121 FERC ¶ 61,030
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation — Docket No. ER06-615-009

ORDER ADDRESSING REQUESTS
FOR REHEARING AND CLARIFICATION

(Issued October 15, 2007)

1. In this order, the Commission addresses requests for clarification and rehearing of a June 25, 2007 Commission order conditionally accepting for filing, subject to further modifications, two compliance filings submitted by the California Independent System Operator Corporation (CAISO).[1]

**Background**

2. On February 9, 2006, the CAISO filed its Market Redesign and Technology Upgrade (MRTU) Tariff for Commission approval, requesting an effective date of November 1, 2007.[2] The proposed MRTU Tariff was conditionally accepted for filing, subject to modifications, in a September 21, 2006 Commission order.[3]

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[1] *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,313 (2007) (June 25 Order).

[2] We note that the CAISO has announced that MRTU Tariff implementation date will be moved to March 31, 2008. *See* CAISO's Sept. 2007 Status Report, Docket No, ER06-615-000 (Aug. 31, 2007).

[3] *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 (2006) (September 21 Order).

3. In response to the September 21 Order's directives, the CAISO submitted two compliance filings on November 20, 2006 and December 20, 2006.[4] The Commission conditionally accepted for filing, subject to further modifications these compliance filings in the June 25 Order.

4. The following parties have requested clarification and/or rehearing of the June 25 Order: Bonneville Power Administration (BPA), the CAISO, Imperial Irrigation District (Imperial), Metropolitan Water District of Southern California (Metropolitan), the City and County of San Francisco (San Francisco).

5. On September 9, 2007, the CAISO submitted an answer to requests for rehearing. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d)(1) (2007), prohibits an answer to a request for rehearing. Therefore, we will not accept the CAISO's answer.

## Discussion

### A. Full Network Model

6. In the June 25 Order, the Commission directed the CAISO to modify the proposed security clearance procedures to provide that it is the CAISO, not the Investor Owned Utilities (IOUs),[5] that is to conduct the security clearance process for consultants of market participants. The Commission concluded that allowing IOUs to conduct the security check was inappropriate because "this procedure may provide IOUs an unfair advantage to control or otherwise delay a party's access to information."[6] Thus, the Commission directed the CAISO to file revised MRTU Tariff sheets to reflect the change in security check procedures.

7. The CAISO seeks clarification as to whether it may eliminate the security check requirements for consultants to market participants as a prerequisite for obtaining the Congestion Revenue Rights (CRR) Full Network Model to use

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[4] The deadline for complying with certain Commission directives was extended until December 20, 2006. *See* Notice of Extension of Time, Docket No. ER06-615-000, *et al*. (Nov. 27, 2006).

[5] June 25 Order, 119 FERC ¶ 61,313 at P 37.

[6] *Id*.

outside market participants' locations. The CAISO states that it proposed to implement the security check as a compromise with the IOUs in order to expedite the distribution of the CRR Full Network Model to market participants. The CAISO also states that the proposal was based on the understanding that the IOUs, rather than the CAISO, would conduct all security checks because the CAISO lacks the resources to administer this process.

8. While the CAISO believes that the IOUs could conduct the security check procedures in a reasonable manner, the CAISO argues that a security check is not necessary because of the nature of information contained in the CRR Full Network Model and the fact that consultants may access the information at the market participant's premises without undergoing a security check. The CAISO further states that the Commission did not state that any other procedures were needed (*e.g.*, security check of consultants) in order for market participants to obtain the CRR Full Network Model.[7]

9. The CAISO believes that the procedures for obtaining access to the CRR Full Network Model adequately protect the interest of Participating Transmission Owners in the absence of a security check requirement. The CAISO asserts that each employee of a consultant to a market participant who wishes to review the CRR Full Network Model off-site will be required to execute the non-disclosure statement attached as an exhibit to the non-disclosure agreement executed by the market participant. Thus, the CAISO contends that market participants, consultants, and employees will fully satisfy this single requirement for obtaining the CRR Full Network Model. In addition, the CAISO claims that no other ISO or RTO requires a security check process to obtain such data.[8]

10. For these reasons, the CAISO contends that the Commission should clarify whether the elimination of the security check procedure of consultants to market

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[7] *See* September 21 Order, 116 FERC ¶ 61,274 at P 46.

