

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. ER05-1502-000

ORDER ACCEPTING FOR FILING, SUBJECT TO MODIFICATIONS,
TARIFF AMENDMENT NO. 72

(Issued November 21, 2005)

1. In this order, the Commission addresses the tariff filing submitted by the California Independent System Operator Corporation (CAISO), captioned as Amendment No. 72. Proposed Amendment No. 72 will revise the CAISO's open access transmission tariff (CAISO Tariff) to require Scheduling Coordinators (SCs) to submit day-ahead schedules that reflect 95 percent of their forecasted daily demand. In this order, we grant waiver of the 60-day prior notice requirement and accept the CAISO's tariff changes for filing, subject to modifications, effective September 23, 2005, as requested. We also require the CAISO to submit, within 30 days of the date of issuance of this order, a compliance filing reflecting further tariff modifications, as directed in this order.

Proposed Amendment No. 72

2. On September 22, 2005, the CAISO filed Amendment No. 72 to its Tariff. Amendment No. 72 modifies the CAISO Tariff to require SCs to submit day-ahead schedules¹ that reflect at least 95 percent of their forecasted demand for each hour of the trading day. In the event that a SC's day-ahead schedule reflects less than 100 percent of the SC's forecasted demand for the peak hour of the trading day in each applicable Utility Distribution Company (UDC) Service Area, Amendment No. 72 also requires the SC to submit a list of resources that it plans to rely upon during the Trading Day to meet its forecasted peak demand requirement. Amendment No. 72 also requires that SCs submit to the CAISO preliminary data for the preceding week regarding their forecasted and scheduled demand and an estimate of the SC's actual demand. In addition, SCs are to provide, no later than 60 days after the submission of preliminary data, actual demand

¹Day-ahead schedules are submitted to the CAISO by 10:00 AM the day before the start of the trading day. See the CAISO's Tariff Appendix C.

data for the applicable period. Under Amendment No. 72, the CAISO is required to treat data submitted by SCs as confidential and report any observed underscheduling behavior to the Commission as a potential violation of the CAISO Tariff's Enforcement Protocol or as a violation of the Commission-established Market Behavior Rule 2.²

3. The CAISO explains that its real-time energy balancing market is primarily intended to ensure that energy is available to meet unanticipated changes in load and resources. According to the CAISO, the real-time energy market was designed to balance or accommodate swings of approximately five percent of the total forecasted load in the CAISO control area. However, the CAISO Tariff currently does not contain a clear and enforceable minimum day-ahead scheduling requirement. Last summer, the CAISO states, it began to experience increased occurrences of underscheduling (*i.e.*, the total quantity of load scheduled day-ahead by SCs was significantly less than the load that actually appeared on the system). According to the CAISO, when at least 95 percent of forecasted demand is scheduled in the day-ahead timeframe, the task of ensuring that sufficient generating units are on-line and available in the right locations is manageable. However, when day-ahead schedules are significantly less than forecasted load, the CAISO finds itself in the position of having to commit as much as 4,000 to 4,500 MW of generation capacity in order to ensure reliability. This generation commitment effort, the CAISO claims, places a significant strain on the CAISO operators and affects their ability to react and respond to other grid reliability issues. According to the CAISO, another reliability detriment brought on by underscheduling is that potential transmission congestion may go undetected in the day-ahead timeframe because not all load is scheduled. The CAISO is concerned that this forces it to respond and resolve congestion problems in real time.

4. Further, the CAISO states that in addition to creating reliability and operational burdens, underscheduling can lead to increased costs to market participants. According to the CAISO, the failure of day-ahead schedules to reflect accurately forecasted load places the CAISO in the position of having to estimate the amount of load that will appear on the system in the hour-ahead timeframe and in real time, and to procure sufficient resources to reliably serve those forecast loads. The CAISO believes that from a reliability perspective, the risk of underestimating this load is very significant. On the

² See *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 at P 35 (2003).

other hand, the CAISO states, there are significant and unnecessary cost impacts to market participants if the CAISO over-procures resources pursuant to the Must-Offer Obligation (MOO) and pays generators Minimum Load Cost Compensation (MLCC).

