section 4.7.1(i) once the applicant becomes a Participating Transmission Owner?

**Other Issues**

N.1.a. With respect to dispute resolution: Whether the ISO should provide for access to ISO voice recordings by entities receiving dispatch instructions prior to the commencement of Alternative Dispute Resolution, regulatory, or judicial proceedings?

N.1.b. With respect to dispute resolution: Does ISO Tariff § 13.3.5.1 afford arbitrators too much discretion to create agreements?

N.4. Must the ISO modify its bylaws to provide for the existence, role and independence of a separate market monitoring unit within the organization?