[8] The CAISO cites to PJM Interconnection, L.L.C. Data Management Working Group - Charter, www.pjm.com/committees/working-groups/dmwg/postingslcharter.pdf (stating that after PJM updates its network model and after the Data Management Working Group identifies the requesting Transmission Owner (TO), "PJM will provide TOs with access to the one-line diagrams of other TOs, provided all necessary non-disclosure agreements are in place").

participants will comply with the June 25 Order. Alternatively, if the Commission declines to grant this clarification, the CAISO requests rehearing of this issue.

**Commission Determination**

11. We grant the CAISO's request for rehearing on this issue. In the September 21 Order, the Commission acknowledged the CAISO's Market Notice[9] that made the Full Network Model available, subject to the execution of a non-disclosure agreement, to market participants for use in reviewing and analyzing the CAISO's CRR Dry Run simulation and the CRR markets.[10] The Commission also directed the CAISO to submit tariff language indicating that the Full Network Model is available to market participants if they sign a non-disclosure agreement.[11] We agree with the CAISO's assertion that the Commission, in the September 21 Order, did not indicate that any other requirements were necessary to obtain access to the Full Network Model. We note that the Commission was silent in regard to other requirements because it believed that the non-disclosure agreement would adequately define the parties' expectations in regard to the handling of the confidential information disclosed by the CAISO to market participants and third parties.

12. Notwithstanding, the CAISO subsequently issued a Market Notice revising the guidelines approved in the September 21 Order to include security check procedures for market participants that would like to obtain a copy of the data for its consultant's offsite use.[12] In the June 25 Order, we directed the CAISO to modify the proposed security check procedure to require the CAISO, rather than the IOUs, to conduct the security check process for consultants of market participants.[13]

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[9] See CAISO's Market Notice, Congestion Revenue Rights Full Network Model Available with [Non-Disclosure Agreement] (Aug. 15, 2006) http://caiso.com/1853/1853b1dd59382.html.

[10] *See* September 21 Order, 116 FERC ¶ 61,274 at P 46.

[11] Id.

[12] See CAISO's Market Notice, Congestion Revenue Rights Full Network Model Available with [Non-Disclosure Agreement] (Nov. 17, 2006).

[13] June 25 Order, 119 FERC ¶ 61,313 at P 37.

13. On rehearing, the CAISO states that it is no longer convinced that a security check procedure is necessary. The CAISO explains that it only agreed to incorporate the procedure as a compromise with the IOUs in order to expedite the distribution of the Full Network Model. It further states that the implementation of this procedure was contingent upon the IOUs conducting all security checks because the CAISO lacked the resources to administer this process. Given the circumstances presented on rehearing and the fact that we believe that the non-disclosure agreement adequately protects the confidentiality of the data, we grant rehearing of this issue and accept the CAISO's proposal to eliminate the security check procedure.

### B. Emergency Energy Settlement

14. On rehearing, BPA argues that footnote 48 of the June 25 Order overstates the extent of the Commission's jurisdiction over the rates of non-jurisdictional governmental utilities.[14] Specifically, BPA acknowledges that the footnote correctly notes that the Commission does not have jurisdiction over BPA's rates under either section 205 or 206 of the Federal Power Act. However, BPA expresses a concern over the second part of the footnote regarding the Commission's jurisdiction over rates of non-jurisdictional utilities. According to BPA, the Commission's reliance on *Pacific Gas and Electric Co. v. FERC (PG&E)* [15] and the underlying Commission decision in the *City of Vernon* (*Vernon*) [16] is misplaced.[17]

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[14] Footnote 48 states: "As a general matter, BPA is not subject to the Commission's jurisdiction under FPA sections 205 and 206. S*ee* 16 U.S.C. § 824(f) (2000). The Commission, however, may analyze and consider the rates of non-jurisdictional utilities to the extent that those rates affect jurisdictional transactions. *See Pacific Gas and Electric Co. v. FERC*, 306 F.3d 1112 (D.C. Cir. 2002); *see also City of Vernon*, 93 FERC ¶ 61,103, at 61,285 (2000), *reh'g denied*, 94 FERC ¶ 61,148 (2001)."

[15] Pacific Gas and Electric Co. v. FERC, 306 F.3d 1112 (D.C. Cir. 2002).

[16] *City of Vernon*, 93 FERC ¶ 61,103 at 61,285 (2000), *reh'g denied*, 94 FERC ¶ 61,148 (2001).

