

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator
Corporation

Docket No. ER07-569-000

ORDER ACCEPTING TARIFF AMENDMENT, WITH MODIFICATIONS

(Issued April 24, 2007)

1. On February 23, 2007, the California Independent System Operator Corporation (CAISO) filed its Load Scheduling Amendment, which amends certain scheduling requirements previously approved by the Commission in Amendment No. 72, among other things. Specifically, the proposed Load Scheduling Amendment is intended to relax the existing minimum load scheduling requirement during off-peak hours from 95 percent to 75 percent of each Scheduling Coordinator's demand forecast and to establish specific exemptions to account for small or infrequent scheduling deviations. In this order, the Commission accepts the CAISO's Load Scheduling Amendment, with modifications, effective April 26, 2007.

I. Background

2. On November 21, 2005, the Commission accepted the majority of the CAISO-proposed tariff modifications filed as Amendment No. 72 to the CAISO tariff, which, among other things, required Scheduling Coordinators to submit day-ahead schedules that reflect at least 95 percent of their forecasted demand for each hour of the trading day, along with certain related implementing provisions. Amendment No. 72 was intended to address chronic under-scheduling of load by Scheduling Coordinators and the CAISO's failure in the hour-ahead timeframe and in real time to procure sufficient resources to reliably and economically serve forecasted loads.

3. In the instant proceeding, the CAISO proposes its Load Scheduling Amendment, which would modify Amendment No. 72 scheduling requirements. Since implementation of Amendment No. 72, the CAISO states that it has monitored the effectiveness of the scheduling and reporting obligations contained therein, engaged in ongoing discussions with market participants and Commission staff and, thus, concludes the following: (1) complying with the 95 percent scheduling requirement often requires market participants to over-procure energy and then over-schedule significant amounts of

load during off-peak hours because the bulk of bilateral supply is only available in standard multi-hour blocks; (2) the over-scheduling of load leads to increased costs for market participants who must then settle over-scheduled load (when the price of procuring energy in bilateral markets exceeds the real-time energy price) as positive Uninstructed Energy; (3) over-scheduling during off-peak hours attributed to the 95 percent scheduling requirement may negatively affect system reliability by exacerbating over-generation conditions; (4) infrequent and inadvertent violations of the 95 percent scheduling requirement that have no impact on reliability are nonetheless subject to investigation and penalty, as existing CAISO tariff provisions provide no discretion to the CAISO to excuse minor violations; and (5) infrequent and inadvertent violations of demand forecasting that may inevitably occur are automatically subject to a \$500 penalty under existing CAISO tariff provisions.

4. Because of the above concerns, the CAISO initiated a stakeholder process, which began on December 11, 2006 and concluded February 14, 2007, to explore modifications to the scheduling and forecast submission requirements found in Amendment No. 72. Accordingly, the modifications proposed in the instant Load Scheduling Amendment are as follows: (1) reduce the minimum scheduling requirement in off-peak hours to 75 percent of each Scheduling Coordinator's demand forecast; (2) establish a safe harbor for Exempt Scheduling Deviations from the forward scheduling requirement as the lower of 3 MWh or 5 percent of the Scheduling Coordinator's demand forecast; (3) allow 12 one-hour, monthly Minor Scheduling Deviations (six on-peak, six off-peak), which will be the greater of 25 MWh or 2 percent of the Scheduling Coordinator's demand forecast; (4) provide one exemption per calendar month of the first violation for failure to submit a Demand forecast; and (5) exempt Scheduling Coordinators with less than 1 MWh of load from the 95/75 scheduling requirement, along with certain other ministerial tariff revisions.

II. Notices and Interventions

5. Notice of the CAISO filing was published in the *Federal Register*, 72 Fed. Reg. 10,203 (2007), with interventions, comments, and protests due on or before March 16, 2007. The California Electricity Oversight Board, NRG Companies,¹ Sacramento Municipal Utility District (SMUD), CEG Companies,² Six Cities,³ Arizona Public

¹ The NRG Companies include NRG Power Marketing Inc., Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo Power LLC, and Long Beach Generation LLC.

² CEG Companies include Constellation Energy Commodities Group, Inc. and Constellation

³ Six Cities include the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California.

Service Company, Cities/M-S-R,⁴ Transmission Agency of Northern California, the California Public Utilities Commission, Strategic Energy, LLC (Strategic), Powerex Corporation (Powerex), Southern California Edison Company (SoCal Edison), Sempra Energy Solutions LLC (Sempra), Williams Power Company, Inc. (Williams), and the California Department of Water Resources State Water Project (State Water Project) filed motions to intervene. The Alliance for Retail Energy Markets (AREM) and Coral Power, L.L.C. (Coral) filed motions to intervene out-of-time. On April 2, 2007, the CAISO filed an answer.

III. Discussion

Procedural Issues

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), we will grant AREM and Coral's motions to intervene out-of-time given their interest in these proceedings, and the absence of any undue prejudice or delay.

7. 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 because it has provided information that assisted us in our decision-making process.

Substantive Issues

A. Reduction to Minimum Scheduling Requirement for Off-peak Hours

CAISO Proposal

8. The CAISO proposes to modify CAISO tariff section 4.5.4.2.1.1 to reduce the minimum scheduling requirement during off-peak hours to 75 percent of each Scheduling Coordinator's demand forecast. The CAISO defines off-peak hours as hours 1 through 6 and hours 23 and 24, seven days a week.⁵ The CAISO notes that this modification is meant to address concerns that the 95 percent scheduling requirement during off-peak hours may, in some circumstances, provide little reliability benefits. It notes that a 75

⁴ Cities/M-S-R include the City of Santa Clara, California and the M-S-R Public Power Agency.

