

115 FERC 61,172
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator
Corporation

Docket No. ER06-723-000

ORDER ACCEPTING TARIFF REVISIONS, AS MODIFIED

(Issued May 12, 2006)

1. In this order, the Commission accepts the tariff revisions filed by the California Independent System Operator Corporation (CAISO) to establish the Interim Reliability Requirements Program (IRRP), as modified herein. The purpose of the tariff revisions is to implement the resource adequacy programs being established by the California Public Utilities Commission (CPUC) and other Local Regulatory Authorities (LRAs) pursuant to Assembly Bill (AB) 380. The IRRP is intended to remain effective until implementation of the Market Redesign and Technology Upgrade program (MRTU).
2. As proposed, the revised tariff sheets are accepted to be effective May 12, 2006 and May 31, 2006, subject to conditions discussed in the body of this order.

Background

3. In October 2003, the Commission found that a resource adequacy element is a critical element to any market design. Specifically, we noted that a provision for resource adequacy helps customers by assuring adequate supplies, helps generation developers by creating a demand for resources in advance of electricity prices doing so alone, and protects customers from high spot market prices. Furthermore, a well developed resource adequacy plan can reduce risks associated with hastily developed supply resources, in response to high regional spot prices,

which compromise long-term cost minimization, environmental concerns and fuel diversity goals.¹

4. On September 8, 2005, the California Legislature enacted AB 380, which requires the CPUC, in consultation with the CAISO, to establish resource adequacy requirements for all load serving entities (LSEs) within the CPUC's jurisdiction. AB 380 also requires local publicly-owned utilities, as well as LSEs subject to the jurisdiction of the CPUC, to procure adequate resources to meet their peak demands and planning and operating reserves. On October 27, 2005, the CPUC issued Decision (D.) 05-10-42 which reaffirmed and clarified that entities under its jurisdiction would be required, by June 2006, to demonstrate that they have acquired capacity sufficient to serve their forecasted retail customer load and a 15-17 percent reserve margin.

5. On February 9, 2006, the CAISO filed its comprehensive market redesign, the MRTU tariff.² With MRTU, the CAISO is proposing to end the current Commission-imposed "must-offer" obligation and transition to a capacity-based system. In this capacity-based system, the CPUC and other LRAs establish procurement requirements for all LSEs within their jurisdiction to obtain sufficient resources to meet their load with an adequate reserve margin and to ensure appropriate resources will be made available to the CAISO in the Day-Ahead Market, the Hour Ahead Scheduling Process and Real-Time Market based on a unit's operating characteristics. MRTU, however, is not expected to be implemented before November 2007.

The Interim Reliability Requirements Program

Overview

6. The IRRP is intended to implement resource adequacy programs developed by the CPUC and other LRAs for LSEs under their respective jurisdiction. The IRRP adjusts the CAISO's existing operations to incorporate resource adequacy programs adopted by the CPUC and other LRAs in accordance with AB 380 for the period between June 2006 and the implementation of MRTU.

7. Under the IRRP, resources identified in the resource adequacy plans of LSEs will serve as the foundation for the CAISO's reliable operation of the grid.

¹ See *Further Order on the California Comprehensive Market Design Proposal*, 105 FERC ¶ 61,140 (2003) at P 205, 214 (October 28, 2003).

² The MRTU Tariff Filing, Docket No. ER06-615-000, is a pending proceeding before the Commission.

The resources will have a must-offer obligation similar to the existing Commission-imposed must-offer obligation. The IRRP retains the Commission-imposed must-offer obligation as a backstop to ensure system reliability and prevent economic or physical withholding of resources. Fundamental operation of the FERC must-offer requirement is unchanged.

8. The IRRP, inter alia, requires LSEs, through their Scheduling Coordinator, to demonstrate resource adequacy, revises the current Must-Offer Waiver Denial Process (MOWD), and modifies the Minimum Load Costs Compensation (MLCC) to recognize that resource adequacy resources have the opportunity to receive a capacity payment and, therefore, no longer require the contribution to fixed costs reflected in the existing MLCC provisions.³

9. The CAISO requests an effective date of May 12, 2006, for the provisions regarding submission of resource adequacy plans and supply plans, and May 31, 2006 for the remainder of the proposed tariff sheets. The effective date coincides with the implementation of the CPUC resource adequacy requirements.

Specific Proposals

10. As proposed, the IRRP tariff applies to all scheduling coordinators serving load within the CAISO control area regardless of whether the load represented by the scheduling coordinator is under CPUC jurisdiction and therefore subject to CPUC resource adequacy rules. However, scheduling coordinators serving non-CPUC-jurisdictional load (e.g., municipal systems) are required to follow resource adequacy rules established by their LRA.

11. Scheduling coordinators are required to report to the CAISO annual and monthly resource adequacy plans. The resource adequacy reports must include: (a) a list of resources that will be relied upon to meet the load serving entities' planning reserve requirement; (b) the applicable planning reserve margin, as established by the LRAs (for scheduling coordinators serving load that is not subject to an LRA planning reserve requirement, the CAISO proposes that a default planning reserve margin of 15 percent apply); and (c) Demand forecasts: scheduling coordinators are required to provide to the CAISO demand forecasts and supporting documents in the form required by the LRA, as applicable.

12. The CAISO will report any deficiencies or inaccuracies in resource adequacy plans to the CPUC or LRA, as applicable. The CAISO will use the criteria provided by the CPUC or LRAs to verify the amount and eligibility of the capacity listed in scheduling coordinator resource adequacy plans. (For example,

³ See *California Independent System Operator Corp.*, 111 FERC ¶ 61,207 at P 24 (2005).

the CPUC has decided that wind resources count toward resource adequacy capacity based on their 3-year average output at the time of peak.) Annually, the CAISO will conduct a deliverability test to determine if reduction to a resource's qualifying capacity is warranted. In addition, the CAISO will determine the total import capability that can be counted toward resource adequacy requirements. The CAISO will allocate import capability to non-CPUC-jurisdictional entities based on their contractual rights and contracted import resources. Remaining import capability will be allocated to CPUC-jurisdictional entities by the CPUC.

13. The revised tariff proposes two sanctions with respect to resource adequacy plans: First, scheduling coordinators that fail to provide annual or monthly resource adequacy plans are subject to section 37.6.1 of the CAISO tariff. This is an existing enforcement protocol of the tariff dealing with information submission. The sanction for late information submission is \$500/day for each day the required information is late. Second, resource adequacy resources are required to make themselves available to the CAISO for commitment and dispatch pursuant to rules adopted by CPUC and LRAs. Failure to do so is sanctionable under section 37.2 of the CAISO tariff. The CAISO will modify the existing MOWD process to commit resource adequacy resources first, subject to transmission constraints, prior to dispatching resources subject to Commission-imposed must-offer obligation.

14. The filing modifies compensation for minimum load costs for resource adequacy resources. Under the IRRP generating units that are committed as resource adequacy resources will no longer receive the implicit capacity payment in MLCC. Rather, they will receive an explicit capacity payment under their bilateral resource adequacy agreements.

Notice, Motions to Intervene, and Responsive Pleadings

15. Notice seeking comments in relation to the IRRP filing was published in the Federal Register, 71 Fed. Reg. 14,879 (2006), with motions to intervene, comments and protests due on or before April 3, 2006. In response to the Notice, the following entities filed timely interventions, protests and/or comments: Alliance for Retail Energy Markets (AREM); Arizona Electric Power Cooperative, Inc. and Southwest Transmission Cooperative, Inc. (Arizona/Southwest Coops); California Department of Water Resources—State Water Project (CDWR); California Electricity Oversight Board (Oversight Board); California Municipal Utilities Association (CMUA); Cogeneration Association of California and the Energy Producers and Users Coalition (Cogen Association); Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (Constellation); Golden State Water Company (GSW); Imperial Irrigation District (Imperial); Lassen Municipal Utility District (Lassen); Metropolitan Water District of

Southern California (Metropolitan); Modesto Irrigation District (Modesto); Northern California Power Agency (NCPA); Pacific Gas and Electric Company (PG&E); Powerex Corp. (Powerex); CPUC; Sacramento Municipal Utility District (SMUD); Sempra Global (Sempra); Southern California Edison Company (SoCal Edison); the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Six Cities); The City and County of San Francisco (San Francisco); The City of Santa Clara—Silicon Valley Power (SVP); The City of Vernon, California (Vernon); The M-S-R Public Power Agency, and the City of Redding, California (MSR/Redding) Trinity Public Utilities District (Trinity); United States Department of Energy-Berkeley Site Office (DOE-Berkeley); Western Area Power Administration (WAPA); Williams Power Company, Inc., NRG Energy, Inc., and Reliant Energy, Inc. (Williams *et al.*). On April 19, 2006, the CAISO filed a motion for leave to file an answer out of time and answer to motions to intervene, comments and protests.

Procedural Matters

16. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedures, 18 C.F.R. § 385.214 (2006), the timely unopposed motions to intervene and notices of intervention serve to make the entities that filed them parties to this proceeding. On May 4, 2006, NCPA filed a motion for leave to answer and answer.

17. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the CAISO's answer filed one day out of time because it has provided information that assisted us in our decision-making process. We are not persuaded to accept NCPA's answer and therefore will reject it.