[17] In support, BPA cites to *Transmission Agency of Northern California v. FERC*, 2007 U.S. App. Lexis 17303 (D.C. Cir. 2007) (*TANC*), which, according to BPA, clarified the scope of the Commission's jurisdiction over the rates of non-jurisdictional utilities.

15. BPA explains that the Commission's ability to order the City of Vernon (Vernon) to pay refunds was one of the primary issues in the *TANC* case. BPA states that in the *TANC* decision, the court recognized that:

> FERC's jurisdiction extended to non-jurisdictional entities only insofar as FERC had authority to dictate the terms of their participation in jurisdictional services or transactions. By analogy, FERC, in complying with its duty to ensure that CAISO's rates are just and reasonable, may justifiably subject Vernon's TRR to a [section] 205 review before approving Vernon's participation in CAISO. This authority does not, however, extend to FERC ordering Vernon to pay refunds for any surplus revenue Vernon may have collected under the TRR.[18]

16. BPA contends that while the Commission has the ability to examine the rates of non-jurisdictional utilities where they impact the rate of jurisdictional utilities, the Commission's authority does not extend to ordering refunds. Thus, BPA argues that the Commission should grant rehearing and either delete or modify the footnote to clarify the limitations of the Commission's authority given the decision of the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in *TANC*.

## Commission Determination

17. In the June 25 Order, we stated that "[i]f BPA and the CAISO enter into [an emergency energy] agreement, the CAISO must file it for Commission review."[19] In our determination, we relied on the Commission precedent and the D.C. Circuit's decision in *PG&E* holding that the Commission may analyze and consider the rates of non-jurisdictional utilities to the extent that those rates affect jurisdictional transactions.[20] In *TANC*, the D.C. Circuit reconfirmed its holding in *PG&E* and also held that the Commission, "in complying with its duty to ensure that [the] CAISO's rates are just and reasonable, may justifiably subject Vernon's

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[18] *TANC* at *29 n.9.

[19] June 25 Order, 119 FERC ¶ 61,313 at P 90.

[20] *PG&E*, 306 F.3d 1114 ; *Vernon*, 93 FERC at 61,285.

[transmission revenue requirements] to a [section] 205 review before approving Vernon's participation in CAISO."[21]

18. The rates under an emergency energy contract between the CAISO and BPA would have an effect on CAISO rates. The Commission thus may subject such an emergency energy agreement to a section 205 review before this agreement can become effective. We believe that the language in footnote 48 is clear on this point and requires no further clarification. If BPA chooses to enter into an emergency energy agreement with the CAISO to take advantage of pre-negotiated prices for emergency energy, such an emergency energy agreement must be first reviewed by the Commission in order to become effective. The Commission, however, will not reach any issues that are not presently before us. BPA could be ordered to pay refunds under an emergency energy agreement with the CAISO.[22] For these reasons, we deny BPA's request for clarification.

### C. Transmission Ownership Rights

#### 1. Treatment of Transmission Owner Rights under MRTU

19. In the June 25 Order, in response to Imperial's contention that under section 17.2.1, the CAISO does not distinguish between firm and non-firm market schedules when issuing orders under system emergencies and Imperial's request that the CAISO clarify the priority ranking by modifying section 34.10, the Commission found that "no further modifications are necessary for section 34.10 to reflect a higher priority for firm exports than non-firm exports." [23] The Commission found that the MRTU Tariff clearly provides that firm schedules have priority over non-firm schedules.[24] On rehearing, Imperial again suggests that section 17.2.1 be modified. Specifically, Imperial states that MRTU Tariff section 17.2.1 does not distinguish between firm and non-firm market schedules in issuing operating orders under system emergencies. Thus, Imperial requests that

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[21] *See TANC* at *31.

[22] We note that Congress has given the Commission jurisdiction to order refunds for short-term sales made by BPA. *See* 16 U.S.C. § 824e(e), *as added by* Energy Policy Act of 2005, Pub. L. No. 109-58, 119 Stat. 981, § 1286 (2005).

[23] June 25 Order, 119 FERC ¶ 61,313 at P 288.

[24] *Id*.

the Commission require the CAISO to amend the MRTU Tariff to remove any ambiguity regarding firm schedules having a higher priority than non-firm schedules.