5. The CAISO further contends that Amendment No. 72 is designed to have a positive financial impact on market participants because it will reduce the costs incurred by the CAISO to procure resources through MOO. The CAISO acknowledges that there is a potential for an increase in cost to some load-serving entities (LSEs), as they may have to forego the opportunity to acquire potentially cheaper supplies after the day-ahead timeframe. However, the CAISO argues that any increased cost will be outweighed by reliability benefits of Amendment No. 72.

6. The CAISO further states that the administrative rules embodied in Amendment No. 72 can be eliminated upon implementation of the comprehensive Market Redesign and Technology Upgrade (MRTU)³ because MRTU will contain mechanisms that will provide the appropriate incentives for LSEs to forward schedule their forecast loads.

7. The CAISO asserts that there was general support among its stakeholders for Amendment No. 72's forecasting requirement. Also, according to the CAISO, many stakeholders expressed support for a minimum day-ahead scheduling requirement. According to the CAISO, some stakeholders, Pacific Gas & Electric Company (PG&E) in particular, expressed concern that a 95 percent day-ahead scheduling requirement will likely increase its overall energy and capacity procurement costs.

8. The CAISO requests a September 23, 2005 effective day, *i.e.*, one day after it made this filing. The CAISO argues that good cause exists for the Commission to grant waiver of the 60-day prior notice requirement.

Notice of Filing, Motions to Intervene, and Responsive Pleadings

9. Notice of the CAISO filing was published in the *Federal Register*, 70 Fed. Reg. § 58,211 (2005), with interventions, comments, and protests due on or before October 13, 2005. Timely motions to intervene were filed by entities listed in Appendix to this order. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the filing of timely, unopposed motions to intervene serve to make the movants parties to the proceeding.

³ See generally Docket No. ER02-1656.

10. The California Electricity Oversight Board (CEOB) and Sempra Energy Solutions (SES) filed motions to intervene out-of-time. Given the lack of undue prejudice and the parties' interests, we find good cause to grant under Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), CEOB's and SES's unopposed, untimely motions to intervene.

11. Several parties submitted comments and/or protests along with their motions to intervene. Southern California Edison Company (SCE), Metropolitan Water District of Southern California (MWD), California Municipal Utilities Association (CMUA), and California Department of Water Resource State Water Project (SWP) generally support Amendment No. 72 but raise issues with certain specific provisions of the proposal. Other interveners protest the CAISO's filing and request modifications. The issues raised in these comments and protests are addressed in detail below.

12. The California Public Utilities Commission (CPUC) states that it neither supports nor opposes Amendment No. 72. According to the CPUC, it understands and supports the CAISO's goal to ensure reliability, but questions the need for a tariff amendment to address the issue. In that regard, the CPUC points to the success of the voluntary agreement between the CAISO and LSEs and the CPUC's reporting program in addressing the CAISO's underscheduling concerns. The CPUC also points to the recently enacted California Assembly Bill 380 (AB 380) that clarifies the CPUC's authority to impose and enforce resource adequacy requirements on all LSEs. The CPUC believes that its AB 380 authority, combined with a voluntary mechanism such as memoranda of understanding (MOUs), provides flexibility unavailable under tariff language.

13. On October 28, 2005, the CAISO filed an answer to comments and protests. Rule 213(a) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a) (2005), prohibits answers to protests and answers unless otherwise permitted by the decisional authority. We accept the CAISO's answer to protests to the extent that it has assisted in our decision-making.

Discussion

A. The Need for a Tariff Revision; Its Duration and Applicability

1. Background

14. At the outset, it is important to provide the background that gave rise to the CAISO's proposed Amendment No. 72. Concerns about the tight supply situation in the CAISO portion of California, particularly in Southern California, were well known going

into the summer of 2005.⁴ Early in the summer, the CAISO observed significant day-ahead underscheduling in Southern California.⁵ According to the CAISO, “the CAISO obtained the commitments of most LSEs in the Control Area to cooperate in scheduling 95 percent of their forecast Demand in the Day-Ahead and provide the requested information to the CAISO.”⁶ However, while most LSEs entered into MOUs with the CAISO, the CAISO has not stated that all LSEs have done so. In addition, we do not know if all LSEs have entered into a common MOU or have custom-tailored their MOUs, whether they have placed conditions on the applicability of their respective MOUs and if so, what conditions, and whether they have provided alternative commitments that the CAISO considers equivalent to the MOU.