⁵ CAISO Feb. 23, 2007 Transmittal Letter, Docket No. ER07-569-000, at 6 (CAISO Transmittal Letter).

percent scheduling requirement in off-peak hours protects against excessive under-scheduling during off-peak hours, while continuing to allow Scheduling Coordinators to meet this requirement through “standard 8-hour blocks of off-peak energy without over-scheduling of load or relying on any load-shaping resources or hourly bilateral purchases.”⁶ The CAISO notes that the 75 percent level was developed during the stakeholder process, with most stakeholders preferring a constant 75 percent off-peak scheduling requirement to other options.

9. The CAISO notes that grid operators expressed concerns that a 75 percent off-peak scheduling requirement may provide insufficient protection against excessive under-scheduling on Sundays during peak daytime hours. Therefore, the CAISO proposes to apply the 95 percent on-peak scheduling requirement to hours 7 through 22 on all days of the week, including Sundays and holidays, rather than rely on the standard Western Electricity Coordinating Council (WECC) definition.

Intervenor Comments

10. No intervenor objected to the CAISO’s proposal to lower the minimum scheduling requirement during off-peak hours to 75 percent of the Scheduling Coordinators demand forecast, which the CAISO finds to be adequate to ward against excessive over or under-scheduling during off-peak hours. However, certain of the intervenors disagree with the CAISO’s modification to the definition of “off-peak hours,” as it differs from that of WECC. In its Load Scheduling Amendment, the CAISO expanded WECC’s definition of “off-peak hours” to include Sundays and holidays to mitigate concerns that under-scheduling on a Sunday with high loads could be a detriment to grid operations and reliability, in light of the tight supply situation that occurred during a heat wave in summer 2006 and on a Sunday.⁷ Sempra argues that this change in definition effectively reduces the number of off-peak hours applicable to the minimum scheduling requirement, which, Sempra contends, is an illogical and unsupported result. Moreover, Sempra notes that the 6x16 on-peak energy products used to shape loads to the minimum day-ahead scheduling requirement are available on a daily basis; therefore, the Load Scheduling Amendment need only apply five days of the week, rather than seven. Further, Sempra states that, “Using the five-day week conforms the Load Scheduling Amendment’s rules to the nature of the California energy market and also provides LSEs with the kind of contracting flexibility they need to meet the

⁶ *Id.*

⁷ On Sunday, July 16, 2006, peak demand of approximately 41,875 megawatts set a Sunday record for energy use in California. *See CAISO Media Advisory: New Record Set for Energy Usage*, (July 17, 2006), <http://www.caiso.com/1836/1836d8d82a8d0.pdf>.

requirements and load shapes of their end-use customers.”⁸ Lastly, Sempra states that the Load Scheduling Amendment should only apply during critical summer peak months when under-scheduling has the most serious operational consequences. Additionally, in Sempra’s opinion, this would limit the likelihood that LSEs would incur costs solely for administrative purposes.

CAISO Answer

11. The CAISO reiterates that it made its decision to retain a seven-day a week “peak” period structure due to a concern on the part of CAISO Grid Operations that a 75 percent scheduling requirement may provide insufficient protection against excessive under-scheduling on Sundays during peak daytime hours. The CAISO notes that it continues to believe this to be the case, and that the 95 percent scheduling requirement should apply to hours 7 through 22 on all days of the week, including holidays, rather than only during the standard WECC definition of peak hours.

Commission Determination

12. We find the CAISO’s proposal to lower the minimum scheduling requirement during off-peak hours to 75 percent of the Scheduling Coordinators Demand forecast to be reasonable. As stated previously in the original Amendment No. 72 proceeding and now here, we believe that the proposed scheduling revisions to Amendment No. 72 strike a reasonable balance between the CAISO’s need to reliably and economically operate its grid, customers’ need to maximize purchases of low cost energy, and Scheduling Coordinators’ desire to avoid financial sanctions for minor deviations when there is no adverse impact on grid reliability.

13. Additionally, we find that the CAISO’s proposal to extend its minimum 95/75 scheduling requirement to every day of the week is also reasonable, especially considering California’s past experience with peak period outages and the fact that it is not unusual for peak demand in California to occur over a weekend. Another important factor in this equation is that, at present, Scheduling Coordinators are limited in their ability to adjust forecast demand upwards for weekend schedules in the CAISO Scheduling Infrastructure (SI) system, which makes weekend load forecasting difficult. Thus, we agree that imposing this scheduling requirement on every day of the week will further enhance grid reliability, enable the CAISO to procure sufficient supply resources to serve forecasted load, and alleviate the risk of increased costs to Scheduling Coordinators associated with over-generation and over-procuring energy during off-peak hours.

⁸ Sempra Mar. 16, 2007 Motion to Intervene and Protest, Docket No. ER07-569-000, at 5 (Sempra Protest).

B. Market Solutions v. Additional Market Rules**CAISO Proposal**

14. The CAISO notes that it has closely monitored the impacts of the 95 percent scheduling requirement since the initial implementation of Amendment No. 72. It also notes that it has engaged in ongoing discussions with market participants regarding this requirement. Based on numerous concerns, the CAISO asserts that modifications to the scheduling and forecast submission requirements are necessary.