20. Further, Imperial also seeks rehearing of the CAISO's proposed treatment of unscheduled or excess Transmission Ownership Rights (TOR) capacity under the MRTU Tariff. According to Imperial, the Commission directed the CAISO to amend its tariff to provide that if the CAISO intends to make use of unscheduled capacity, the CAISO will negotiate with the TOR holder concerning compensation and further detail for such use.[25] Imperial contends that the CAISO has not adequately explained how it will use excess TOR capacity and that thus it has failed to adequately address this issue in its compliance filings. Imperial argues that the CAISO conceded in prior statements that, it does not intend to compensate for the use of excess TOR capacity.[26]

21. Metropolitan states that the June 25 Order failed to address its concern that MRTU section 17.3.3, is incomplete because the CAISO does not provide TOR settlement treatment at a custom Load Aggregation Point (LAP). According to Metropolitan, the Commission requested that section 17.3.3 of the proposed MTRU tariff be modified to settle TOR demand schedules at "custom LAP prices analogous to those for MSS."[27] Because such language was not included in the CAISO's proposal, Metropolitan's comment sought to correct a presumably inadvertent omission. However, Metropolitan notes that the June 25 Order did not directly respond to the omission of TOR demand schedules being settled at custom LAP prices. Instead, Metropolitan claims the Commission concluded that:

> [s]ection 30.5.3.2(a) states that [Existing Transmission Contracts (ETC)] or TOR self-schedules may not be submitted or settled at the LAP unless the [Transmission Rights and Transmission Curtailment (TRTC)] Instructions so provide. Therefore, *if the contract governing the TOR so provides*, then the TOR will be settled at a

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[25] *Id*. at P 994.

[26] *See* Imperial's Request for Rehearing or Clarification at 4-5.

[27] September 21 Order, 116 FERC ¶ 61,274 at P 999.

> custom LAP price which is consistent with CAISO's prior representation.[28] (*Emphasis added*).

Metropolitan contends that the Commission erred in the settlement treatment of valid TOR self-schedules because the Commission response goes beyond the CAISO's representation. In addition, Metropolitan states that the Commission's response provides for ambiguity in that it would limit custom LAP treatment for TORs only "if the contract governing the TOR so provides." Metropolitan also states Commission goes beyond the proposed language because nothing in section 30.5.3.2(a) refers to "if the contract governing the TOR so provides."[29] Metropolitan notes that although some TORs are subject to a contract, others are not, and thus argues that the Commission's response only applies to those transmission service contracts that have been executed since the initial discussion of LAP several years ago.

22. Accordingly, Metropolitan requests that the Commission require the CAISO to modify section 17.3.3 to explicitly state that valid TOR self-schedules will be settled in accordance with section 30.5.3.2.

## Commission Determination

23. Imperial argues that section 17.2.1 failed to distinguish between firm market schedules and non-firm market schedules when issuing orders under system emergencies pursuant to section 17.2.1 and further requested that the

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[28] June 25 Order, 119 FERC ¶ 61,313 at P 327.

[29] Section 30.5.3.2(a) states:

"The following are exceptions to the requirement that demand bids be submitted and settled at the LAP:

ETC or TOR Self-Schedules consistent with the submitted TRTC Instructions;

Participating Load Bids for Supply and Demand may be submitted and settled at a P-node; and

Export Bids are submitted and settled at Scheduling Points, which do not constitute a LAP."

CAISO be directed to clarify treatment of market schedules by modifying section 34.10 to reflect a higher priority for firm exports than non-firm exports because, "the MRTU Tariff clearly provides that firm schedules have priority over non-firm schedules."[30] On rehearing, Imperial again suggests that section 17.2.1 be modified. We note that section 17.2.1 preserves the CAISO dispatch authority, in accordance with Applicable Reliability Criteria, in order to allow the CAISO to exercise its responsibilities during system emergencies. We find it unnecessary for the CAISO to include specific priority levels of market schedules during system emergencies because those details are identified in Applicable Reliability Criteria provisions of North American Electric Reliability Council's (NERC) operating manual.[31] Therefore, we deny Imperial's request to modify section 17.2.1. The CAISO is already required to adhere to the curtailment priorities of NERC and Western Electricity Coordinating Council, which include the priority of firm schedules over non-firm schedules.