2. Comments

15. Several parties are opposed to, or are concerned about, Amendment No. 72 because it is, in their view, an administrative solution, not a market solution. SES believes that other market-driven solutions exist, such as publicly identifying SCs who frequently underschedule, pricing imbalance energy outside a deviation band of 10 percent so as to provide a strong incentive for SCs to stay within the band, or imposing a reporting requirement only on those SCs that habitually underschedule their load.

16. San Diego Gas & Electric Company (SDG&E) argues that a 95 percent day-ahead scheduling requirement will preclude SCs from procuring lower cost energy from the CAISO’s real-time market and shift those LSEs to forward bilateral markets, thereby increasing costs to all LSEs. According to SDG&E, schedules submitted pursuant to the 95 percent scheduling requirement may not satisfy the CAISO’s need for local generation because, for example, SCs may meet the requirement by scheduling more imports. SDG&E believes that Reliability Must-Run (RMR) contracts and MOO provide the

⁴ See, e.g., the March 25, 2005 memorandum from Jim Detmers, Vice President, Grid Operations, to the CAISO Board of Governors, stating that: “Assuming a Base Outlook of resource availability for the southern area, extremely narrow margins are expected under ‘1-in-2’ non-coincident peak loads, and a supply deficiency of up to 1,725 MW is expected for a ‘1-in-10’ non-coincident peak demand.” See <http://www.caiso.com/docs/09003a6080/35/46/09003a60803546fc.pdf>.

⁵ See, e.g., Transcript of the Conference on Energy Infrastructure and Investment in California, Docket No. AD05-11, at 78, June 2, 2005.

⁶ See the CAISO’s Transmittal Letter at 5-6.

CAISO with all the tools it needs to manage reliability. SDG&E, therefore, also supports a market solution to the underscheduling problem, such as implementation of convergence bidding in Release 1 of MRTU. SDG&E argues market participants will be better served preparing for a timely MRTU implementation rather than developing business processes to comply with Amendment No. 72 reporting requirements. SCE also recommends that the day-ahead scheduling and resource notification provisions of Amendment No. 72 be terminated upon implementation of MRTU.

17. Powerex Corp (Powerex) also contends that Amendment No. 72 should be accepted only on the condition that the 95 percent scheduling requirement is lifted upon the implementation of MRTU and convergence bidding. Alternatively, Powerex asks that the Commission direct the CAISO to justify the need for Amendment No. 72 under MRTU.

18. Williams Power Company, Inc. (Williams) asks that the Commission approve Amendment No. 72 as an interim measure and direct the CAISO to develop market solutions for the long term.

19. In its answer to protests, the CAISO states that it intends to eliminate the administrative rules proposed in Amendment No. 72 upon implementation of MRTU and the related CPUC resource adequacy requirements.

20. Alliance for Retail Energy Markets (AReM) and SES oppose the year-round application of Amendment No. 72. They recommend that Amendment No. 72 apply only during summer peak period. AReM identifies this period as June 1 through October 1 in 2006, and the same period in 2007 only if MRTU implementation has been delayed beyond the summer of 2007. AReM also believes that with the implementation of CPUC's resource adequacy requirements in 2006, LSEs will be required to offer resources to the CAISO which exceed their monthly peak load by 15-17 percent,⁷ and the issue of maintaining a 5 percent underscheduling tolerance will be moot.

⁷ The CPUC's Final Decision issued on October 27, 2005 reaffirms the imposition of 15/17 percent reserve margin. Public Utilities Commission of the State of California, Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning, Docket # R. 04-04-003, D. 05-10-042, October 27, 2005.

3. Commission Determination

21. We find that the CAISO has sufficiently demonstrated the existence of the problem with underscheduling. While it informally entered into MOUs with LSEs or received commitments from them to schedule 95 percent of their forecast load, these arrangements are not enforceable and fail to meet the Federal Power Act requirement for a filed tariff that governs utility operations. For these reasons, we find that the implementation of proposed Amendment No. 72 is necessary to address the problem of LSEs' underscheduling. We, therefore, accept the CAISO's proposed Amendment No. 72, with modifications, directed below.