Discussion

Applicability

18. A number of commenters are concerned that aspects of the IRRP improperly impose resource adequacy requirements on non-CPUC-jurisdictional LSEs. In particular, Six Cities, Imperial, Modesto, NCPA, San Francisco and SMUD assert that the CAISO does not have the appropriate authority to impose CPUC resource adequacy requirements on non-CPUC-jurisdictional entities. In particular, Six Cities asserts that sections 40.2.1 and 40.2.2 require non-CPUC LSEs to adhere to the resource adequacy reporting requirements adopted by the CPUC. Six Cities further argues that these provisions are inconsistent with the premise that LRAs for non-CPUC LSEs are permitted to develop their own resource adequacy policies and criteria. Modesto generally agrees with Six Cities

and points out that California law intentionally distinguishes between CPUC-jurisdictional entities and non-CPUC-jurisdictional entities. NCPA reiterates this point by stating that these requirements improperly force federal restrictions on entities that are outside the jurisdiction of the Commission. San Francisco states that the IRRP is not needed to ensure that non-jurisdictional entities are resource adequate at this time and the ISO's request for tariff approval effective May 31, 2006 should be denied.

19. PG&E asserts that EPAct 2005 expressly limits the Commission's authority with respect to resource adequacy as it relates to the new Electricity Reliability Organization (ERO). PG&E further asserts that it is important that entities subject to both federal and state jurisdiction are not subject to conflicting requirements or determinations.

20. CMUA argues that it is not subject to the resource adequacy construct of AB 380 and is subject to separate and comprehensive rules set forth in Section 9620 of the California Public Utilities Code. CMUA argues that AB 380 provides for different roles for the CAISO with respect to CMUA members than for CPUC-jurisdictional entities. CMUA contends that the IRRP goes well beyond the CAISO's role in coordinating operational responsibilities within its control area and by enforcing resource adequacy compliance through its tariff, federalizes resource adequacy. CMUA urges the Commission to carefully consider the policy implications of adopting planning reserve obligations through the CAISO tariff when state law has already spoken.

21. The CPUC is generally supportive of the IRRP, and acknowledges that the IRRP is an important step in the progress towards a more reliable, economical energy market in California, and that it addresses the delivery of resource adequacy resources to the CAISO in a manner that is useful to the CAISO. However, the CPUC argues that, read broadly, the IRRP appears to require LSEs to comply with CAISO-imposed resource adequacy requirements even though the authority to impose these requirements is clearly outside the CAISO's jurisdiction given the position of California law on the subject, and the existence of the CPUC's resource adequacy requirements program. The CPUC asserts more specifically that the IRRP creates confusion regarding who will enforce resource adequacy obligations. In this regard, the CPUC argues that the CAISO is not charged with creating resource adequacy obligations, and it should not be enforcing them either. The CPUC states that the IRRP should be modified to indicate that the CPUC is solely responsible for enforcement of resource adequacy requirements that apply to CPUC-jurisdictional LSEs, including any requirements that LSEs make resource adequacy filings to the CAISO. The CPUC argues that the absence of such a clarification could potentially create a confusion of authority.

22. GSW claims that, as a matter of law, the IRRP cannot broaden the scope of the CPUC's resource adequacy program or give the CAISO or the Commission authority to enforce non-existent CPUC resource adequacy requirements. GSW also asserts that it would be unjust and unreasonable for the CAISO to impose penalties or sanctions on scheduling coordinators for filing inaccurate or late reports pertaining to the CAISO's implementation of non-existent CPUC resource adequacy requirements.

23. PG&E urges the Commission to expressly provide that nothing in the CAISO tariff is to be considered to supersede or otherwise interfere with the actions taken by the CPUC or by any LRA to implement resource adequacy. Constellation seeks assurance that future changes made to resource adequacy programs at the CPUC or other LRAs are reflected in the CAISO tariff to avoid conflicting regulatory requirements. Constellation asks that CAISO add provisions to its tariff that acknowledge that it will update its tariff and its protocols to maintain consistency between its tariff and the regulatory mechanisms adopted by the CPUC or other LRAs.

CAISO Answer

24. The CAISO states that many of the comments seem to misconstrue the fundamental purpose of the IRRP. With respect to Six Cities' arguments that the IRRP will interfere with the capacity procurement plans of non-jurisdictional entities and San Francisco's argument that the IRRP is not needed to ensure that such entities are resource adequate at this time, the CAISO responds that it expects that LSEs such as the Six Cities and San Francisco have already procured sufficient capacity to meet their respective demand. The CAISO further states that the IRRP is not intended to change the procurement plans an LRA may already have in place. The CAISO explains that the tariff revisions simply require LRAs to identify what resources they have secured and to make those resources available in a way or ways that are compatible with the CAISO's processes and systems to meet the system demand.

25. The CAISO states further that it operates under a number of obligations that require it to prudently plan for short term reliability. The CAISO states that ISO Principle 4 in Order No. 888 establishes the ISO as the responsible party for ensuring short-term reliability of grid operations. In addition, the CAISO states that under AB 1890 the CAISO must maintain the reliability of the grid by establishing planning and operating reserve criteria that are no less stringent than those established by the Western Electricity Coordinating Council (WECC) and

North American Electric Reliability Council (NERC).⁴ The CAISO points out further that section 40.3.1 of the current CAISO tariff reflects the WECC/NERC obligations and that this provision is aimed at having the CAISO comply with WECC/NERC criteria.⁵ The CAISO asserts that section 40.3.1 of the CAISO tariff requires the CAISO to produce and publish a twelve-month forecast of generation capacity and demand so that the CAISO can meet WECC/NERC reliability criteria.⁶ The CAISO explains that, in the event that the CAISO is inhibited from meeting WECC/NERC reliability criteria, the CAISO has the authority (in accordance with Good Utility Practice) to take steps to ensure compliance.⁷ The CAISO states that the IRRP allows the CAISO to gather the appropriate information to ensure that short-term supply sufficiency needs are met well ahead of real time operations.

26. The CAISO states that the IRRP accommodates the legislative choice inherent in AB 380 by deferring to the LRA to determine the appropriate reserve margin for each municipal utility. The CAISO asserts that nothing in the IRRP would supplement, replace, or in anyway interfere with a reserve margin put in place by an LRA. The CAISO explains that it is simply asking that each municipal report to the CAISO, and in so doing the community of grid users at large, what program it has put in place to ensure adequate deliverable resources to meet its load.

27. With regard to the CPUC's concerns about the IRRP's enforcement provisions, CAISO responds that it agrees that the CPUC is solely responsible for enforcement of the resource adequacy requirements that apply to CPUC-jurisdictional entities. However, the CAISO does not believe that that this responsibility should extend to enforcement of submissions to the CAISO, which is governed by the CAISO tariff. The CAISO notes that should the CPUC for some reason direct LSEs to refuse to provide the CAISO with resource adequacy plans, proposed sections 40.2.1 and 40.2.2 permit them to do so such that the "form" of the submission to the CAISO would be "blank." According to the CAISO, the penalty requirement does not create a de facto obligation on the CPUC or its jurisdictional LSEs to provide the information to the CAISO in perpetuity. Moreover, this is not a dual penalty as suggested by AReM. Rather the CPUC is enforcing its own requirements, while the CAISO will only enforce

⁴ CAISO Answer at 6 (citing AB 1890, Chapter 2.3 Article 3, Sections 345-46).

⁵ CAISO Answer at 7 (citing § 40.3.1 of the existing CAISO Tariff (with the proposed amendment Section 40.3.1 is to be renumbered as Section 42)).

⁶ *Id.*

⁷ CAISO Answer at 7 (citing § 40.3.1.5 of the CAISO Tariff).

the timing and accuracy of the information provided as directed by the tariff in accordance with the existing Enforcement Protocol. The CAISO disagrees that absent such clarification, the CPUC and the CAISO could potentially reach divergent decisions regarding whether a LSE's filings comply with the CPUC's requirements. The CAISO acknowledges that the CPUC is the sole arbitrator of whether LSEs are in compliance with the CPUC's requirements.

Commission Determination

28. We are cognizant of the parameters of our authority with respect to resource adequacy. Several provisions of the Federal Power Act (FPA) limit the Commission's authority to require the enlargement of generation or transmission facilities.⁸ Consistent with this view, we find that the CAISO's proposed IRRP tariff revisions, as modified herein, will not interfere with the resource adequacy decisions of the CPUC or other LRAs. Rather, we find that the IRRP tariff revisions, as modified, will help provide the CAISO with critically needed data to help ensure the reliable operation of the CAISO grid, consistent with the requirements of ISO Principle 4, AB 1890, and WECC/NERC obligations.

29. With respect to the IRRP's reporting requirements, the CAISO is merely imposing certain information submission requirements on scheduling coordinators.⁹ In this regard, the IRRP proposal will enable the CAISO to compare data provided in the annual and monthly reports with criteria developed by the CPUC and other LRAs. This comparison will be helpful to CAISO operations and will allow the CAISO to verify the eligibility and amount of capacity set forth in the scheduling coordinator's resource adequacy plans. In general, transparent information on resource adequacy is useful in assessing reliability.¹⁰ We find that the CAISO's response to commenters concerns regarding enforcement and penalty authority sufficiently resolves those issues. Therefore, we accept the IRRP proposal, as modified herein.

⁸ Under section 215 of the FPA, the Commission has jurisdiction to approve and enforce Reliability Standards. The term Reliability Standards does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity. Under sections 202(b) and 207, the Commission has no authority to compel the enlargement of generating facilities, nor to compel a public utility to sell or exchange energy when to do so would impair its ability to render adequate service to its customers.

⁹ The proposed default planning reserve margin is discussed below.

¹⁰ The CAISO information requirements should not preempt any standards or provisions set by the ERO.

30. With respect to PG&E's and Constellations concerns that the proposed tariff revisions should not supersede or otherwise interfere with the actions taken by the CPUC or by any LRA to implement resource adequacy, we find that the CAISO tariff provides sufficient discretion to the LRAs to enact, modify or implement their resource adequacy programs. While we expect CAISO to do as Constellation requests if future CPUC or other LRA policy changes on resource adequacy warrant a change to the tariff, adding an acknowledgment provision in the tariff is not necessary and does not serve a purpose. In the event that future CPUC or other LRA policies changes necessitate changes the CAISO tariff and the CAISO fails to properly reflect such changes in its tariff, Constellation can raise the issue with the Commission.