Intervenor Comments

15. Most intervenors appear to generally support the continuation of Amendment No. 72, as modified in the proposed Load Scheduling Amendment, as an interim measure to address the aforementioned CAISO-market concerns that emerged during the stakeholder process. Nevertheless, some intervenors prefer the development and implementation of market solutions to the imposition of additional administrative responses. Williams reiterates comments it raised in the Amendment No. 72 proceeding, where it stated that “Amendment No. 72 reflected an attempt to respond to the problem of underscheduling through administrative rules that do not address or correct the underlying cause of the [load underscheduling] behavior.”⁹ Once again, Williams urges that, “without such market solutions [e.g., convergence bidding] in place, administrative command and control rules may curb the practice of under-scheduling, but they do not address the underlying incentive to engage in the practice in the first place.”¹⁰ Similarly, Strategic says it is “encouraged by certain proposed modifications and CAISO’s apparent responsiveness towards a few of the concerns raised by market participants,” yet Strategic contends that the CAISO’s proposal is merely a band-aid approach which “fails to address comprehensively deficiencies in Amendment No. 72 that undermine compliance efforts.”¹¹

CAISO Answer

16. In its answer, the CAISO disagrees with commenters who argue that additional market rules are unnecessary. The CAISO states that Amendment No. 72 was a positive step towards preventing the problem of excessive under-scheduling, but has shortcomings

⁹ Williams Mar. 16, 2007 Motion to Intervene and Protest, Docket No. ER07-569-000, at 5 (citing Williams Oct. 13, 2005 Motion to Intervene and Comments of Williams Power Company, Inc., Docket No. ER05-1502-000, at 6) (Williams Protest).

¹⁰ Williams Protest at page 7.

¹¹ Strategic Mar. 16, 2007 Motion to Intervene and Protest, Docket No. ER07-569-000, at 2, 3 (Strategic Protest).

under actual operating conditions that need to be refined. The CAISO notes that Amendment No. 72 was originally undertaken with knowledge that it would require improvements and that the measures proposed would have a limited lifespan because they will sunset when the Market Redesign and Technology Upgrade (MRTU) Tariff is fully implemented.

Commission Determination

17. We find the CAISO-proposed Load Scheduling Amendment to be a reasonable interim solution to address specific operational concerns in CAISO markets that may negatively impact grid reliability. This tariff revision also seeks to mitigate the probability of increased costs to market participants associated with over-scheduling, when the price of procuring over-scheduled load in bilateral markets exceeds the real-time energy price. Lastly, the CAISO's proposal recognizes that infrequent and inadvertent violations of demand forecasting submission requirements under existing CAISO tariff provisions, that have no impact on grid reliability, should not result in financial sanctions to market participants, especially since the CAISO Scheduling Infrastructure (SI) system is not fully automated to allow data submission verification or retrieval, as discussed in greater detail below. Some intervenors argue that the Load Scheduling Amendment falls short of proposing changes that completely eliminate scheduling dysfunction in CAISO markets. Nevertheless, we agree with the CAISO that "a complete overhaul of the underscheduling-related provisions and systems at this time would not be a reasonable use of resources,"¹² considering the limited lifespan of the proposed revisions which will sunset upon full implementation of MRTU. Accordingly, while market solutions are clearly desirable,¹³ the Commission declines to impose additional requirements that will require the CAISO to divert resources away from tasks associated with MRTU implementation or extend the instant proceeding into the 2007 summer peak demand period when the proposed Load Scheduling Amendment will be most useful.

¹² CAISO Apr. 2, 2007 Motion for Leave to Answer and Answer, Docket No. ER07-569, at 3 (CAISO Answer).

¹³ In the Amendment No. 72 order, the Commission stated that "market driven solutions are preferable to command and control solutions. However, we believe that the CAISO and market participants will be better served by focusing on timely implementation on the market mechanisms being designed in the MRTU proceeding rather than on investing time and effort in finding piecemeal market solution to the current underscheduling problem, which could likely further delay MRTU implementation." *Cal. Indep. Sys. Operator Corp.*, 113 FERC ¶ 61,187, at P 22 (2005).

C. Stakeholder Process

CAISO Proposal

18. The CAISO states that, based on concerns from market participants, it began a stakeholder process in early December of 2006 to potentially modify Amendment No. 72. The stakeholder process culminated in the CAISO publishing proposed tariff language for the Load Scheduling Amendment on February 6, 2007. The CAISO received stakeholder comments on the proposal and made additional changes in response to these comments. The CAISO filed its proposed tariff amendment with the Commission on February 23, 2007.

Intervenor Comments

19. Some intervenors request “a more comprehensive and less rushed stakeholder process” to more broadly address all the deficiencies that emanated during the initial stakeholder process.¹⁴ Generally, this group believes that the CAISO-led process was “truncated and pre-ordained,” over an approximately two-month period, as “major concerns were neither considered nor addressed as part of the instant tariff filing.”¹⁵ Accordingly, Sempra requests a technical conference to explore certain other deficiencies that should have been examined beforehand and, potentially, made part of the CAISO-proposed Load Scheduling Amendment.

CAISO Answer

20. The CAISO states that it does not agree that the stakeholder process was deficient and asks the Commission to reject the need for further proceedings on this matter. The CAISO notes that it was concerned that the changes to Amendment No. 72’s 95 percent forward scheduling requirement might be in order, and therefore it instituted a stakeholder process to explore these issues. The CAISO states that the stakeholder process began in the first week of December 2006 when it made an announcement that general modifications to the scheduling and forecasting requirements were under consideration. It states that it issued a detailed whitepaper prepared by its Department of Market Monitoring that analyzed past experience with the scheduling and forecasting requirements, addressed concerns of stakeholders and CAISO operations staff, and proposed various modifications relating to these requirements on December 11, 2006.