22. Further, we agree that market-driven solutions are preferable to command and control solutions. However, we believe that the CAISO and the market participants will be better served by focusing on timely implementation of the market mechanisms being designed in the MRTU proceeding rather than investing time and effort in finding a piecemeal market solution to the current underscheduling problem, which would likely further delay MRTU implementation. As the CAISO explains, MRTU will contain mechanisms that will provide the appropriate incentives for LSEs to forward schedule their forecasted load.⁸ Nevertheless, the Amendment No. 72 tariff revisions reasonably balance the CAISO's need to be able to reliably and economically operate its grid, with customers' desires to maximize purchases of low cost energy. The Commission accepts these tariff revisions as an interim measure that will be suspended upon implementation of MRTU.

23. As for SDG&E's claim that the 95 percent day-ahead scheduling requirement will preclude SCs from procuring lower cost energy from the CAISO's real-time market and increase costs to all LSEs, we note that the true price of real-time energy is higher when costs associated with MOO and RMR are taken into account. We agree with the CAISO that current price differentials do not constitute a sufficient reason to deviate from a 95 percent scheduling requirement.⁹

24. We disagree with AReM that Amendment No. 72 should be applied only during peak season. While the CAISO has faced serious tight supply conditions during summer months, the need for proper scheduling is not limited to the summer peak period. Tight supply situations can occur in traditionally off-peak months as well; for example, when a

⁸ The CAISO's Transmittal Letter at 5.

⁹ *Id.* at 7 n. 4.

large number of generators are out-of-service for maintenance, as happened in the winter of 2000-2001. In addition, although MOO-related costs are higher in summer months, they do not disappear in off-peak months. We, therefore, find that the CAISO's stated goal of reducing MOO-related costs will be better served with a year-round application of Amendment No. 72.

B. Impact of Amendment No. 72 upon PG&E's Flexible "Intra-Day" Resource Contracts

1. Comments

25. The Utility Reform Network and PG&E (TURN/PG&E) contend that Amendment No. 72 fails to accommodate the "intra-day" flexibility needed to adjust to Northern California's unpredictable weather conditions. According to TURN/PG&E, a reasonable day-ahead load forecast can drastically depart from actual load due to the existence of multiple fast-changing microclimates in Northern California. As a result, they state, PG&E has entered into resource contracts that allow it to call on resources in the intra-day timeframe, albeit at increased expense. TURN/PG&E maintain that these contracts allow PG&E to meet the CAISO's reliability needs while reducing the overall cost to consumers. TURN/PG&E, therefore, believe that the proposed 95 percent day-ahead scheduling requirement eliminates the intended purpose of most of PG&E's contracts for "intra-day" flexible resources without reason, exacerbates the operational burden the CAISO faces, and wastes the valuable and expensive investment PG&E's customers have made in "intra-day" flexible resources. In connection with this, TURN/PG&E propose a modification to Amendment No. 72 that they believe addresses the CAISO's concerns without taking away the reliability and financial benefits of flexible "intra-day" resources under contractual commitments to PG&E. The TURN/PG&E's proposal would allow a SC to provide to the CAISO a schedule, which, when combined with units that have been identified to the CAISO as being on-line or otherwise able to start after day-ahead schedules are due, and are dispatchable by the SC, comprises 100 percent of that SC's forecasted demand. The CPUC supports the revision proposed by TURN/PG&E.

26. In the transmittal letter to the instant filing, the CAISO takes the position that although a listing of resources from LSEs may be helpful, it is not clear whether the CAISO will be able to dispatch these resources effectively. The CAISO has the same dispatch concern if imports or trades are included on the resource list. The CAISO states that while it may be feasible to accommodate a single SC's resource list, PG&E's solution could be operationally onerous if all LSEs were to underschedule in the day-ahead timeframe and simply provide a list of available resources. In addition, the CAISO

states that it will monitor the impact and benefits of the 95 percent scheduling requirement in the future and will seek modification to the requirement if it is found to be inappropriate under certain conditions