24. With respect to the issue raised by Imperial concerning the CAISO's use or sale of unscheduled capacity, we note that in the September 21 Order, the Commission did not direct the CAISO to amend the MRTU Tariff as Imperial suggests. Rather, the Commission concluded that it did not appear that the CAISO intended to use or sell unscheduled TOR capacity.[32] The September 2006 Order further noted that "[i]f, however, the CAISO does intend to make use of such unscheduled capacity, then we direct the CAISO to negotiate with the TOR holder concerning compensation and further details for such use [and]… provide further explanation in a compliance filing."[33] The CAISO subsequently clarified, as

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[30] We note that the June 25 Order directed the CAISO to further modify section 17.2.1 to clarify that control area operators must comply with CAISO dispatch instructions and operating orders during system emergencies unless the CAISO's order conflict with the expressed terms of their agreement or would impair public health or safety. *See* June 25 Order, 119 FERC ¶ 61,313 at P 288 & n.184.

[31] Section 34.9 addresses the CAISO's dispatch during system emergencies and section 34.10 establishes a priority of adjustments for in the CAISO's real-time market optimization to addressing a supply shortage. TOR self-schedules are among the last adjusted schedules.

[32] September 21 Order, 116 FERC ¶ 61,274 at P 994.

[33] *Id*.

reflected in our June 25 Order,[34] that it *did not intend* to use or sell such unscheduled TOR capacity.[35] Because the CAISO has clearly stated that it will not utilize excess TOR capacity, we deny Imperial's request for rehearing on this issue.

25. Metropolitan argues that the Commission did not address its specific concern that MRTU section 17.3.3 is incomplete because the CAISO does not provide TOR settlement treatment at a custom LAP. We disagree. Our June 25 Order addressed Metropolitan's concern.[36] MRTU section 30.5.3.2(a) states that TOR self-schedules may not be submitted or settled at the LAP unless the contract governing the TOR so provides and such information is reflected by the TOR holders in the TRTC Instructions. Only in this specific circumstance is a TOR settled at a custom LAP price, which is consistent with the CAISO's prior representation. Therefore, we find no further modifications are necessary to section 17.3.3 and, accordingly, deny Metropolitan's request for rehearing.

### 2. TRTC Instructions of TOR Self-Schedules in CAISO Markets

26. MRTU section 17.1.6 provides that parties holding joint ownership interest and entitlements in a TOR must first attempt to mutually agree on any TRTC Instructions and if such parties cannot agree, they must use the dispute resolution procedures. Otherwise, the CAISO will use a participating transmission owner's (PTO) representation or the representation by the non-PTO with the greatest ownership interest in the TOR until the dispute is resolved. In the June 25 Order, the Commission found that sections 17.1.6 and 17.1.7 provided a reasonable and orderly process to address disputes among joint TOR holders and non-jurisdictional TOR holders.[37]

27. On rehearing, Imperial challenges the Commission's acceptance of MRTU Tariff section 17.1.6 because it jeopardizes the rights of TOR holders. Imperial reiterates that this dispute resolution procedure may adversely impact the rights of

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[34] June 25 Order, 119 FERC ¶ 61,313 at P 286.

[35] CAISO Nov. 20, 2006 Compliance Filing at 25.

[36] *See* June 25 Order, 119 FERC ¶ 61,313 at P 327.

[37] June 25 Order, 119 FERC ¶ 61,313 at P 302-303.

a TOR holder who jointly owns a line with either a PTO or another non-PTO because the interim resolution is governed by the PTO or largest shareowner until the dispute is resolved. Thus, Imperial requests that the Commission direct the CAISO to amend the MRTU Tariff to require the CAISO to operate the transmission lines based on historical usage, rather than the administratively burdensome interim solution proposed by the CAISO.

28. Imperial further argues that the Commission has failed to provide a reasoned explanation for its decision to accept the CAISO's proposal to remove any scheduling priority of TOR holders if the schedule is unbalanced or exceeds the capacity level of the TOR rights. While Imperial agrees that eliminating the priority status for the unbalanced portion of the TOR self-schedule is reasonable, it contends that the balanced portion of an unbalanced TOR self-schedule should retain scheduling priority because it preserves the existing contract provision and the rights of the TOR holder. Thus, Imperial argues that the Commission should reverse this ruling on rehearing.