¹⁴ Strategic Protest at 7.

¹⁵ Coral Mar. 23, 2007 Motion to Intervene Out-of-Time and Protest, Docket No. ER07-569-000, at 2 (Coral Protest).

The CAISO asserts that it provided stakeholders with numerous opportunities to comment, the process was thorough, and that the CAISO gave commenters' input serious consideration.

Commission Determination

21. We find that the stakeholder process in this proceeding provided CAISO stakeholders and interested parties numerous opportunities to comment on the limited modifications to Amendment No. 72, which eventually led to the filing of the proposed Load Scheduling Amendment. Additionally, we accept the CAISO's rationale that "to the extent [the stakeholder process] was perceived as conducted in an expedited manner, the CAISO stresses that the [process] was driven by the need for the Amendment to be in place by late spring [2007] when many of the operational problems, *i.e.*, overgeneration, addressed by the Amendment are most likely to occur."¹⁶ Indeed, the CAISO states that the parameters of the stakeholder discussions were intentionally limited for this reason. Moreover, the alternative solutions proffered by intervenors would require extensive deliberation, analysis, testing, etc., which would thwart the intent of this interim proposal. Therefore, we deny Sempra's request for a technical conference on this matter.

D. Exempt Scheduling Deviations

CAISO Proposal

22. The CAISO proposes to establish a safe harbor deadband for Exempt Scheduling Deviations from the forward scheduling requirements. The CAISO notes, "The modifications associated with this proposal are designed to address concerns that certain deviations below the 95 percent scheduling requirement may be inadvertent and have no impact on reliability, yet under current ISO Tariff provisions, are nevertheless subject to potential investigation and sanction by FERC."¹⁷ The CAISO proposes that the threshold for such Exempt Scheduling Deviations be the lower of 3 MWh or 5 percent of the Scheduling Coordinator's demand forecast.

23. The CAISO asserts that the specific formula proposed reflects an appropriate balance between the potential additional difficulty with compliance by relatively small LSEs, the need for reliability, and the principle that all participants should be subject to the same rules and requirements.

¹⁶ CAISO Answer at 5.

¹⁷ CAISO Transmittal Letter at 7.

Intervenor Comments

24. Some intervenors take issue with the CAISO's safe harbor deadband proposal. Strategic argues strenuously for the Commission to consider that standard products in the CAISO market are procured in multi-hour (6x16) blocks in minimum units of 25 MW, to satisfy scheduling requirements and meet varying load demand. Thus, the proposed safe harbor of 3 MWh is inadequate and impractical, in Strategic's view. Alternatively, Strategic argues for the development of more refined load shaping products and/or requests the Commission to direct the CAISO to modify its safe harbor threshold to correlate with current market realities by setting this threshold at 25 MW for every hour of every day.¹⁸ Sempra explains that the 3 MW deviation limit would penalize smaller LSEs, "virtually guaranteeing that any LSE with a load of 400 MW or less in a zone would be compelled to procure in excess of its peak load forecast,"¹⁹ using the standard product mentioned above. Thus, Sempra requests that the Commission direct the CAISO to modify its proposal to raise the 3 MW bandwidth to 12.5 MW, which, according to Sempra, "would symmetrically share the risk of over-scheduling and under-scheduling based on the standard 6x16 procurement increment of 25 MW."²⁰

25. In contrast, Williams asserts the proposed Exempt Scheduling Deviation to be the best attempt of the three CAISO-proposed exemptions to meet the CAISO's objective of reducing the burden on small LSEs to stay within the 95 percent on-peak scheduling requirement, while ensuring that all LSEs are treated equally. Additionally, Williams adds that this impact to reliability caused by this exemption should be relatively minor.

CAISO Answer

26. The CAISO states that it proposed a safe harbor mechanism that includes Exempt Scheduling Deviations during all hours are still subject to potential Commission investigation and sanction. The CAISO states that it believes that Strategic's request for a safe harbor level of 25 MWh for Exempt Scheduling Deviations that applies to all hours could result in significant cumulative under-scheduling when applied to all Scheduling Coordinators. It notes that, in addition, a 25 MWh limitation would allow smaller Scheduling Coordinators to rely on the real-time market for a large proportion of their total load, while still requiring larger LSEs to schedule about 95 percent of their load. The CAISO calls this an inequitable result. It contends that any limitation based only on

¹⁸ Strategic asserts that "compliance with the requirements of Amendment No. 72 was, in part, premised on the development of those load-shaping products," which, to date, have yet to be developed. Strategic Protest at 3.

¹⁹ Sempra Protest at 6.

²⁰ Sempra Protest at 7.

megawatts, rather than a combination megawatts or the percentage of load would unfairly favor small LSEs at the expense of large LSEs.