2. Commission Determination

27. We deny TURN/PG&E's proposed modification to Amendment No. 72 because it will be operationally burdensome to implement if all LSEs were to underschedule in the day-ahead timeframe and simply provide a list of available resources. We also find that TURN/PG&E have not made a convincing showing that their requested modification is workable or that it will not put the CAISO back into the position that led to this filing. For example, in their comments, TURN/PG&E state that "a reasonable Day- Ahead load forecast that was used to support trading activities for Northern California can drastically depart from actual load if, to cite a common example, fog were to suddenly rush in through the Golden Gate after day-ahead procurement has been completed."¹⁰ However, TURN/PG&E do not explain why this reasonable load forecast cannot be included in PG&E's day-ahead schedules and why the schedules must be biased on the underschedule side. In addition, TURN/PG&E claim that scheduling PG&E's "intra-day" flexible resources day-ahead constitutes a "call" on those resource and PG&E's contracts with "intra-day" flexible resources contain limits on the number of times that they can be called.¹¹ However, TURN/PG&E fail to explain why a day-ahead schedule submitted to the CAISO constitutes a "call" to an "intra-day" flexible resource, which presumably is a fast-start unit or unloaded capacity on an on-line unit. In addition, TURN/PG&E have not provided contracts that support their claim regarding additional costs they may incur as a result of the 95 percent scheduling requirement.

28. We also note that the CAISO has expressed its commitment to monitor the impact and benefits of the 95 percent scheduling requirement and to seek modification to the requirement if needed.¹² We expect the CAISO to work with TURN/PG&E and other market participants to identify appropriate solutions that address the CAISO's operational needs while accommodating PG&E's and other stakeholders' concerns about the 95 percent scheduling requirement.

¹⁰ TURN/PG&E's Joint Motion to Intervene and Protest, Docket No. ER05-1502-000, at 6, October 13, 2005.

¹¹ *Id.* at 8.

¹² *See* the CAISO's Transmittal Letter at 7.

C. List of Resources for Day-Ahead Schedules Less Than 100 Percent of Forecasted Daily Peak Hour Demand

1. Comments

29. Section 2.2.7.2.1.2 of proposed Amendment No. 72 requires SCs that submit a day-ahead schedule reflecting less than 100 percent of their forecast demand for peak hours to submit a list of resources they intend to rely upon to meet their forecasted demand. SWP, MWD, CMUA, and SDG&E argue that proposed section 2.2.7.2.1.2 is an unnecessary burden and should either be rejected or modified. MWD and CMUA argue that the CAISO already possesses all of the data it is requesting from SCs, except the SCs' demand forecast, and should extract such data from its database. Alternatively, MWD proposes a single data submission after actual demand data is available. MWD asks that the Commission direct the CAISO to clarify how it will measure underscheduling and what it will report to the Commission.

30. SES views this requirement as impossible to meet, because many transactions are conducted during the trading day and few SCs can predict with certainty their counterparty for the following day. SCE asks that the language in proposed section 2.2.7.2.1.2 be modified to clarify that the list of resources SCs are to submit pursuant to this section are those resources that the SC "can" use to meet its peak load rather than "plan to" use to meet their peak load. In SCE's opinion, this would afford SCs flexibility to optimize their portfolio. In addition, SWP, MWD, and CMUA contend that the term "peak hour" as used in section 2.2.7.2.1.2 is undefined and vague and requires SCs to know when the load in the larger UDC Service Area will peak.

31. In its answer, the CAISO proposes a clarification to section 2.2.7.2.1.2 that each SC is responsible for forecasting its own peak demand in each trading day and must satisfy the scheduling requirements of amendment No. 72 separately for each UDC Service Area.

2. Commission Determination

32. We reject section 2.2.7.2.1.2 without prejudice to the CAISO making a future filing that explains why a list of resources is needed and how the CAISO grid operations

will benefit from such a list. We find that the explanation provided by the CAISO in support of the proposed reporting requirement¹³ is inadequate justification for imposing this reporting requirement on the market participants.

33. Furthermore, the stated purpose of the proposed resource reporting requirement appears to be at odds with the CAISO's arguments opposing the TURN/PG&E proposal. Specifically, in response to PG&E's proposal, the CAISO states that "although a listing of resources from LSEs may be helpful, it is not clear whether all the resources that an LSE lists will be made available to the CAISO *via* the normal bid stack or whether the CAISO would have to make special calls to actually obtain energy from such resources. Further, SCs may also want to include imports and trades as resources on the list, which raises the same questions with respect to the CAISO's ability to call on these resources."¹⁴ Given the problems the CAISO perceives with implementing PG&E's resource list, it is not clear how the CAISO will be able to incorporate many resource lists from all LSEs in its operations. If, in the future, the CAISO proposes a similar resource reporting requirement, the CAISO should explain how it will incorporate the resource lists into its operations and resource commitment decisions.

