



California ISO
Your Link to Power

ADR ADMINISTRATION

Issue Paper

April 14, 2010

I. Introduction

The ISO tariff places responsibility for administering and coordinating the ISO's process for alternative dispute resolution (ADR) with a committee of the Board of Governors. The tariff requires the committee to maintain lists of arbitrators and mediators, process and publish information about ADR activities and compile procedures for arbitration. This stakeholder process will consider a tariff amendment that would – consistent with the practices of other ISOs and RTOs – formally relieve the Board of this responsibility and place it under the supervision of management and the American Arbitration Association. This proposed amendment stems from revisions to the corporate bylaws that were adopted by the Board in March 2010, which eliminated the committee assigned to administer the ADR process. This responsibility is assigned to the Audit Committee under its charter pending resolution of this stakeholder process.

This paper explains the reasons for the change and the steps in this stakeholder process. The proposed tariff revisions are posted in redline form along with this paper at <http://www.caiso.com/2778/2778a97c27500.html>.

II. BACKGROUND

Section 13 of the ISO tariff establishes uniform procedures for dispute resolution, including negotiation, mediation, and arbitration. Negotiation (frequently referred to as “GFN”) is the first step in this process. If negotiation is unsuccessful, the procedures specify mediation or arbitration as subsequent steps. While negotiation is common, neither mediation nor arbitration has been invoked for several years. Although these procedures remain available for market participants who wish to invoke them, the latest “statement of claim” posted on the ADR page of the ISO website is dated July 20, 2004.

The procedures for mediation and arbitration employ a committee of the ISO's Board of Governors – the “CAISO ADR Committee” – to perform certain administrative functions, including:

- Publishing summary information regarding ADR activities (claims, decisions, appeals, etc.) on the ISO website or using other methods;

- Maintaining a list of qualified potential mediators;
- Maintaining a list of qualified potential arbitrators, and access to referrals from appropriate established third-party ADR service providers; and
- Compiling standard procedures for arbitration of disputes based on Section 13 and the American Arbitration Association Commercial Arbitration Rules, to the extent not inconsistent with Section 13.

Shortly after the ISO's start-up, the ADR Committee of the Board of Governors issued ADR Procedures. Under those procedures, the ADR Committee delegated its responsibilities with regard to the conduct of arbitrations to the American Arbitration Association (AAA).

III. PROPOSED TARIFF AMENDMENT

In October 2007, the "CAISO ADR Committee" delegated its remaining clerical functions to the General Counsel to ensure that the responsibilities could be fulfilled between meetings. The purpose of this amendment is to formally relieve the Board of Governors of responsibility for these functions.

The primary change to Section 13 is to replace references to the "CAISO ADR Committee" with references to a "CAISO ADR Coordinator," who would be an employee selected by the ISO's Chief Executive Officer. This ADR coordinator will perform the administrative functions currently assigned to the ADR committee, and delegated by board resolution to the General Counsel.

Other proposed changes include updating language about publication of ADR claims and decisions. Tariff language that requires publication in an ISO "newsletter or electronic bulletin board" would be updated to require publication on the ISO website, with a mandatory market notice to announce new claims. In addition, revisions are proposed to recognize the role of the AAA in administering any arbitration proceedings. The tariff currently specifies that, in disputes to

which the ISO is not a party, the committee would supply parties with the names of potential arbitrators. This language would be deleted, to clarify that the AAA will supply the names of potential arbitrators in all arbitration proceedings.

As a practical matter, this amendment should have no effect on the conduct of the ISO's dispute resolution process. The ISO has always relied on the AAA for maintaining a list of qualified arbitrators and conducting any arbitration hearings. With its depth of experience and long history of impartial adjudication, the AAA will ensure fairness in the conduct of arbitrations and the independence of decision-makers in all substantive matters. ISO staff, though the ADR Coordinator, will continue to perform the clerical functions associated with arbitrations.

The proposed amendment would be consistent with the tariffs of other independent system operators and regional transmission organizations. Of these, only the Midwest ISO involves its governing board directly in the administration of dispute resolution (through a committee). Both PJM and the New York ISO assign coordinating responsibility to a staff position, PJM having eliminated its governing board committee last year. See August 14, 2009 filing by PJM in FERC Docket No. ER09-1583, which was accepted by FERC October 8, 2009; see *also* NYISO FERC Electric Tariff, § 1.10(d) (definition of "Dispute Resolution Administrator").

IV. PROCESS AND PROPOSED TIMETABLE

The steps in this stakeholder process will be:

Wednesday, April 21 – Comments due on Issue Paper and tariff language

Friday, April 23 – Conference call

May 17-18 – Board Meeting and Decision