Commission Determination

27. The Commission agrees with the CAISO that a safe harbor level of 25 MWh for Exempt Scheduling Deviations that applies to all hours could result in significant cumulative under-scheduling when applied to all Scheduling Coordinators. Therefore, the Commission finds that the proposed 3 MWh or 5 percent deviation from demand, whichever is less, already provides more flexibility than the current load scheduling practices and also treats large and small utilities in a more equitable manner than allowing for either a 12.5 or 25 MWh deadband. Moreover, the CAISO's proposal appropriately balances the CAISO's desire to mitigate its scheduling requirements' impact on small LSEs with its need to maintain reliability and minimize costs to all. We accept the CAISO's proposed modifications to CAISO tariff section 4.5.4.2.1.2 and the Master Definitions Supplement (Appendix A), reflecting Exempt Scheduling Deviations.

E. Monthly Allowance for Minor Scheduling Deviations

CAISO Proposal

28. The CAISO proposes an exemption from the forward scheduling requirement to allow 12 monthly, one-hour allowances for Minor Scheduling Deviations (*i.e.*, six on-peak allowances and six off-peak allowances). The CAISO explains that "this modification is designed to address deviations which are larger than the *de minimis* threshold described above [for Exempt Scheduling Deviations], but that are unlikely to affect reliability if occurring infrequently and not simultaneously by all Scheduling Coordinators in all [Utility Distribution Company] UDC areas."²¹ Thus, the CAISO proposes a threshold for Minor Scheduling Deviations as the greater of 25 MWh or two percent of the Scheduling Coordinator's demand forecast and the first 12 deviations under this exemption will be considered compliant with the CAISO's scheduling requirement. The CAISO states that the Minor Scheduling Deviation is triggered when the Exempt Scheduling Deviation threshold has been exceeded. The CAISO contends that the exemption threshold is the balancing of the potential difficulty of compliance for relatively small LSEs and the need to ensure reliability.

²¹ CAISO Transmittal Letter at 8.

Intervenor Comments

29. Williams and several other intervenors object to this exemption. Specifically, Williams characterizes this exemption as monthly peak period “free passes” that could be used strategically by Scheduling Coordinators resulting in a negative impact to reliability and increased cost to the CAISO for spot market purchases to cover underscheduled load, bearing in mind that the waiver applies to the greater of 25 MWh or two percent of a Scheduling Coordinator’s Demand forecast. Sempra argues that “deviations should not be limited to only [12] hours per month and should not be measured as a percentage of forecasted load, suggesting, instead, that no exemption for Minor Scheduling Deviations be adopted.”²² Rather, Sempra states that a 12.5 MW bandwidth for Exempt Scheduling Deviations, as discussed above, is sufficient.

CAISO Answer

30. The CAISO asserts that the 25 MWh threshold, together with the two percent of forecast demand threshold applicable for larger LSEs, is more appropriate for the allowance for Minor Scheduling Deviations, because these deviations can only occur 12 times a month. It notes that this exemption is designed to cover infrequent deviations that may occur due to exceptional circumstances. It contends that, taken together, these mechanisms strike a balance between treating Scheduling Coordinators fairly and ensuring reliability.

Commission Determination

31. We find that the proposed one-hour, monthly allowances for Minor Scheduling Deviations have not been shown to be reasonable. This exemption is predicated on the conditional statement “*if* occurring infrequently and not simultaneously by all Scheduling Coordinators in all UDC areas,” *then* these exemptions are unlikely to affect reliability. We are concerned that during peak demand or during a heat wave, there is the potential that a number of Scheduling Coordinators could opt to exercise their six monthly on-peak deviations simultaneously. This action could lead to reliability problems that otherwise would not have occurred. Further, we note that Scheduling Coordinators have the deadband, in addition to the 95/75 percent scheduling requirements, in which to address minor deviations. Finally, we find that the CAISO has failed to support why it proposes to allow 12 deviations a month as opposed to some other potential number of deviations. Thus, we reject the CAISO’s proposal to establish an exemption for Minor Scheduling Deviations.

²² Sempra Protest at 7.

F. Monthly Exemption from \$500 Penalty for Failure to Submit Demand Forecast

CAISO Proposal

32. “In order to address concerns that although infrequent violations of Demand forecasting submission requirements may be inadvertent in nature, they are nonetheless subject to a \$500 penalty under current ISO Tariff provisions,” the CAISO proposes, in section 31.1.4.1 of its tariff, a one-time monthly tariff violation waiver, along with waiver of the associated \$500 penalty.²³ The CAISO notes that this exemption would apply to a Scheduling Coordinator’s first deviation from the demand forecasting submission requirements in a particular calendar month.

Intervenor Comments

33. Williams protests the fact that the CAISO is not only waiving the \$500 penalty for the first monthly occurrence when a Scheduling Coordinator’s fails to submit its demand forecast, but also intends to grant the Scheduling Coordinator “immunity,” thereby shielding that first violation from otherwise being considered a tariff violation. Williams cites to the CAISO’s proposed tariff language, which, in Williams’ estimation, is somewhat ambiguous on whether both the tariff violation and penalty are forgiven or only the penalty is forgiven and the tariff violation recorded. This section reads:

The first instance in each calendar month in which a Scheduling Coordinator fails to submit information required pursuant to this section shall not be deemed a violation of this section.

CAISO Answer

34. The CAISO responds to Williams by noting that the intent of revised section 31.1.4.1 is to exempt a Scheduling Coordinator’s first failure in each calendar month to submit the required demand forecast information from constituting a violation of the CAISO’s tariff. The CAISO notes that, as a result, the modification is meant to do more than just take away the risk of a \$500 sanction for the omission. It further notes that Williams is the only entity to express concerns regarding the proposed revision to this section. The CAISO does not agree with Williams that this exemption might pose a material threat of abuse that outweighs the regulatory and administrative benefits. The CAISO notes that Williams is incorrect to assume that the proposed exemption provides total immunity. Instead, the CAISO states that both the Commission and it continue to have the authority to assess the behavior of Scheduling Coordinators. It contends that the

²³ See CAISO Transmittal Letter at 10; see also CAISO Answer at 10.

exemption merely forgives the Scheduling Coordinator's failure to submit the demand forecast by the day-ahead deadline, but does not excuse the Scheduling Coordinator from prohibited other behavior.