34. Accordingly, we direct the CAISO to submit, within 30 days of the date of issuance of this order, a compliance filing to delete section 2.2.7.2.1.2 and to reflect other changes directed below.

D. Data Submission Requirements

35. As proposed in section 2.2.12.3.2, Amendment No. 72 would require SCs to provide to the CAISO, no later than 7 days after the end of each week, preliminary data to include: the SC's total day-ahead scheduled and forecast demand by UDC Service Area, and an estimate of a SC's actual demand by UDC Service Area. Proposed section 2.2.12.3.3 also requires SCs to submit to the CAISO, no later than 60 days after the submission of preliminary weekly data, updated data reflecting the SCs' total actual demand by UDC Service Area.

¹³ In support of proposed section 2.2.7.2.1.2, the CAISO offers a general statement that the reporting requirement would "help the CAISO [to] make better informed and more timely choices regarding the commitment of units under the MOO and RMR contracts..." See the CAISO's Transmittal Letter at 8.

¹⁴ *Id.* at 7-8.

1. Comments

36. AReM and SES oppose the reporting requirements of Amendment No. 72. SES objects to the imposition of a blanket reporting requirement on all SCs and believes that only those SCs whose scheduling practices cause problems should be subject to the reporting requirement. AReM argues that smaller LSEs should not have to incur the administrative burden associated with weekly reports when their load from a statewide perspective is *de minimis*. SCE also does not support the CAISO's proposal to require, under section 2.2.12.3.3, submission of final weekly information because this data would arrive at the CAISO at least three weeks after the CAISO had already received the same data as part of its normal settlement process. AReM requests that the Commission reject the data reporting requirements in section 2.2.12.3.3 because this data is being provided already to the CAISO, and the CAISO, not the SCs, should assume the responsibility for analyzing the data. SWP and MWD believe that the preliminary and final data submission requirements of Amendment No. 72 impose an unnecessary burden on SCs. SWP and MWD recommend one 60-day after-the-fact data submission. Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Cities) ask that Amendment No. 72 be revised to require a single data submission in cases where preliminary and final data are the same. CMUA suggests that the proposed data submission requirements be modified to apply only to those SCs for which the CAISO does not have the applicable data.

2. Commission Determination

37. We find that proposed section 2.2.12.3.3 provides for submission of duplicative data. We agree with SCE and others that the 60-day time lag after submission of actual loads by UDC Service Area is unnecessary because the CAISO will be in possession of the same data as part of its normal settlement process. Therefore, we direct the CAISO to delete section 2.2.12.3.3 from Amendment No. 72.

38. With regard to the preliminary data submission required under proposed section 2.2.12.3.2, we believe this information is important for the CAISO's timely review of SCs' scheduling practices. Because the CAISO already possesses SCs' day-ahead schedules, providing this information along with forecasted demand and an estimate of actual load in a single weekly submission will facilitate the CAISO's timely review of SCs' scheduling practices. For these reasons, we accept proposed section 2.2.12.3.2. For those entities who believe their forecast and schedule are the same, in their weekly data submission they can include the same data, but under two separate headings. We believe the burden of doing so is *de minimis*.

39. Furthermore, we disagree with AREM that smaller LSEs should be exempt from the reporting requirement. While a single small LSE's scheduling practice alone may not have a significant impact on the CAISO system, the scheduling practices of a class of SCs - for example those serving direct access customers - can impact the CAISO's operations if these LSEs engage in similar scheduling behavior. Therefore, it is important that the CAISO collect data from all SCs so that the CAISO and the Commission can analyze and identify the scheduling patterns that impact CAISO's operations.

E. Data Confidentiality

1. Comments

40. In section 20.3.2(f), the CAISO proposes to treat demand forecast and other hourly data provided by SCs to the CAISO pursuant to proposed section 2.2.12.3 as confidential. SCE would like to extend this data confidentiality requirement to the resource information submitted under section 2.2.7.2.1.2. The Cities request that proposed section 20.3.2(f) be modified to provide for release of SC-specific load and schedule data – in aggregate or other form so as to mask commercial information – so that market participants can decide if other SCs' scheduling practices impose costs on them and, at their option, file a complaint at the Commission.