## Commission Determination

29. In the November 20 Compliance Filing, the CAISO proposed that parties holding joint ownership or entitlements of TOR facilities must first attempt to agree on any TRTC Instruction and, if agreement cannot be reached, the dispute resolution provisions of the applicable contract will be used to resolve the dispute. In the event that all mechanisms prescribed do not result in resolution of a dispute, the CAISO proposed to execute on an interim basis: (1) the instructions of the PTO if the dispute is between the PTO and a TOR holder; or (2) the instruction of the majority owner of TOR rights if the dispute is between two TOR holders.[38] Contrary to Imperial's assertion that the CAISO must operate the transmission lines based on historical usage, we believe that the scenario outlined above is the most effective approach on an interim basis. We find the CAISO has carefully developed a mechanism that allows it to incorporate TOR schedules into the Integrated Forward Market without jeopardizing the service made available under the TOR contracts. We also find the CAISO's approach to be more practical than Imperial's proposal because the historical information is the underlying data that is under dispute. As a result, we encourage TOR holders to attempt in good faith to reach an agreement on the TRTC Instructions to ensure that the CAISO accurately accounts for TOR capacity in the CRR allocation and auction process and in the

[38] MRTU section 17.1.6.

Integrated Forward Market. For these reasons, we reject Imperial's request for rehearing.

30. We also disagree with Imperial's challenge of the Commission's acceptance of the CAISO's proposal to remove any scheduling priority of TOR holders if the schedule is unbalanced or exceeds the capacity level of the TOR rights. Under section 17.2, the CAISO will accommodate TORs so that holders of TORs will receive the same priorities to which they are entitled under any applicable existing contract or other agreements pertaining to the operation of their TOR. Additionally, the CAISO will honor scheduling deadlines and operational procedures associated with TORs by the CAISO if the information is explicitly included in the TRTC Instructions. If the Scheduling Coordinator submits an unbalanced TOR self-schedule or the TOR self-schedule exceed the capacity limits of the TOR as reflected in the TRTC Instructions, the CAISO will remove the scheduling priority for the entire TOR self-schedule but provide the perfect hedge settlement to the valid balanced portions within the capacity limits of the TOR as reflected in the TRTC Instructions. We find this treatment of TOR self-schedules reasonable. If the TOR self-schedule is invalid or unbalanced, it is not a straightforward exercise for the MRTU software to identify which portion of the unbalanced schedule is balanced in order to preserve a scheduling priority for a portion of the schedule. However, for settlement purposes, the CAISO is capable of identifying the balanced portion of the TOR schedule to preserve the perfect hedge settlement for the balanced portion of an unbalanced or invalid schedule, despite the loss of scheduling priority. Accordingly, we accept the CAISO's proposed treatment for invalid and unbalanced TOR self-schedules. Accordingly, we deny Imperial's request for rehearing on this issue.

### 3. Charges Applicable to TOR Schedules in CAISO Markets

31. San Francisco argues that the Commission erred in accepting the CAISO's proposal to impose a charge for losses applicable to transactions over San Francisco's transmission facilities. First, San Francisco contends that it is unjust and unreasonable to apply losses to San Francisco's TOR transactions that do not utilize the CAISO-controlled grid. San Francisco states that the Commission has recognized and reiterated the limits of the CAISO's authority to apply charges to non-CAISO-controlled grid transactions relating to ancillary services and imbalance energy.[39] San Francisco claims the same circumstances arise in this

[39] San Francisco cites to *Cal. Indep. Sys.Operator Corp.*, 107 FERC ¶ 61,152 (2004).

case with respect to the CAISO's attempt to apply marginal losses to San Francisco's non-ISO-controlled grid transactions.

32. Second, San Francisco argues that the charges for losses should not apply to San Francisco because its facilities are subject to the Raker Act,[40] which prohibits the sale of power from San Francisco's Hetch Hetchy facilities to private entities that resell power for profit. Thus, San Francisco urges the Commission to reconsider the CAISO's proposal to charge San Francisco's TOR transactions and order the CAISO not to calculate marginal losses for points that are not part of the CAISO-controlled grid.