Default Reserve Margin

31. Several commenters take issue with the proposed default reserve margin, generally asserting that the CAISO's application of a default reserve margin will improperly enforce a resource adequacy requirement on nonjurisdictional entities.¹¹ CMUA does not object to the concept of a reserve margin, but contests the CAISO's ability to enforce one. CMUA believes that: (i) the CAISO's proposal will require LRAs to develop entirely new resource adequacy programs and processes, and (ii) LRAs will not possess sufficient time to comply, which will trigger application of the default reserve margin standard in section 40.4(c). CMUA asks that section 40.4(c) be deleted in its entirety.

CAISO Answer

32. In response, the CAISO states that it recognizes that State regulators and the LRAs have primary responsibility for resource adequacy. The CAISO states that it also intends to rely on the resource adequacy programs of the CPUC and LRAs to ensure that short term supply requirements are met via short-term planning criteria. Nevertheless, the CAISO explains that having a default planning standard in the CAISO tariff is reasonable, prudent and consistent with its responsibility to maintain or enhance the short-term reliability of the electric system. The CAISO points out that it must ensure compliance with NERC/WECC generation planning criteria in order to fulfill its responsibility to maintain short-term reliability and the default short-term planning reserve margin is to be used only in the absence of an LSE being subject to either the CPUC's or an LRA's individual resource adequacy programs.

33. The CAISO also asserts that the Commission has found it has the authority to include provisions establishing reserve margins in jurisdictional tariffs. The CAISO notes that its filing does not impose minimum criteria similar to those that

¹¹ CMUA, NCPA, Modesto and Imperial.

have been approved elsewhere, but only a default reserve margin in the event of inaction by an LRA.

34. The CAISO clarifies that only when an LRA fails to act does the IRRP's default margin apply. The CAISO explains that the proposed default, short-term planning reserve margin of 15 percent is consistent with: (i) the WECC's recommended minimum levels of installed and planned generating reserves, (ii) the CAISO's existing responsibilities to meet NERC/WECC reliability criteria, and (iii) Good Utility Practice. The CAISO argues that a default margin is essential to prudent planning and the operation of a reliable grid. Furthermore, the CAISO argues that the default reserve margin is in line with the CAISO's obligation to comply with the applicable standards set by NERC and the applicable regional reliability council. The CAISO states that under NERC/WECC criteria, ensuring reliability involves both maintaining the security of the transmission system and ensuring the adequacy of supply in the control area.¹²

35. The CAISO further states that the default planning reserve margin of 15 percent is consistent with the WECC's recommended minimum levels of installed and planned generating reserves. The CAISO explains that, in performing its Annual Power Supply Assessment, the WECC uses recommended minimum levels of installed and planned generating reserves.¹³ The CAISO states that, while individual systems or areas in the WECC can adopt minimum criteria that differ from the WECC's recommended minimum criteria, any such alternative criteria, if adopted by the CPUC or an LRA, would meet the standards for LSEs proposed by the CAISO in §§ 40.4(a) and (b) of its tariff. The CAISO explains that if the CPUC or an LRA adopts minimum planning reserve criteria that are different from the proposed default criteria of 15 percent, the alternative criteria will apply to the respective LSE. The CAISO requests that the Commission reject the requests to remove the proposed default, short-term planning reserve margin of 15 percent.

Commission Determination

36. We find that the default planning reserve margin is a necessary component of ensuring the reliable supply of energy at reasonable prices. The Commission is responsible for just and reasonable wholesale prices pursuant to section 205 of the

¹² See WECC Reliability Criteria (April 2005) at 26 (noting that overall reliability, i.e., adequacy and security, is to be maintained by adherence to NERC Planning Standards and to each Region's Planning Criteria).

¹³ See Attachment 2 to the WECC 2005 Power Supply Assessment (Power Supply Design Criteria).

FPA, and wholesale prices can remain just and reasonable only when sufficient resources are available. We find that the CAISO's use of a 15 percent default planning reserve margin is reasonable. Specifically, we note that while WECC does not currently have a formal planning reserve margin requirement, nevertheless when WECC has done studies in recent years on power supply assessments it uses a 15 percent planning reserve margin for resource adequacy purposes (see, e.g., WECC 2005 Power Supply Assessment), and that the load requirements in southern California can be met if a 15 percent requirement is used. A 15 percent planning reserve margin is comparable to what is used in many parts of the country.

37. We also find that the application of the 15 percent default planning reserve margin is a reasonable condition of participation in the CAISO market.¹⁴ LSEs within the CAISO control area benefit from the reliable supply of energy at just and reasonable prices. As such, LSEs must accept as a condition of participation in the CAISO market those minimum obligations that are necessary to maintain a reliable supply of energy at just and reasonable rates, two of the central functions of the CAISO. In order for such a mechanism to function fairly and effectively, it must be borne by all LSEs, not just a few.

38. We accepted the application of a similar default reserve margin in a proceeding concerning Midwest ISO's proposal to implement an interim resource adequacy plan in its Open Access and Energy Markets Tariff. In that case, the Midwest ISO proposed to apply a 12 percent default reserve margin for areas where the Midwest ISO determined that no reserve standard was in effect.¹⁵ We agreed conceptually with the Midwest ISO on the need for a default requirement where no reserve margin exists, finding that, on the surface, a 12 percent default annual reserve margin for a temporary basis was not an excessive requirement.¹⁶

39. The CAISO will use the default planning reserve margin as an input to its assessment of system-wide adequacy and for determining when it may be

¹⁴ See *San Diego Gas & Electric Co., et al.*, 95 FERC ¶ 61,115 at 61,355-57 (2001), *order on reh'g*, *San Diego Gas & Electric Co., et al.*, 95 FERC ¶ 61,418 (2001), *order on reh'g*, *San Diego Gas & Electric Co., et al.*, 97 FERC ¶ 61,275 (2001), *order on reh'g*, *San Diego Gas & Electric Co., et al.*, 99 FERC ¶ 61,160 (2002), *petition pending sub nom. Public Utilities Commission of the State of California, et al. v. FERC*, 9th Cir. Nos. 01-71051, *et al.* (placed in abeyance Aug. 21, 2002).

¹⁵ *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (2004), *order on reh'g*, 109 FERC ¶ 61,157 (2004).

¹⁶ *Id.* at P 415.

necessary to procure capacity.¹⁷ For those LSEs that do not have a resource adequacy plan or do not provide the CAISO with resource adequacy plans, the CAISO will apply the default resource adequacy criteria, including the default planning reserve margin. This will allow the CAISO to account for all LSEs in its assessment of systemwide adequacy and in identifying potential resource shortfalls that would endanger the reliable operation of the grid. The price paid by the CAISO for this needed capacity will then be allocated to the users of the CAISO grid pursuant to the CAISO tariff.¹⁸ On that basis, we find that the default planning reserve margin will affect how prices for capacity are determined in the wholesale market. Therefore, we believe it is appropriate for the CAISO to include a default planning reserve margin in its IRRP tariff and we will accept the default reserve margin, as modified herein.

40. An important basis for our acceptance of the default reserve margin is the fact that the CAISO will apply it only in the case where the LSE fails to provide information on its resource adequacy plan as required under the IRRP. Under the IRRP, if an LRA adopts a minimum planning reserve criterion that is different from the proposed default criteria of 15 percent, the alternative criteria will apply to the respective LSE. The CAISO has also proposed that in the case where an LRA has not yet developed a resource adequacy program for its respective LSE, in order to avoid any unnecessary use of the default criteria, it will accept the resource adequacy program of the municipal or federal entity that is proposed to its governing authority, even if has not been expressly approved by that entity's governing authority. We will accept the CAISO's proposal to accept the resource adequacy programs of LSEs while they are pending approval by their LRAs. Therefore, we direct the CAISO to make a compliance filing to revise section 40.4 to reflect this modification to its tariff proposal.

¹⁷ The use of the term "planning reserve margin" should not be understood to indicate any requirement to build; the IRRP does not contain any requirements for bulk system enlargement.

¹⁸ The CAISO explains that "it must be recognized that AB 380 requires that both CPUC-jurisdictional LSEs and municipal LSEs 'meet the most recent minimum planning reserve and reliability criteria approved by the Board of Trustees of the Western Systems Coordinating Council or the Western Electricity Coordinating Council.' See AB 380, §§ 380(d) and 9620(b), respectively. In determining what resources, if any, are available to the CAISO, or whether the CAISO must procure resources to fulfill its federal and state responsibilities, the CAISO must take into account the resources procured as a result of AB 380 requirements." CAISO Answer at 9.

CDWR

41. CDWR and Metropolitan request that the CAISO correct section 40.1 of the IRRP to exclude CDWR from the definition of LSE and require CDWR to develop, in cooperation with the CAISO, a program that ensures it will not unduly rely on the resource procurement practices of other LSEs. The CAISO agrees to make this proposed change.

Commission Determination

42. We will not accept the CAISO's proposed revision to exclude CDWR from the definition of an LSE. We find no basis for exempting CDWR from the requirements of the IRRP. As the CAISO itself explained, the IRRP provides for "non-discriminatory requirements necessary for the CAISO to meet its own reliability requirements."¹⁹ As such, CDWR must comply with the IRRP, as modified.

Metered Subsystems

43. NCPA and SVP urge the Commission to reject the interim resource adequacy policy as unnecessary for load-following metered subsystem (MSS) entities, or in the alternative to suspend its effectiveness for the maximum five month period, in order to give such MSS entities time to comply. Vernon states that the Commission should make clear that the provisions in the IRRP setting out the cost charges and the allocation of those costs do not trump the MSS Agreement of MSS Operators.