35. The CAISO notes that, if the Commission agrees that the CAISO should enhance its oversight against possible abuses, a small modification to section 3.1.4.2 could address Williams' concern while still allowing for the proposed exemption. Its proposed solution would have Scheduling Coordinators include the omitted data in their weekly submission under section 31.1.4.2:

Preliminary Weekly Information. Each Scheduling Coordinator shall provide to the ISO, no later than seven (7) days after the end of each week, which shall end at Sunday HE24, data for the previous week (Monday through Sunday), in electronic format, comparing, for each hour of that week: (1) the Scheduling Coordinator's total Day-Ahead scheduled Demand by UDC Service Area, ~~as submitted~~ pursuant to section 4.5.4.2, the Scheduling Coordinator's total Day-Ahead Demand Forecast by UDC Service Area, ~~as submitted~~ pursuant to section 31.1.4.1, and (3) an estimate of the Scheduling Coordinator's actual Demand by UDC Service Area.

The CAISO asserts that this proposed revision preserves an exemption for inadvertent noncompliance while allowing the Scheduling Coordinator to correct the omission, and the CAISO to receive the information on a slightly delayed basis.

Commission Determination

36. We reject the CAISO's proposed revision to section 31.1.4.1 of the CAISO tariff, which allows one tariff violation per month per Scheduling Coordinator for failure to follow demand forecast submission requirements. Pursuant to section 37.6.1.2 (Sanctions) of the Enforcement Protocol section to the CAISO tariff, failure to provide information required by the CAISO tariff is subject to a penalty of \$500 for each day that the required information is late. In our view, the CAISO has failed to demonstrate the necessity of its proposed exemption. In its transmittal letter, the CAISO states that "[a]lthough compliance with the [d]emand forecast submission requirements has improved dramatically and virtually no violations have occurred since October 2006, periodic violations *may* continue to occur"²⁴ due to inadvertent or infrequent violations. We believe that such inadvertent and infrequent errors may be best addressed by utilizing section 37.6.4 (Review) of the CAISO tariff, which allows market participants the opportunity to seek review by the Commission of a proposed sanction immediately, or section 37.9.1 (Assessment; Waivers and Adjustments), which, among other things, allows the CAISO to make a recommendation to the Commission to modify a sanction.

²⁴ CAISO Transmittal Letter at 10 (emphasis added).

Section 37.9.1 also states that an “adjustment generally shall be deemed appropriate if the prescribed sanction appears to be insufficient to deter the prohibited behavior, or if the circumstances suggest that the violation was inadvertent, unintentional, or some other mitigating circumstances exist.” We believe that the existing provisions of the Enforcement Protocol to the CAISO tariff are sufficient to address inadvertent or infrequent failures by market participants to follow the CAISO’s demand forecast submission requirement.

G. Exemption for Scheduling Coordinators Serving Less than 1 MWh of Load Within a UDC Service Area

CAISO Proposal

37. The CAISO proposes to exempt LSEs whose peak metered demand during the preceding 12 months was less than 1 MWh within a particular UDC area from the 95/75 scheduling requirement and the demand submission forecast obligation, which, the CAISO determined, would only apply to three LSEs representing a total combined peak demand of less than 1 MWh. The CAISO notes that the necessary tariff modifications are included in sections 4.5.4.2.1.1 and 31.1.4.1.

38. The CAISO notes that some LSEs have argued that exemptions from scheduling requirements should apply to LSEs with demand greater than 1 MWh, however it disagrees. It states that the “attempting to establish and administer such an exemption may create significant additional complexity.”²⁵ Further, it asserts that its analysis over the past year shows a notable break in the frequency between those peak demands less than 1 MWh and those greater than 3 MWh.

Intervenor Comments

39. Williams concurs with the CAISO’s proposal, stating that “this proposed exemption appropriately balances the need to ensure reliability against a desire to avoid burdening Scheduling Coordinators that schedule particularly small [d]emands” and reduce the regulatory risk associated with obligations imposed under Amendment No. 72.²⁶ However, Williams notes that, as currently proposed under section 31.1.4.1 of the CAISO tariff, this group of LSEs is only exempt from reporting certain daily information. Williams reminds the Commission that, “per the Commission’s order exempting load associated with Station Power from the requirements of Amendment No. 72,” this exemption applies to the reporting of certain weekly information under

²⁵ CAISO Transmittal Letter at 11.

²⁶ Williams Protest at 9.

section 31.1.4.2.²⁷ Similarly, Williams asks the Commission to direct the CAISO to exempt *de minimis* load from the requirements of section 31.1.4.2 (Preliminary Weekly Information) of the CAISO tariff.

CAISO Answer

40. The CAISO agrees that LSEs with a *de minimis* load should be exempted from both submitting daily demand information and from weekly demand information requirements. It commits to make this change in any compliance filing ordered by the Commission.