**Commission Determination**

33. We disagree with San Francisco's contention that it is unjust and unreasonable to apply losses to San Francisco's TOR transactions that do not utilize the CAISO-controlled grid. In an April 2007 order on rehearing, the Commission stated that:

> [e]ven though the TOR holder might be using its own facilities and the TOR facilities are not part of the CAISO, they are integrally connected to the CAISO grid, and any TOR transactions that are subject to marginal losses involve injections and withdrawals from the CAISO grid. Because marginal losses apply at the interface to the CAISO grid just as they would for any other import or export on the CAISO grid, the fact that the TOR is not a part of the CAISO grid is irrelevant.[41]

34. Therefore, because San Francisco's TOR interfaces the CAISO-controlled grid, it is appropriate to assess marginal losses for these transactions unless a specified loss percentage is in the contract. Contrary to San Francisco's assertion, the CAISO's procurement of ancillary services and imbalance energy and its assessment of marginal losses is distinguishable. In the June 25 Order, the Commission accepted for filing the proposal by the CAISO to charge TORs

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[40] Raker Act, Pub. L. No. 41, 38 Stat. 242 (1913).

[41] *Cal. Indep. Sys. Operator Corp*., 119 FERC ¶ 61,076, at P 458 (2007).

transactions ancillary services and imbalance service on a prospective basis in the event that the CAISO procured these services on behalf of a TOR only when the TOR holder fails to self-supply its own ancillary services.[42] This is distinguished from the assessment of marginal losses, which, as we have concluded previously, are appropriately charged to TOR transactions.[43]

35. While we do not disagree with San Francisco that its facilities are subject to the Raker Act; nevertheless under certain circumstances, San Francisco's facilities would generate losses that may affect other market participants taking service under the MRTU Tariff. For example, we note that under the Raker Act, San Francisco, upon request, shall sell or supply to certain irrigation districts, as well as to the municipalities within either or both said irrigation districts, any excess of electrical energy, which may be generated by such facilities. Because San Francisco will use its TOR facilities to transport the excess energy to said irrigation districts, these transactions will most likely generate losses that may affect other market participants' ability to take service on the grid, especially if this service must utilize other parts of the control area grid to serve the irrigation districts. Accordingly, we reject San Francisco's request for rehearing on this issue.

### D. MRTU Tariff Section 34.9.3, Transmission-Related Modeling Limitation

36. Under section 34.9.3 of the MRTU Tariff, the CAISO proposed to make clear that the CAISO has the authority to manually dispatch resources in order to address transmission-related modeling limitations in the Full Network Model (FNM). Specifically, the CAISO defined transmission-related modeling limitations as "any FNM modeling limitations that arise from transmission maintenance, lack of voltage support at proper levels as well as incomplete or incorrect information about the transmission network, for which the Participating Transmission Owners have primary responsibility."

37. In its comments to the CAISO's compliance filing, Southern California Edison Company (SoCal Edison) argued that the CAISO's proposed definition of transmission-related modeling limitation was overly broad, and requested that the

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[42] June 25 Order, 119 FERC ¶ 61,313 at P 324

[43] *Id.*

Commission require the CAISO to revise proposed MRTU Tariff section 34.9.3 in order to specify that a modeling limitation "results when the real-time network constraints and limitations significantly differ from those that were assumed in the Integrated Forward Market, such that CAISO reliance on its real-time market would not be sufficient to maintain reliable grid operations."[44] The Commission agreed with SoCal Edison that the CAISO's proposed definition of transmission-related modeling limitation was too broad, but rejected SoCal Edison's requested modification to section 34.9.3, as too restrictive "because the definition would only be applicable to real-time occurrences where the CAISO has made use of all resources to maintain reliability."[45] The Commission further stated that:

> to be consistent with sections 34.9.1 (System Reliability Exceptional Dispatches) and 34.9.2 (Other Exceptional Dispatch), the Commission directed the CAISO to modify section [34.9.3][46] to acknowledge that Exceptional Dispatches will only be used in response to threatening/imminent reliability conditions for which the real-time market optimization and system modeling are either too slow or incapable of bringing the grid back to reliable operation in an appropriate time frame (*i.e*. less than 30 minutes).[47]

38. On rehearing, the CAISO states that it does not take issue with the Commission's directive to add language to section 34.9.3. However, the CAISO believes that the Commission should clarify that the CAISO will be permitted to issue Exceptional Dispatches prior to real time to address transmission related modeling limitation in the Full Network Model. The CAISO states that clarification is appropriate because it would be unreasonable to require the CAISO to wait until real time to issue an Exceptional Dispatch to address transmission-related modeling limitations in the Full Network Model if the CAISO has anticipated, prior to real time, that there will be threats to reliable grid operations that the CAISO cannot solve through real-time optimization and system modeling.