44. The CAISO states that it has been working with MSS entities in an attempt to minimize any additional reporting burdens but still give the CAISO the information it needs to administer the overall IRRP. The CAISO proposes to revise sections 40.2.1, 40.2.2 and 40.6 of the proposed tariff in order to forge a balance between the respective needs of the parties.

Commission Determination

45. We accept the CAISO's proposed revision to address NCPA's concerns and direct the CAISO to make a compliance filing to revise sections 40.2.1, 40.2.2, and 40.6., as proposed.

¹⁹ CAISO Answer at 20-21.

Smaller Load Serving Entities Regulated By the CPUC

46. GSW has a Bear Valley Electric Service Division that is an investor-owned utility serving about 23,000 customers in San Bernardino County, California. It is regulated by the CPUC, but the CPUC has not promulgated requirements for such smaller entities at this time. GSW requests that it be exempted from the IRRP until the CPUC acts. Arizona/Southwest Coops argue that it is unjust and unreasonable to the extent it imposes an undue burden on small entities such as Anza, whose load seldom, if ever, exceeds 10 MW.

47. The CAISO states that it recognizes that the CPUC is in the process of determining the resource adequacy requirements for the smaller LSEs under its jurisdiction. The CAISO agrees with GSW that it will be the CPUC that determines the requirements for smaller and multi-jurisdictional investor-owned utilities in the pending proceeding and therefore agrees that such entities should be exempt from the IRRP until the CPUC has rendered its decision.

Commission Determination

48. We find no basis for exempting GSW or other smaller load serving entities regulated by the CPUC from the requirements of the IRRP. As discussed earlier, the IRRP provides for “non-discriminatory requirements necessary for the CAISO to meet its own reliability requirements.”²⁰ The fact that GSW is regulated by the CPUC rather than by another LRA is not a sufficient basis on which to exempt GSW from the IRRP. We find the CAISO’s reasoning inconsistent with respect to its requirement that all other LSE’s comply with the IRRP. We therefore reject the CAISO’s proposal to exempt smaller IOUs regulated by the CPUC from the IRRP and direct such entities to comply with the IRRP as modified herein.

Federal Entities

49. WAPA contends that the CAISO should exempt the Federal Central Valley Project to the same extent it exempts CDWR. WAPA claims it is inappropriate to subject WAPA to regulatory oversight of a state-chartered entity.

50. Trinity concurs with WAPA’s Motion to Intervene in its entirety. Trinity also urges the Commission to reject any CAISO tariff provision that would force Trinity to purchase additional energy from anyone other than WAPA.

51. The CAISO points out that CDWR is not “exempt.” The CAISO explains that CDWR will be required to develop, in cooperation with the CAISO, a program that ensures it will not unduly rely on the resource procurement practices

²⁰ *Id.*

of other load serving entities. The CAISO asserts that WAPA is not being subjected to “regulatory oversight,” but rather non-discriminatory requirements necessary for the CAISO to meet its own reliability requirements due to the fact that WAPA serves retail load in the CAISO control area. The CAISO notes further that if WAPA did not provide resources to meet its demand, the demand would need to be met by the CAISO calling on resources from other entities to maintain system reliability.

Commission Determination

52. As we discussed earlier, we are not exempting CDWR from the requirements of the IRRP. We agree that the IRRP provides for non-discriminatory requirements necessary for the CAISO to meet its own reliability requirements.²¹ Therefore, we find no reason to exempt WAPA and Trinity from the IRRP, as modified herein.

53. With respect to Trinity’s request that we reject any CAISO tariff provision that would force Trinity to purchase additional energy from anyone other than WAPA, we reiterate here that the CAISO’s proposed tariff revisions at issue in this proceeding do not interfere with the resource adequacy decisions of LRAs and do not require purchases of energy or capacity from any particular entity.

Williams On-Site Tank Farm

54. Williams states that it is the scheduling coordinator for a tank farm that is located on-site at one of the generating plants to which Williams has exclusive output rights.²² Williams requests that the CAISO clarify that it does not intend to apply to Williams the resource adequacy requirements imposed on scheduling coordinators representing LSEs. Williams contends that it would be absurd to require Williams, for example, to submit monthly resource adequacy plans for the *de minimis* tank farm load that belongs to another entity.

55. The CAISO responds that if the tank farm is not part of on-site generation exempt under the section 40.1 (which is consistent with AB 380), it may be considered an entity serving retail load in the CAISO control area subject to the IRRP.

²¹ See CAISO Answer at 20-21.

²² Williams at 13.

Commission Determination

56. Section 40.1 defines the term LSE. To the extent that the tank farm load is an LSE pursuant to section 40.1 and Williams is the scheduling coordinator for the tank farm, the proposed tariff applies to Williams, regardless of the size of the load. However, we believe there should be some flexibility in reporting requirements for LSEs that represent a *de minimis* load. For example, an LSE with *de minimis* load should be allowed to submit an annual resource adequacy plan and request that the annual plan also constitute its monthly resource adequacy plan for each month of the year. We direct the CAISO to provide for this reporting flexibility in the compliance filing we order herein.

Section 40.2. Submission of Annual and Monthly Resource Adequacy Plan

57. PG&E states that section 40.2.1 (Annual Resource Adequacy Plan) does not clearly recognize the limits of the annual resource adequacy plan required of CPUC-jurisdictional entities, which addresses only the months May to September (and, for 2006, June to September), and currently requires demonstrations of only 90 percent of that system requirement. SoCal Edison requests that the CAISO clarify in section 40.2.1 that the first year-ahead resource adequacy Plan would be due no later than September 30, 2006 for showing year 2007. Furthermore, SoCal Edison states, the CAISO tariff should clarify that the first month-ahead resource adequacy plan would be due no later than June 30, 2006 for August 2006. LSEs should not be obligated to submit a resource adequacy plan to the CASIO prior to the effective date of the CAISO tariff changes.

58. More generally, AReM asserts that the CAISO tariff includes reporting and compliance requirements for Scheduling Coordinators that are duplicative of, and may conflict with, the reporting and compliance requirements that the CPUC has instituted relative to jurisdictional LSEs. AReM therefore believes that these provisions are unnecessary, unwarranted and unduly burdensome. AReM also raises the possibility of dual penalties for failure to submit annual or monthly plans— one from the CPUC and one from the CAISO.

59. CMUA argues that if sections 40.2.1 and 40.2.2 are retained, the timing of them is unjust and unreasonable. Under the CAISO proposal, non-CPUC-jurisdictional entities are given only sixty days to enact resource adequacy standards or be subject to IRRP's default provisions. This, argues CMUA, is in contradiction to the CAISO purported deference to LRAs. WAPA asks that the Commission allow WAPA a two-year period for complying with IRRP tariff provisions.

60. Six Cities argue that sections 40.2.1 and 40.2.2 require non-CPUC LSEs to submit their resource plans using forms adopted by the CPUC. Six Cities find this requirement inconsistent with the premise that LRAs are permitted to develop their own resource adequacy policies and criteria. Moreover, Six Cities request that the CAISO be required to notify an LSE within five business days if there is a mismatch between the LSE's resource adequacy plan and the supply plan submitted on behalf of the resources the LSE is relying on. Six Cities argue that such notice is required to allow the LSE to protect its rights prior to the CAISO's deadline for resolving the discrepancy.

CAISO Answer

61. In its answer, the CAISO states that SoCal Edison's requested clarification is unnecessary, and unwarranted, because the IRRP provides that the submissions for CPUC-jurisdictional LSEs are due according to the schedule established by the CPUC. Any additional language in the CAISO tariff would improperly limit the CPUC's ability to modify the schedule under its resource adequacy program. The CAISO also asserts that, contrary to AReM's and PG&E's concerns, nothing in the proposed section conflicts with or seeks to modify or override the CPUC's planning requirements. Rather, the CAISO has deferred to the timing, form and content of the plans established by the CPUC. Moreover, the CAISO will only enforce the timing and accuracy of the information provided as directed by the tariff and in accordance with the existing enforcement protocol. This is not, as AReM suggests, a dual penalty for failing to secure adequate resources in accordance with the CPUC's resource adequacy requirements.

62. With regard to CMUA's concern about timing of the reporting requirements, CAISO responds that it acknowledges that it will take some time for municipals to prepare their plans, but not as much as the two-year transition period suggested by WAPA. The CAISO states that because of the high level of planning that the CAISO understands the CMUA members have undertaken, the reporting obligation should be manageable under the timeframe set forth in the IRRP. Nevertheless, to avoid any unnecessary use of the default criteria, the CAISO proposes to accept the resource adequacy program of a municipal or federal entity that is proposed to its governing board even if it has not been expressly approved by the LRA.

63. In response to allegations that requiring all LRAs to use the forms adopted by the CPUC except for good cause is inconsistent with the premise of deference to LRAs, the CAISO explains that the IRRP tariff language recognizes that some explanation is needed by LRAs as to why their business model necessitates a different reporting format. The CAISO states that it is willing to work with the municipal community to develop an acceptable reporting template.

64. With regard to Six Cities' request that the tariff specify that the CAISO will inform LSEs within 5 business days if a discrepancy is found between their resource adequacy plans and supply plans submitted by resources, CAISO states that such level of specificity is not needed in the tariff. The CAISO states that it will adopt implementation policies that will ensure any deficiencies or discrepancies are communicated in a timely manner.

Commission Determination

65. We find that proposed sections 40.2.1 and 40.2.2 defer to the LRAs to establish the timing, form, and content of LSEs' resource adequacy plans, and merely establishes reporting requirements for LSEs to submit information to the CAISO. We agree with the CAISO that it is unnecessary to incorporate into the tariff all elements of the CPUC's specified timeline. The CAISO tariff need only provide sufficient information so that LSEs know what must be filed, when and to whom. It need not necessarily conform to the CPUC's requirements. Contrary to AREM's assertion, such information provision is necessary and is not unduly burdensome. In order to ensure short-term reliability and prudent operation of the grid, it is crucial that the CAISO collect annual and monthly resource adequacy information from each scheduling coordinator representing an LSE in the control area.