Commission Determination

41. We find the proposed *de minimis* load exemption to be reasonable and accept the CAISO's commitment to modify section 31.1.4.2 of the CAISO tariff to exempt *de minimis* load from certain weekly reporting obligations required by Amendment No. 72. Thus, we direct the CAISO to make this change in a subsequent compliance filing, within 30 days of the date of this order.

H. Confidentiality Requirements

CAISO Proposal

42. The CAISO proposes to clarify in CAISO tariff section 20.2 on confidentiality that the demand forecast data submitted pursuant to CAISO tariff section 4.5.3.7 will also be accorded confidential treatment similar to the demand forecast received pursuant to the CAISO tariff section 31.1.4.1.

Intervenor Comments

43. Strategic states that the CAISO proposes to modify section 20.2 to identify additional submitted data as confidential information under the CAISO tariff. It notes that the CAISO has appropriately revised section 20.2 to deem annual and monthly forecasted peak demand and generation capacity forecasts submitted pursuant to section 4.5.3.7 as confidential information subject to section 20.2. Strategic requests that the Commission direct the CAISO to modify section 20.2 to include those day-ahead schedules submitted pursuant to section 4.5.4.2.1, as confidential information.

²⁷ *Id.*

CAISO Answer

44. The CAISO acknowledges the need to review and potentially improve section 20 in a comprehensive manner. However, it asserts that Strategic's requested modification is not needed. The CAISO states that it considers schedules submitted by Scheduling Coordinators to be protected from public disclosure, obviating Strategic's underlying concern. The CAISO states that it included section 4.5.3.7 in the amendment, not to change the scope or present application of section 20.2, but rather to avoid potential ambiguity. It asserts that section 20.2 currently refers explicitly to demand forecasts under section 31.1.4. However, it contends that, in order to avoid the implication that the demand forecasts under 4.5.3.7 should be treated differently than those under section 31.1.4, it added the former section.

Commission Determination

45. We accept the CAISO's explanation of its proposed change to section 20.2 and note the CAISO's commitment to protect schedules submitted by Scheduling Coordinators from public disclosure. Therefore, we reject Strategic's request to further alter section 20.2 to include those day-ahead schedules submitted pursuant to section 4.5.4.2.1.

I. Elimination of Unused Forecast Submittal Requirements

CAISO Proposal

46. The CAISO states that section 19 of the CAISO tariff includes a variety of longer-term forecast submission requirements that appear to have been included in the CAISO tariff since its inception, but are now not wholly consistent with the demand forecast needs of the CAISO or the requirements imposed on the CAISO through the North American Electric Reliability Corporation (NERC) Standard MOD-017-0. The CAISO notes that NERC Standard MOD-017-0 focuses on monthly and annual peak forecasts. Therefore, the CAISO proposes to remove the demand forecast requirements from section 19 and modify section 4.5.3.7 to be consistent with NERC MOD-017-0. As a result, the CAISO states that it will be eliminating the redundant requirement that a UDC submit weekly forecasts. Instead, the obligation will apply to Scheduling Coordinators and request, on a monthly basis, forecasts limited to monthly and annual peak information. The CAISO states, however, that CAISO tariff section 19 does include provisions setting forth general obligations imposed on Scheduling Coordinators that submit forecast data, such as the obligations "to the best of their ability" to submit accurate forecasts and to avoid duplicating the load claimed by another Scheduling Coordinator, but it believes these good faith obligations should continue to exist. Accordingly, the Load Scheduling Amendment retains these provisions in CAISO tariff sections 19.1.2 and 19.1.3, but specifically incorporates reference to the substantive

demand forecasting provisions in CAISO tariff sections 4.5.3.7, 31.1.4.1, and 40.3. Additionally, the CAISO proposes to consolidate and revise CAISO tariff section 19 provisions, relating to the CAISO's responsibilities to publish forecasting information, to conform to CAISO practice and WECC requirements.

Intervenor Comments

47. Strategic asserts that the CAISO has unexpectedly revised section 4.5.3.7 of the CAISO tariff to change the filing obligations with respect to the submission of peak demand forecasts. It states that, under the proposed revision, such forecasts would be submitted on a monthly basis, by the eighteenth working day of the month. Strategic notes that this was the same requirement that was eliminated from section 19 as redundant and obsolete, and is admittedly not utilized by the CAISO. Strategic contends that, through the stakeholder process, the CAISO previously notified market participants of its intent to eliminate the filing requirements of section 19, but instead is simply modifying those filing requirements and relocated them in section 4.5.3.7. Strategic requests that the Commission direct the CAISO to eliminate the filing obligations set forth in section 4.5.3.7 and section 19. Alternatively, Strategic requests that “the Commission offer justification for why the CAISO has only modified the filing requirements under [s]ection 4.5.3.7, and not eliminated those requirements as a whole.”²⁸

CAISO Answer

48. The CAISO notes that Strategic also requests that the filing obligations of section 19 be eliminated (as, it argues, CAISO had stated would be done), instead of merely moved to section 4.5.3.7, as the provision is redundant and obsolete. The CAISO states that, contrary to Strategic’s contention, section 4.5.3.7 is neither redundant nor obsolete. The CAISO states that this section assists it in complying with NERC Standard MOD-017-0 relating, among other things, to reporting of demand forecast data by a Planning Authority, such as the CAISO.

Commission Determination

49. We agree with the CAISO’s proposed modification of section 4.5.3.7 and elimination of forecast requirements in section 19 and therefore we accept these proposed modifications. Specifically, requirement R1.3 of NERC standard MOD-017-0 requires annual submissions of “monthly peak hour forecast MW and Net Energy for Load in GWh for the next two years.” The proposed modifications will allow the CAISO to comply with this standard while preventing redundant weekly peak demand forecast submissions.