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[44] June 25 Order, 119 FERC ¶ 61,313, at P 434-436.

[45] *Id*. P 442.

[46] P 443 of the June 25 Order contains a typographical error. The tariff section number should be "34.9.3."

[47] *Id*. P 443.

39. The CAISO also seeks clarification that the Commission directive in Paragraph 443, stating that "Exceptional Dispatches will only be used in response to threatening/imminent reliability conditions for which the real-time market optimization and system modeling are either too slow or incapable of bringing the grid back to reliable operation in an appropriate time frame (*i.e.* less than 30 minutes)," did not intend to imply that the CAISO's authority under section 34.9.1 or section 34.9.2 is limited to acting only in real time. The CAISO contends that it would be unreasonable to assume that the CAISO could not issue an Exceptional Dispatch during a System Emergency or to prevent an imminent System Emergency under these sections. Furthermore, the CAISO argues that the result is inconsistent with the September 21 Order stipulating that Exceptional Dispatches should be reserved for genuine emergencies.[48]

**Commission Determination**

40. We grant clarification on the issue of the CAISO's ability to issue exceptional dispatches prior to the real-time market. In the June 25 Order, we explained that "[t]he Commission does not want to confine the CAISO to real-time solutions or comparing real-time conditions with planned conditions, especially if the CAISO is capable of resolving any reliability concerns before they reach the emergency stage."[49] Because exceptional dispatches are designed to cope with events that occur outside of normal market operations, in order to address specific reliability problems,[50] we clarify that the CAISO should not be prohibited, under sections 34.9.1 and 34.9.3, from issuing manual dispatch instructions during system emergencies, threatening/imminent emergencies, or to correct transmission-related modeling limitations. We further clarify that these sections are not limited to only real-time decisions but also allow the CAISO to respond to reliability conditions prior to real time. We find it reasonable for the CAISO to have the ability to manually dispatch units without delay or, at minimum, provide notice to those units that require more time to start-up and synchronize with the system to address certain reliability conditions prior to real time. For these reasons, we grant clarification on this issue.

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[48] CAISO cites to September 21 Order, 116 FERC ¶ 61,274 at P 267.

[49] June 25 Order, 119 FERC ¶ 61,313 at P 442.

[50] *See* September 21 Order, 116 FERC ¶ 61,274 at P 245-265.

41. We further clarify that it was not the intent of the Commission to limit the CAISO's authority under section 34.9.2 (Other Exceptional Dispatches) to only threatening/imminent reliability conditions, which the real-time optimization software cannot address. The CAISO listed three types of activities that it does not believe would be covered by section 34.9.2 under the Commission's current interpretation of that section. Specifically, the CAISO states that these activities include ancillary services testing, performance of pre-commercial operations testing for generating units and to accommodate ETCs or TOR) self-schedules. For instance, it explains that in order to honor ETC/TOR schedule changes, the CAISO will at times have to manually dispatch units under its exceptional dispatch authority because the real-time market optimization software is incapable of addressing such ETC/TOR schedule changes.

42. We accept the CAISO's rationale for having the flexibility to dispatch units under exceptional dispatch authority beyond those circumstances that threaten system reliability. We note that it was never the Commission's intent to limit that the CAISO's ability to honor these contracts to circumstances that threaten reliability. Thus, we grant clarification on this issue. We recognize that it may be necessary for the CAISO to issue exceptional dispatch instructions to address specific reliability issues that are outside of normal market operations. Notwithstanding, we note that the CAISO must use all resources made available to them, as appropriate, prior to dispatching units under its exceptional dispatch authority. We also note that the CAISO, consistent with previous findings, must publish all instances of exceptional dispatch on its OASIS web site beginning on the effective date of MRTU Release 1.[51]

The Commission orders:

(A) BPA's request for clarification is hereby denied for the reasons stated in the body of this order.

(B) The CAISO's requests for rehearing and clarification are hereby granted for the reasons stated in the body of this order.

(C) Imperial's request for rehearing is hereby granted in part and denied in part for the reasons stated in the body of this order.

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[51] *Id*. P 267.

(D) Metropolitan's and San Francisco's requests for rehearing are hereby denied for the reasons stated in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,
Acting Deputy Secretary.