66. Similarly, it would be imprudent to grant SoCal Edison's suggestion that the first month-ahead resource adequacy plan be due June 30, 2006 for August 2006. While scheduling coordinators are not obligated to provide such information to the CAISO before these tariff changes go into effect, it is reasonable to expect that scheduling coordinators would provide that information in a timely fashion. To avoid any confusion, we direct all scheduling coordinators to submit to the CAISO their resource adequacy plans for the month of June 2006 within ten calendar days of the issuance of this order.

67. With regard to CMUA's argument that the IRRP does not provide CMUA with sufficient time to prepare and submit resource adequacy plans, we disagree. Preparation of supply plans is a normal part of utility operations and consistent with Good Utility Practice and we expect CMUA members to have such plans prepared for the up-coming summer peak load. Given the deference to be given LRAs with regard to the resource adequacy plans, we expect that the submission of the of the monthly resource adequacy plans for June 2006 within ten calendar days of the issuance of this order to be achievable.

68. We find the CAISO's proposal to require submission of resource adequacy plans using the CPUC-adopted reporting templates reasonable. Reporting format consistency will allow the CAISO to more easily assess the adequacy of the CAISO grid. However, we encourage the CAISO to work with the municipal

community to develop an acceptable reporting template that meets the business needs of both the CAISO and the municipal community.

69. We find Six Cities' request that LSEs be given timely notification of any discrepancy regarding their resource adequacy plans to be reasonable. We direct the CAISO to modify section 40.2.3 to require the CAISO to notify LSEs within 10 business days of the submission of their resource adequacy plans if a discrepancy or deficiency exists in the LSEs' plans.

Section 40.3 Demand Forecasts

70. PG&E states that section 40.3 (a) is internally inconsistent and potentially at odds with CPUC requirements. CPUC forecast requirements rely upon forecasts established by the California Energy Commission (CEC). Scheduling coordinators should have no duty to supply "data and/or supporting information" beyond the CEC information upon which CPUC requirements is based. AReM has similar concerns regarding this provision, and states that this language is open-ended and unreasonable and should be rejected. Furthermore, AReM asserts, the CAISO has full access both to the data submitted by the LSEs and the CEC's evaluations. Thus, the CAISO's duplicative requirement is unreasonable and unnecessary. SoCal Edison also believes this tariff provision is overly broad and suggests revisions to provide that the CAISO may request forecasting information only to the extent that it has not received such information through the CPUC's resource adequacy process.

71. Finally, PG&E notes that section 40.3 incorrectly limits itself to the monthly resource adequacy plans and should include annual plans as well.

72. The CAISO, in its answer, explains that it simply sought to understand the assumptions being utilized in the preparation of the load forecasts. Given the interim nature of the IRRP, and the fact that the guidelines for CPUC load forecasts are understood, the CAISO is willing to accept SoCal Edison's proposed modification. In addition, the CAISO agrees with PG&E that section 40.3 incorrectly limits itself to the monthly resource adequacy plans and should include annual plans as well.

Commission Determination

73. We accept the changes proposed by SoCal Edison and PG&E and agreed to by the CAISO and direct the CAISO to submit revised tariff language reflecting those changes.

Section 40.5.1 Qualifying Capacity, Section 40.5.2 Net Qualifying Capacity and Section 40.5.2.1 Deliverability Within the ISO Control Area

74. AReM requests that the Commission order the CAISO to modify section 40.5 of the tariff to fix the qualifying capacity for the resource adequacy compliance year. SoCal Edison suggests that the CAISO's proposed tariff language be modified to state that any net qualifying capacity determinations will be made on an annual basis and shall comply with the timelines established by the LRA. Further, SoCal Edison states that the CAISO should be directed by the Commission to conduct a stakeholder process regarding testing and verification prior to implementation and file the details of the testing and verification program with the Commission. PG&E notes that net qualifying capacity may need to be further reduced in demonstrations as necessary to comport with consideration of scheduled outages, as noted in connection with proposed section 40.5.

75. Regarding deliverability criteria, PG&E states that section 40.5.2.1 appears to impose an infeasible duty upon the CAISO to "prevent degradation of deliverability of an existing Generation Unit."²³ PG&E notes that the cross-referenced provision of the CAISO tariff, section 25, establishes a balanced process that conflicts with this proposed absolute duty, and suggests that this provision be modified to simply cross-reference section 25. SoCal Edison argues that the tariff should indicate that existing (as of 2005) generation is considered deliverable and that existing generators will not have their qualifying capacity or net qualifying capacity reduced for deliverability.

76. Constellation points out that section 40.5.2 of the proposed tariff will make reductions to qualifying capacity of resources based on CAISO's assessment of deliverability of these resources to load. Constellation argues that to avoid market uncertainty, the proposed tariff should specify when CAISO will assess deliverability, when the resulting changes to qualifying capacity will be effective. Constellation asks that deliverability assessment and all other adjustments to qualifying capacity be made at a single point in time and well in advance of LSEs' annual year-ahead showings so as to provide LSEs ample time to procure resource adequacy capacity.

77. Williams *et al.* claims that lack of detail in the CAISO's development of net qualifying capacity may undermine the ability of buyers and sellers to effectively negotiate capacity contracts. Williams *et al.* notes that since the CPUC or the applicable LRA determines the qualifying capacity, it is questionable whether

²³ PG&E at 7, quoting the CAISO's proposed tariff section 40.5.2.1.

CAISO should further reduce the qualifying capacity of a resource.²⁴ Williams *et al.* argues that absent a clear need for CAISO to adjust qualifying capacity and a clear means by which CAISO-adjusted numbers will be used in CPUC's resource adequacy program, the Commission should either reject CAISO's proposal or direct CAISO to provide a full explanation that justifies the need for the proposal. Williams *et al.* requests that if the Commission approves the CAISO's net qualifying capacity proposal, the Commission direct CAISO to develop a transparent process for determining net qualifying capacity and direct that CAISO may only adjust qualifying capacity in a manner that affects future delivery periods. WAPA agrees with Williams *et al.* and states that the CAISO does not explain how it intends to address Williams *et al.*'s existing transmission contracts and resources within the CAISO control area. Williams *et al.* requests that the CAISO be required to submit its proposed procedures for testing and verifying the deliverability of existing transmission contracts within the CAISO control area.

78. The CPUC states that it expected the IRRP or the MRTU tariff to establish criteria for testing of generation for qualifying capacity and potential derating of underproducing generators, but the CAISO has not done so. The CPUC states that the lack of such criteria is creating regulatory uncertainty for generators, who cannot be sure of what derating criteria the CAISO may ultimately adopt. CPUC believes that development of testing criteria is clearly within the CAISO's jurisdiction and urges the Commission and the CAISO to consider the imposition of such requirements as soon as possible.

79. In its answer, the CAISO asserts that the Commission should reject the arguments that qualifying capacity should remain immutable, regardless of actual resource characteristics. It notes that "the justification for converting qualifying capacity to net qualifying capacity is axiomatic – capacity that a resource is physically incapable of producing or that is undeliverable is illusory and useless in meeting the fundamental objectives of the state's resource adequacy programs."²⁵ However, the CAISO recognizes the need for net qualifying capacity determinations to be made transparently and without obstructing efficient commercial transactions. Therefore, the CAISO agrees that the deliverability analysis under the IRRP should be conducted annually in a timeframe that is consistent with procurement obligations. The CAISO concurs that any deliverability assessment will only impact the net qualifying capacity during the compliance year following the assessment. Finally, the CAISO emphasizes its intention to use the deliverability analysis embodied in its interconnection

²⁴ Williams *et al.* at 14.

²⁵ CAISO Answer at 25.

procedures to ensure that new generation does not degrade the deliverability of existing resources. This mechanism should help keep net qualifying capacity ratings stable for a given resource.

80. The CAISO agrees with SoCal Edison that the baseline deliverability analysis of 2006 conditions concluded that all existing generation would be considered deliverable, to the extent that certain upgrades were completed by June 1, 2006. Once a generation unit's qualified capacity has been determined to be deliverable, then the deliverability of this unit's previously tested qualifying capacity should be maintained. The CAISO also agrees with PG&E's assertion that the interconnection process should be controlled by section 25 of the tariff and that the provision can be modified accordingly.

81. In response to SoCal Edison's request for a full stakeholder process and report to the Commission, the CAISO states it recognizes the benefit of holding a stakeholder meeting to review implementation of IRRP, but does not believe that any further tariff filings regarding testing need to be made. The CAISO states its intention to use its testing authority to "prevent and deter materially inaccurate claims of qualifying capacity"²⁶ and notes that disputes over such determinations can be resolved through the CAISO's alternative dispute resolution process.

82. Finally, the CAISO states that, contrary to PG&E's assertion, it does not believe any further clarification of section 40.5 is necessary, as the issue would be addressed in the qualifying capacity formulas established by the CPUC.

Commission Determination

83. CAISO is uniquely positioned to make net qualifying capacity determinations through its deliverability assessment and through its generator testing and verification. The posting of net qualifying capacity information on the CAISO web site, pursuant to section 40.5.2, will provide the CPUC, other LRAs, and the market participants with important information regarding the physical capability and deliverability of resource adequacy resources. This transparency will help facilitate resource adequacy commercial transactions and allow compliance and monitoring by the CPUC and other LRAs of their applicable resource adequacy programs. Therefore, subject to the modification discussed below, we accept the CAISO's proposal on qualifying capacity and deliverability.