²⁸ Strategic Protest at 5-6.

J. Clarification Concerning the Applicability of the Scheduling Requirement to Revised Schedules or Unchanged Preferred Schedules

CAISO Proposal

50. The CAISO proposes to modify CAISO tariff section 4.5.4.2.1.1 to clarify which day-ahead schedules apply for determining compliance with the 95/75 percent scheduling requirement. According to the CAISO, section 4.5.4.2.1.1 states that the day-ahead schedule shall either be a revised schedule pursuant to section 30.3.4 if submitted by the Scheduling Coordinator, or, if the Scheduling Coordinator does not submit a revised schedule, a preferred day-ahead schedule pursuant to section 30.3.1. The CAISO states that the Amendment No. 72 filing included tariff language requiring that each Scheduling Coordinator "shall submit to the CAISO" day-ahead Schedules that equal at least 95 percent of the Scheduling Coordinator's forecasted demand for each hour, without specifying to which schedule this requirement applied. The CAISO notes that, under its tariff, Scheduling Coordinators may first submit initial preferred schedules by 10:00 a.m. (section 30.3.1), and then may submit revised schedules by 12:00 p.m. (section 30.3.4). As a result, the CAISO indicates that there may be confusion as to whether Amendment No. 72 scheduling requirements apply to: (1) preferred; (2) revised schedules; or (3) both. The CAISO states that, in order to clarify that a Scheduling Coordinator does not need to submit a true-up revised schedule, the CAISO tariff has been modified to indicate that compliance is based on a revised schedule or, if no revised schedule is received, an unchanged preferred schedule.

Commission Determination

51. We accept the CAISO's proposed tariff modification in order to clarify which day-ahead schedules apply for determining compliance with the 95/75 percent scheduling requirement

K. Miscellaneous

CAISO Proposal

52. The CAISO proposes the following conforming changes to the CAISO tariff:

- Clarify that the Scheduling requirements of CAISO tariff section 4.5.4.2.1.1 apply to demand served by the Scheduling Coordinator within both a UDC and a Metered Subsystem ('MSS') Service Area. For a definitional perspective, the CAISO treats UDC and MSS Service Areas as separate and distinct.
- Replace "forecast Demand" with just "Demand" in CAISO tariff sections 4.5.4.2 and 30.4.1.2, relating to the Balanced Schedule requirement. The

CAISO *made* this change to reflect that Balanced Schedules can, but need not, equal the "forecast" demand of the Scheduling Coordinator. A requirement that the Balanced Schedule equate to forecast demand is inherently inconsistent with the Load Scheduling Amendment.

- Eliminate "forecast" from CAISO tariff sections 4.5.4.2 and 30.4.1.2 and the definition of Balanced Schedule to acknowledge that under the Load Scheduling Amendment a Scheduling Coordinator's Balanced Schedule need not "equal" forecasted Demand, but rather must equal Demand appropriately scheduled under the requirements of the CAISO tariff.

Commission Determination

53. The Commission accepts the CAISO proposed modifications to these sections.

L. Other Proposed Modifications

Intervenor Comments

54. Certain intervenors ask the Commission to consider positions that were proposed but not adopted during the stakeholder process. Specifically, Sempra requests that the Commission urge the CAISO to modify its approach to Amendment No. 72 such that forecasting and reporting requirements would be undertaken by zone rather than UDC area to reflect actual market practices and standard products. State Water Project suggests that Scheduling Coordinators should be allowed to provide more accurate forecast information before the close of the day-ahead market, including times when the market closes after 10 a.m. Powerex explains that the proposed reduction in the minimum scheduling requirement during off-peak hours will most likely require the CAISO to make more purchases in real-time and, considering the number of thermal units running off-peak, the CAISO would probably be required to procure more off-peak energy at the interties. Powerex argues that the current "pay-as-bid" method of payment at the interties is inefficient and fails to create liquidity on the interties and, thus, Powerex endorses instituting market clearing prices at the interties, which it claims, would enable the CAISO to compete for pre-dispatch energy more effectively. Lastly, Coral objects to the CAISO's continued use of a scheduling workspace that is unable to offer data retrieval/retention and validation/verification and, therefore, requests that the Commission direct certain modifications to the CAISO's SI system, as a condition to its right to impose penalties for non-compliance with the load scheduling requirements.

Commission Determination

55. Our review indicates that the CAISO has not sought to modify provisions pertaining to the above issues. Some of these proposals may have merit and may be appropriately considered in a separate proceeding or may be resolved by full

implementation of MRTU, at which time the revisions proposed here will sunset. However, the requested modifications are beyond the scope of this proceeding and, therefore, the Commission rejects them.

M. Effective Date

56. The CAISO requests that the Commission accept the Load Scheduling Amendment to become effective as of the earlier of the second Trading Day after the Commission issues our order on this application or April 26, 2007. As requested, we accept the Load Scheduling Amendment, as modified in the body of this order, to be effective on April 26, 2007.

The Commission orders:

(A)The Commission hereby accepts the CAISO's Load Scheduling Amendment, with modifications as directed within the body of this order, effective April 26, 2007.

(B) The Commission directs the CAISO to make a compliance filing which includes the modifications discussed herein within 30 days of the date of this order.

By the Commission.

(S E A L)

Philis J. Posey,
Deputy Secretary.