84. We accept the CAISO's proposal to conduct deliverability analyses on an annual basis and apply the results to subsequent resource adequacy compliance years and direct the CAISO to file revised tariff language indicating such. If, as AREM suggests, this results in qualifying capacity being fixed for a certain period

²⁶ CAISO Answer at 28.

of time, the new tariff language must clearly reflect that. We direct the CAISO to modify proposed tariff section 40.5.2.1 to eliminate the apparent duty to prevent degradation of an existing unit's deliverability, and clarify that the interconnection process is governed by section 25 of the tariff.

85. In addition, we agree with CAISO that it should have testing authority under the tariff to deter materially inaccurate claims of qualifying capacity. We agree with the CAISO that no further details are required in the tariff regarding testing for net qualifying capacity determinations, but urge the CAISO to educate its stakeholders on the process. We accept the CAISO's explanation that section 40.5 does not require further clarification.

Section 40.5.2.2 Deliverability of Imports

86. AReM and SoCal Edison recommend that the reference to the resource adequacy import allocation for 2006 be deleted from the tariff.

87. AReM states that it and other LSEs were displeased with the process for allocating import capacity for resource adequacy purposes for 2006. According to AReM, not only did the non-CPUC-jurisdictional entities receive a preferential allocation of import capacity, they also received the allocations on their preferred transmission branch groups. AReM does not protest this allocation process for 2007. For 2008 and beyond, however, AReM asserts that the CAISO and this Commission must establish an upfront, equitable approach for dividing import capacity between the two jurisdictions. To aid efficient resource adequacy contracting, AReM further requests that the CAISO complete its annual import allocations for CPUC-jurisdictional LSEs by no later than July 1. This schedule would provide 90 days for contracting before the annual resource adequacy fillings are due on September 30.

88. Similarly, SoCal Edison recommends that for resource adequacy import allocation in 2007 both the CPUC and non-CPUC LSEs be treated comparably, *i.e.*, all LSEs should receive resource adequacy import allocation for their existing resource agreements, as of March 10, 2006. According to SoCal Edison, the remaining import capacity should be allocated to LSEs based on the LSE's load share, relative to the CAISO control area peak load for 2005. Finally, the allocation of resource adequacy import capacity beyond 2007 should be subject to review as part of the CAISO's MRTU tariff filing. PG&E also agrees that this matter should be comprehensively reevaluated for purposes of MRTU implementation. In the event that MRTU is delayed beyond its proposed November 2007 implementation, however, PG&E asserts the CAISO must take steps to reevaluate this compromise for application for 2008.

89. In addition, SoCal Edison states that the tariff language should be modified to require the CAISO to post on its web site the total amount of import capacity available on each branch group before and after resource adequacy import capacity for existing resources agreements has been allocated.

90. CMUA, Six Cities, and Modesto oppose the CAISO's proposal for import capacity allocation. They contend that the CAISO proposal denies them access to import transmission capacity beyond historical uses.

91. CMUA, Six Cities and Vernon are also concerned that the CAISO's proposed method for allocating import capacity does not provide new participating transmission owners (PTOs) with the full benefit of their Firm Transmission Rights (FTRs). CMUA, Six Cities and Vernon assert that the CAISO needs to preserve rights and allocate transmission capacity in a non-discriminatory manner. They support the allocation of import capacity to existing transmission contracts and transmission ownership rights in order to preserve those rights. However, they believe the CAISO should follow the same principle of preserving rights by permitting non-CPUC LSEs that are new PTOs to obtain the full benefit of the FTRs they were granted when they joined the CAISO. CMUA, Six Cities and Vernon argue that the CAISO has denied non-CPUC-jurisdictional new PTOs the full use of their FTRs by restricting non-CPUC-jurisdictional LSEs to an allocation based on their historic resource commitments outside the CAISO control area and not providing any additional allocation for FTRs. CMUA and Six Cities propose a four-tiered approach to import capacity allocation that allocates import capacity to FTRs ahead of any residual allocation based on load ratio allocation.

92. The CPUC believes that the tiered allocation of import capacity needlessly discriminates among entities that are within and beyond the CPUC's jurisdiction, potentially creating inequities in the application of resource adequacy. According to the CPUC, LSEs that get "first choice" of import capacity are necessarily in a better position to choose the most economical imports prior to those who must select from the "left-overs." The CPUC argues that such an allocation methodology is inconsistent with state law and cannot be sanctioned.

93. WAPA raises several concerns regarding the deliverability of imports and liquidated damages contracts. WAPA states that it intends to use liquidated damages contracts when determining qualifying capacity. WAPA requests that the CAISO be barred from eliminating liquidated damages contracts from the CAISO's calculation of imports. WAPA explains that it intends to establish its own standards for qualifying capacity and net qualifying capacity.

94. The CAISO states it has no objection to deleting language regarding the 2006 resource adequacy import capacity allocation from the tariff. The CAISO

agrees that, for 2008 and beyond, an equitable methodology for allocating resource adequacy import capacity needs to be developed. However, the CAISO views the MRTU docket as the appropriate forum for such discussions.²⁷ As to import allocation for resource adequacy purposes prior to MRTU implementation, the CAISO states that it has “tried to develop a program that attempts to balance existing commitments with new procurements activities while recognizing the short-term duration of the IRRP.”²⁸ In that vein, the CAISO states it would agree to revise the accounting or allocation of import capability for 2007 so that both CPUC-jurisdictional and non-CPUC-jurisdictional LSEs are permitted to receive resource adequacy import allocation for their existing resource agreements (as of March 10, 2006), with any remaining import capacity allocated to both CPUC and non-CPUC LSEs based on an LSE’s load share to the CAISO control area peak load.

95. The CAISO disagrees that the import allocation proposal reduces or deprives new PTOs of the value of the FTRs granted when they joined the CAISO for two reasons. First, the allocation procedures do not alter the operation of any FTR that applies to an interface with other control areas; nor do the allocation procedures reduce the effectiveness of an FTR as a hedge against congestion costs. Second, the proposed allocation procedures are based on the existing resource commitments of an LSE; without a resource commitment there is nothing to allocate for resource adequacy purposes.

Commission Determination

96. We accept the proposal to delete references to the 2006 import allocation for resource adequacy purposes. We also find the CAISO’s proposal for allocation of import capacity in 2007 to be equitable and we accept it. We agree with those commenters that suggest that the MRTU proceeding is the appropriate forum for discussions about resource adequacy import allocation after 2007 and decline to make any such determination here. Further, we find AReM’s request that the CAISO complete its annual import allocations no later than July 1 to be reasonable. Accordingly, we direct the CAISO to submit revised tariff sheets reflecting the new import allocation methodology and deadline.

97. With regard to CMUA’s, Six Cities’, and Vernon’s concern about the loss of value of their FTRs, we agree with the CAISO that the allocation of import capacity for resource adequacy purposes does not degrade the benefits of FTRs held by new PTOs. The import allocation procedure of IRRP is for resource

²⁷ Resource adequacy is but one of many topics addressed in the MRTU proceeding.

²⁸ CAISO Answer at 37.

adequacy counting purposes and appropriately tied to resource commitments. Therefore, allocating import capacity based on FTRs without regard to resource commitments only serves to reduce the amount of import capability that can be used by those who have made resource commitments. In addition, as CAISO points out, there is no degradation in the value of FTRs for hedging transmission congestion costs. Therefore, we decline to adopt the four tier allocation proposal of CMUA and Six Cities.

98. With regard to WAPA's concern about liquidated damages contracts and import allocation, we find WAPA's concerns to be misplaced. The IRRP does not eliminate liquidated damages contracts. WAPA, as an LRA, can determine the extent to which liquidated damages contracts count toward its resource adequacy requirements. And to the extent WAPA relies on existing transmission contracts (ETCs) for importing its resources, it will receive priority allocation of import capacity for its ETCs. However, to the extent that WAPA intends to rely on liquidated damages contracts beyond its ETCs, it will be subject to the CAISO's allocation of import capability. Such allocation is necessary to ensure the import resources of LSEs can be accommodated on the grid and that the CAISO can operate the grid reliably.

Section 40.6A.2 Available Generation

99. PG&E states that the provisions of section 40.6A.2 closely follow the Commission's established scope for must-offer obligations, with one apparently inadvertent exception that should be corrected. In addition to the resources that are excluded from the definition of "Available Generation," wind resources that are not Qualified Facilities and that have scheduled in accordance with the CAISO's Participating Intermittent Resource Program should also be excluded. PG&E further notes that this proposed section does not clearly make provision for "partial" Resource Adequacy units. Similarly, AReM takes issue with the lack of partial resource adequacy units and requests that the Commission require the CAISO to end its "all resource adequacy or no resource adequacy" approach and allow partial resource adequacy units to be treated properly under the tariff. AReM asserts that if a generating unit is only a partial resource adequacy resource, it should not be penalized because it has only sold a fraction of the unit for resource adequacy capacity. Moreover, AReM is extremely concerned that the CAISO's stance will severely limit the willingness of generators to sell to smaller LSEs who cannot, and have no need to, buy an entire unit to meet their resource adequacy requirements.

100. Powerex requests that section 40.6A.2 be modified to correctly reflect that system resources have different attributes than individual generating units. In particular, Powerex argues that two of the CAISO's proposed adjustments to a system resource's available generation – 1) an adjustment for scheduled operating

level and, 2) an adjustment for capacity committed to deliver energy or provide operating reserve to the generator's native load - are inappropriate. Powerex proposes tariff language that reflects the different attributes of system resources.

101. SMUD argues that the language of section 40.6A.2 is unclear and, combined with section 40.6A.4, could be interpreted as expanding the must-offer requirement of system resources.

102. In its answer, the CAISO agrees with Powerex's proposed modifications. With regard to partial resource adequacy resources, the CAISO states that nothing in IRRP precludes that a resource may be partially contracted for resource adequacy.

Commission Determination

103. We disagree with PG&E that wind resources that have scheduled in accordance with the CAISO's Participating Intermittent Resources Program should be excluded from the definition of available generation. However, the relationship between available generation and obligation to offer available capacity (section 40.6A.4) is not clear as it applies to resources scheduled in accordance with the Participating Intermittent Resources Program. We direct the CAISO to clarify this relationship. We agree with Powerex that system resources have different characteristics than individual generating units and direct the CAISO to incorporate Powerex's proposed language in the tariff. Powerex's proposed modifications also address SMUD's concern about the expansion of system resources' must-offer obligation by clarifying the nature of a system resource's available capacity.

104. With regard to partial resource adequacy resources, we agree with the CAISO that the IRRP does not preclude a resource from partially contracting its capacity. We discuss the issues related to minimum load cost compensation for partial resource adequacy resources under section 40.6B.

Section 40.6A.3 Reporting Requirements for Non-Participating Generators

105. Section 40.6A.3 requires non-participating generators to provide the CAISO with information about their minimum and maximum operating levels, their ramp rates, and any other information CAISO deems necessary. PG&E suggests that this provision exclude Qualifying Facilities that are not Participating Generators, but that have existing power purchase agreements under PURPA,²⁹ from the proposed filing requirements. Powerex requests that CAISO specify that

²⁹ Public Regulatory Policies Act 1978.

tariff section 40.6A.3 is not applicable to non-resource specific system resources. The CAISO states in its answer that it agrees with Powerex.

Commission Determination

106. We agree that the information reporting requirement in section 40.6A.3 is not applicable to non-resource specific system resources and to Qualifying Facilities that are not participating generators, but have power purchase agreements with a host utility. We direct the CAISO to so clarify in its compliance filing.

Section 40.6A.4 Obligation to Offer Available Capacity

107. SoCal Edison states that the proposed tariff language in section 40.6A.4 is not consistent with the current must-offer obligation regarding imports, as it does not system resources (imports) from the real-time must offer obligation unless the LRA has exempted them. SoCal Edison recommends that the must-offer obligation for resource adequacy System Resources be the same as for System Resources under the current FERC must offer obligation – only resource adequacy System Resources located in California are subject to a real-time must-offer obligation. PG&E asserts that the proposed tariff revisions do not adequately impose meaningful obligations on import resources. Because California is so import-dependent, PG&E states, obligations to ensure that they perform consistent with reliability requirements are both prudent and appropriate.

108. Imperial is concerned about the resource adequacy must offer obligations of the IRRP. Imperial is concerned that this provision may trap generation resources inside the CAISO control area to the detriment of neighboring systems. Imperial also suggests that in light of the IRRP, the current FERC must-offer obligation is redundant and unnecessary.

109. CMUA believes that the must-offer obligation of the IRRP, in conjunction with CAISO energy market rules, could leave an LSE at a disadvantage if the CAISO dispatches energy from limited run-time units and energy prices in the imbalance market are higher when the LSE is forced to replace the energy from the market. CMUA requests that the CAISO develop a “contingency flag” mechanism that allows the CAISO to dispatch an energy limited thermal resource only in a system emergency, or, alternatively, extend the exemption from must-offer obligation of section 40.6A to energy limited thermal resources.

110. Six Cities assert that LRAs should be permitted to develop availability and must-offer obligation procedures that reflect the policy determinations and

eligibility criteria they choose to adopt. The inflexible availability requirement of the IRRP, they contend, would make it impossible for LSEs to optimize the use of their energy limited resources.

111. In its answer, the CAISO states that SoCal Edison's comment is inconsistent with the CPUC's orders which allow out-of-state System Resources to supply resource adequacy capacity and it disagrees with PG&E's assertion that obligations on imports are lacking. With regard to Imperial's concerns, the CAISO points out that nothing in the IRRP precludes Imperial from entering into contracts with resources within the CAISO control area to meet Imperial's needs and that the provisions in the CAISO tariff regarding scheduling exports are unchanged.

112. With regard to CMUA's request for a contingency flag, the CAISO points out that it will do so under MRTU. The CAISO states that it intends to utilize under IRRP the same criteria it uses under the existing must-offer process and to its knowledge, the existing process has not resulted in over-reliance on energy limited resources.

Commission Determination

113. We disagree with SoCal Edison's recommendation that only resource adequacy system resources located inside California be subject to a real-time must-offer obligation. We agree with the CAISO that to the extent that an LRA has imposed an obligation on resource adequacy system resources to be available to the CAISO, this obligation applies whether or not the resource adequacy system resource is inside or outside California. With regard to PG&E's contention that IRRP does not impose meaningful obligations on import resources, we disagree. We believe the requirement on resource adequacy system resources to offer available generation to the CAISO is a meaningful obligation.

114. With regard to Imperial's concerns about discrimination against exports, we find that these concerns are unfounded. As the CAISO points out, IRRP does not change Imperial's ability to enter into agreements with resources within the CAISO control area, nor does it change Imperial's ability to schedule those resource as exports out of the CAISO control area. In addition, the must-offer obligation of resource adequacy resources is a subset of the current must-offer obligation. Therefore, contrary to Imperial's assertion, the IRRP is not an expansion of the existing must-offer obligation.

115. We agree with the CAISO that CMUA's and Six Cities' concern regarding use limited resources is better addressed under MRTU and will not grant the exemption from must-offer obligation requested by CMUA.

Section 40.6 Submission of Supply Plans

116. Williams *et al.* objects to the CAISO's proposal to require scheduling coordinators for generating units, system units, and system resources that commit capacity through resource adequacy contracts to submit annual and monthly supply plans to CAISO confirming their contractual commitments.³⁰ Williams *et al.* contends that this is a redundant and duplicative reporting requirement since scheduling coordinators for LSEs are required to provide this information to CAISO in their annual and monthly resource adequacy plans. Williams *et al.* requests that this proposed tariff provision be rejected.

117. CAISO answers that there is no assurance that the scheduling coordinator for a LSE is the same as the scheduling coordinator for the resource adequacy resource under contract with the LSE. Since the designation of a resource as resource adequacy resource has financial implications for the resource in terms of settlement treat and must-offer waiver denial priority, CAISO believes it should be able to verify resource adequacy obligations directly with the scheduling coordinator for the resources.

Commission Determination

118. We agree with the CAISO. The submission of supply plans by scheduling coordinators representing resources supplying resource adequacy capacity will allow the CAISO to verify that there is agreement between LSEs and resource adequacy resources as to the quantity of resource adequacy capacity under contract. This will help reduce errors and disputes in resource adequacy capacity designations and the commitment and dispatch decisions CAISO makes based on those designations. Therefore, we deny Williams *et al.*'s request.

Section 40.6A.5 Submission of Bids and Applicability of the Proxy Price and Section 40.6A.7 Penalties for Non-Compliance

119. Regarding section 40.6A.5 SoCal Edison asserts that the must-offer obligation associated with resource adequacy resources should be on the scheduling coordinator for the resource adequacy resource, not the resource adequacy resource itself, and proposes corresponding changes to the tariff language. SoCal Edison states that it is not clear from the CAISO's proposed tariff language which entity is subject to sanctions in section 40.6A.7.

120. The CAISO agrees to SoCal Edison's changes to section 40.6A.5, as only scheduling coordinators can submit bids. In addition, the CAISO agrees that the

³⁰ Williams at 16.

modification to section 40.6A.7 proposed by SoCal Edison provides additional clarification to the provision.

Commission Determination

121. We accept the modifications to sections 40.6A.5 and 40.6A.7 provided by SoCal Edison and agreed to by the CAISO.

Section 40.6B Recovery of Minimum Load Costs By Resource Adequacy Resources

122. Williams *et al.* objects to the CAISO's proposal for compensation to resource adequacy resources for their minimum load cost. According to Williams *et al.*, when a generating unit that is partially contracted under the resource adequacy program (a partial resource adequacy resource) is called upon by the CAISO per its resource adequacy must-offer obligation, it is paid per the procedure for resource adequacy resources. Williams *et al.* argues that a partial resource adequacy resource, unlike a FERC must-offer resource, will not be paid for both minimum load cost and for imbalance energy. Williams *et al.* argues that a partial resource adequacy resource has a must-offer obligation for its entire capacity even though only a portion of its capacity is under a resource adequacy contract. Williams *et al.* contends that the imbalance energy payment serves as a contribution to a unit's fixed costs, and that contribution should not be revoked merely because the unit is a partial resource adequacy resource.³¹ Moreover, Williams *et al.* argues that CAISO's proposal will encourage LSEs to only contract for small amounts of capacity from units that are needed for local reliability if the LSE believes that the unit will usually sit at minimum load waiting to be dispatched after a contingency. Williams *et al.* proposes an alternate compensation mechanism. Williams *et al.* asks that a partial resource adequacy resource be compensated for imbalance energy produced at minimum load in proportion to its capacity under resource adequacy contract. For example, if only 5 percent of a partial resource adequacy resource is under contract, they the resource should be paid 95 percent of imbalance energy to which it would have been entitled under FERC must-offer obligation.

123. Constellation is also concerned that the current CAISO settlement system limitations do not allow for suppliers to choose to offer and be compensated for both resource adequacy and FERC must-offer capacity. Therefore, Constellation asks that CAISO inform the Commission as to the nature and the duration of this limitation and whether or not the limitation will be removed under MRTU.

³¹ Williams at 8-10.

124. CAISO answers that a resource should never be contracted for less than its minimum load, otherwise the notion of being contracted for and available is operationally meaningless. CAISO contends that “it is reasonable to expect that a partial resource adequacy resource will ensure sufficient compensation to provide that the resource is available and therefore there should be no addition expectation that the [minimum load compensation] double payment would need to continue.”³²

Commission Determination

125. We accept CAISO’s provision for compensating resource adequacy resources when operating at minimum load pursuant to their resource adequacy must-offer obligation and reject Williams *et al.*’s alternative proposal. The minimum load compensation under the FERC must-offer obligation is intended to compensate generators for their minimum load costs while providing a contribution toward the generators’ fixed costs through payment to generators for imbalance energy produced at minimum load. Resource adequacy resources have the opportunity to receive compensation toward their fixed costs through resource adequacy contracts. The decision to enter into a resource adequacy contract, the amount of capacity to sell under the contract, and the compensation received for the resource adequacy capacity sold, are in the purview of the generators. But at the very least, we expect that a generator will not enter into a resource adequacy contract that would leave it worse off in relation to the compensation it can receive under the FERC must-offer obligation. In other words, we expect a resource adequacy resource will sell resource adequacy capacity in amounts and prices that provide a contribution toward its fixed costs that is at least equal to the fixed cost contribution it would receive under the FERC must-offer obligation. In addition, as the CAISO points out, a generator should not enter into a resource adequacy contract for an amount of capacity that is less than its minimum load point since doing so would be inconsistent with the generators physical and operational characteristics. Therefore, we deny Williams *et al.*’s proposal to allow additional payments to partial resource adequacy resources for minimum load costs.

126. With regard to Constellation’s concerns, we note that under the pending MRTU proposal, the CAISO proposes to eliminate the FERC must-offer obligation. With regard to Constellation’s concern about the existing system’s limitations to allow both resource adequacy and must-offer settlements, as we discussed in more detail in response to Williams *et al.*’s protest, we believe the CAISO’s proposal to be reasonable.

³² CAISO Answer at 52.

Allocation of Minimum Load and Other Costs

127. In the IRRP, the CAISO proposes to guarantee MLCC recovery for resource adequacy resources for the minimum load energy dispatched by the CAISO and to allocate such costs in a manner consistent with what the CAISO recommended in its Amendment No. 60 filing,³³ which addressed allocation of costs incurred as a result of the must-offer obligation requirement. To avoid potential conflict in the CAISO's allocation of energy costs associated with any form of CAISO must-offer obligation, Metropolitan requests that the Commission affirm that the CAISO's proposed allocation of such costs in the IRRP will be conformed to the Commission's final order regarding allocation of such costs in Docket No. ER04-835-000. CMUA and Six Cities make similar requests with regard to allocation of MLCC, emissions costs, and start-up costs. SMUD asks that the Commission clarify that CAISO may not allocate resource adequacy MLCC to wheel-through transactions. SMUD argues that resource adequacy MLCC is distinct from the disputed MLCC allocation under Amendment No. 60.

128. CDWR urges the Commission to require cost allocations consistent with the preservation of ETC rights, and based on an entity's contribution to coincident peak loads. CDWR requests that, to the extent the Commission accepts the proposed allocation in IRRP, such allocation should be made subject to refund based on the final outcome of the Amendment 60 proceeding.

129. The CAISO acknowledges the cost allocation methodology proposed under IRRP should be conformed to the outcome of Amendment No. 60 proceeding.

Commission Determination

130. With regard to SMUD's contention that allocation MLCC under IRRP is different from Amendment No. 60, we disagree. The IRRP establishes the priority by which the CAISO will commit resources to reliably operate the CAISO grid. While the priority of commitment of resources subject to must-offer obligation will be different under IRRP than it is under the current must-offer obligation, the purpose of the unit commitment process will continue to be the reliable operation of the grid. Therefore, the IRRP cost allocation methodology should be consistent with the cost allocation methodology in the Amendment No. 60 proceeding. Therefore, we direct the CAISO to file, if necessary, amended tariff sheets to conform the IRRP cost allocation to Amendment No. 60 cost allocation methodology once the Commission issues a decision on Amendment No. 60.

³³ California Independent System Operator Corporation, Docket No. ER04-835-000.

We grant CDWR's request that cost allocation under the IRRP be subject to refund based on the outcome of the Amendment 60 proceeding and direct the CAISO to calculate refunds accordingly.

Section 40.7 FERC Must-Offer Obligation

131. PG&E states that, consistent with the Commission's intended scope of the must-offer obligation, Qualifying Facilities that have existing Power Purchase Agreements under PURPA should be excluded from the definition of "FERC Must-Offer Generators."

132. In its answer, the CAISO states that the IRRP does not propose to modify the scope of the existing FERC must offer obligation, and has not "revised" section 40.7.1. Thus, units that are currently exempt would remain exempt.

Commission Determination

133. Because section 40.7 is existing tariff language and the CAISO is not proposing to modify any component of the FERC must offer obligation, we find it unnecessary for the CAISO to make any changes to this section.

Section 40.13.12.1 Dynamically Scheduled System Resources and Section 40.13.12.2 Non-Dynamically Scheduled System Resources

134. Powerex also argues that sections 40.13.12.1 and 40.13.12.2 unnecessarily treat dynamically scheduled and non-dynamically scheduled system resources differently. According to Powerex, section 40.13.12.1 tracks the CPUC counting protocol for dynamically scheduled system resources to qualify for resource adequacy. However, section 40.13.12.2, applicable to non-dynamically scheduled system resources, is slightly different from section 40.13.12.1. Powerex proposes tariff language changes to make the two sections compatible. The CAISO answers that it accepts the Powerex's proposed language.

Commission Determination

135. Since there is no apparent reason for different provisions for dynamically and non-dynamically scheduled resources, we direct the CAISO to incorporate Powerex's proposed modifications in the tariff.

Confidentiality Concerns

136. AReM recommends replacing individual references of confidential protection with a separate sub-section providing such protection for all information provided under section 40. Constellation requests that the IRRP provisions be clear so that when a scheduling coordinator submits data on behalf

of a LSE that is pertinent to the LSE's market position or other resource adequacy compliance-related issue, this data is held in confidence by CAISO. Constellation asserts that if there is a dispute over capacity commitments provided by the scheduling coordinator for a LSE and a scheduling coordinator for a generator, LSEs without a contractual privity through an agreement with the CAISO need assurance that their responses to the CAISO regarding the dispute will be kept confidential.

137. The CAISO states in its answer its agreement that the data submissions, in particular the annual and monthly plans, should be treated as confidential information. With respect to compliance, the CAISO notes that, as enforcement of resource adequacy provisions is primarily a matter for the LRA, there may be times when the CAISO must report information to those bodies.

Commission Determination

138. We concur that market-sensitive data submissions such as annual and monthly resource adequacy plans should be afforded confidential treatment. We agree with Constellation that an explicit confidentiality clause addressing LSEs that do not otherwise have a contractual agreement with CAISO will help prevent data confidentiality disputes. Therefore, we direct the CAISO to include such a provision in the compliance filing we order herein. However, the confidentiality provision does not extend to the information in the resource adequacy reports that are not market-sensitive, for example, planning reserve margin, criteria for determining the type of resources that may be eligible to provide qualifying capacity, criteria for calculating qualifying capacity, and criteria for including liquidated damages toward resource adequacy.

Section 42.1 Generation Planning Reserve Criteria

139. PG&E believes that section 42.1.5 should impose restrictions on the CAISO's procurement authority, limiting it to that absolutely necessary to maintain compliance with applicable reliability criteria, as defined in the CAISO tariff. As noted elsewhere in PG&E's comments, the Commission has repeatedly acknowledged that the States should be given deference with respect to resource adequacy. In keeping with this construct, section 42 should only allow contracting by the CAISO in cases where an entity is deficient in meeting an established resource adequacy requirement, and should allocate resulting costs accordingly to the deficient entity.

140. In its answer, the CAISO notes that the only revision to this section was a modification to the section number. The substance of the provision is long-standing tariff language. Second, the first sentence of the provision limits its scope to situations in which the CAISO concludes "it may be unable to comply

with the Applicable Regulatory Authority [sic].”³⁴ As such, the CAISO argues, no modification or revision to the provision is warranted.

Commission Determination

141. Because section 42.1.5 is existing tariff language and the CAISO is not proposing to modify any substantive component of it, we find it unnecessary for the CAISO to make any changes to this section.

Technical Conference

142. SoCal Edison requests that the Commission hold a technical conference to discuss IRRP and the proposed Reliability Capacity Services Tariff settlement in Docket No. EL05-146-000.

143. The CAISO states that, while the two filings are somewhat related, it does not believe a technical conference is necessary.

Commission Determination

144. We agree with the CAISO and decline to hold a joint technical conference. If another technical conference to discuss the RCST settlement is warranted, it will be held in that docket.

Relationship of IRRP to MRTU

145. Vernon requests that to the extent the CAISO’s IRRP is accepted, it should not have precedential significance with respect to the CAISO’s proposed MRTU Tariff.

Commission Determination

146. While many of the elements of the IRRP are similar to those of the MRTU program, our acceptance of the IRRP tariff revisions, as modified herein, does not preclude further examination under MRTU. In particular, the temporary nature of the IRRP will require that questions concerning longer-term issues such as the

³⁴ CAISO Answer at 60, incorrectly quoting proposed tariff Section 42.1.5 which reads, in relevant part, “Notwithstanding the foregoing, if the ISO concludes that it may be unable to comply with the *Applicable Reliability Criteria*, the ISO shall, acting in accordance with Good Utility Practice, take such steps as it considers to be necessary to ensure compliance, including the negotiation of contracts through processes other than competitive solicitations.” (emphasis added).

CAISO's proposal for allocation of import capacity will require further consideration under MRTU.

The Commission orders:

(A) The CAISO's proposal is accepted in part and modified in part, as discussed in the body of this order.

(B) Within 30 days of the date of this order, the CAISO is directed to make a compliance filing, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.