41. SWP supports proposed section 20.3.2(f), but points out that existing sections 2.2.12.3 and 2.2.12.3.1 of the CAISO Tariff are not reconcilable with proposed section 20.3.2(f). According to SWP, under sections 2.2.12.3 and 2.2.12.3.1, the CAISO provides aggregate UDC Service Area forecast demand to each UDC. SWP believes that the requirement for the CAISO to provide commercially sensitive demand data of non-UDCs to UDCs should be removed from the Tariff.

2. Commission Determination

42. Since we are rejecting section 2.2.7.2.1.2, we do not need to address SCE's request to apply confidentiality protection to data submitted under that section. We also deny the Cities' request for modification to allow the release of confidential data in an aggregate form. The Cities can request such information from the CAISO pursuant to section 20.3.3, which provides that:

... a Market Participant may receive and review any composite documents, data, and other information that may be developed based upon ...

confidential documents, data, or information, if the composite document does not disclose such confidential information relating an individual Market Participant...

For this reason, we do not believe that any supplemental language needs to be added to the CAISO Tariff to allow for release of scheduling-related data to be protected as confidential under proposed section 20.3.2(f). SWP may request release of such data in a composite form pursuant to above quoted section 20.3.3.

43. Furthermore, we reject SWP's request to remove existing tariff sections 2.2.12.3 and 2.2.12.3.1 in light of proposed section 20.3.2(f). UDCs need the aggregate forecast for their Service Area to properly plan and operate their distribution system

F. Compliance with Scheduling and Data Provision Requirements

44. Under proposed section 2.2.18, the CAISO would routinely report any underscheduling behavior that it observes to the Commission for investigation as a potential violation of section 7 of its Enforcement Protocol and/or the Commission's Market Behavior Rule 2.

1. Comments

45. TURN/PG&E ask that the Commission require the CAISO to clarify that scheduling variances that are due to unpredictable weather variations do not constitute reportable underscheduling behavior. SDG&E objects to referrals to the Commission when there has been no determination of wrong-doing and no determination of net benefit. SCE would like the CAISO to address any perceived underscheduling event with the affected SC prior to referral to the Commission. SWP believes that the CAISO should take into account SWP system emergencies when determining non-compliance. MWD would like the CAISO to clarify how it will measure underscheduling and what it will report to the Commission. The Cities propose that the CAISO report "recurring" rather than "any" underscheduling behavior to the Commission.

46. Independent Energy Producers Association (IEP) is concerned that infeasible scheduling could be viewed as a replacement for underscheduling, which may have serious consequences. IEP asks that the Commission require the CAISO to analyze the data it collects pursuant to Amendment No. 72 and to report its analysis to the Commission so that decisions about whether there is a need for specific enforcement action can be made.

2. Commission Determination

47. We accept for filing section 2.2.18, as proposed. In order to determine whether underscheduling took place, the CAISO will have to analyze forecasting and scheduling patterns, taking into account forecast uncertainties and weather variations, and perhaps several other factors. We find that the CAISO's proposal sufficiently sets forth how it will determine underscheduling and what it will report to the Commission. We expect that the CAISO will report to the Commission incidents which exhibit patterns of persistent inaccurate forecasting and/or violations of the 95 percent requirement. We also note that a referral to the Commission does not imply automatically that a tariff violation took place. The Commission will be the final arbiter of whether there was a tariff or Market Behavior Rule violation, and the parties will be afforded due process. For these reasons, we deny the Cities' request for modification.

G. Effective Date

48. The CAISO requests a waiver of 60-day prior notice requirement and requests an effective date of one day after its filing, *i.e.*, September 23, 2005, which, according to the CAISO, will allow it to address increased reliability concerns and costs associated with the high demand levels encountered during the late summer and early fall season. According to the CAISO, the earlier effective date should result in fewer MLCC costs, which in turn will result in overall savings to market participants. The CAISO also contends that the September 23, 2005 effective date will not prejudice the affected LSEs because the CAISO has already engaged in extensive informal discussions with these entities regarding voluntary implementation of the proposed tariff provisions.

49. AReM, SWP, and MWD argue that the CAISO's request for a retroactive effective date should be rejected. SWP states that non-UDC SCs have lacked essential information to comply with section 2.2.7.2.1.1 and they could not have complied with an after-the-fact weekly reporting requirement.

50. We find that good cause has been shown for granting waiver of the 60-day prior notice requirement to permit a September 23, 2005 effective date.¹⁵ The earlier effective date will allow the CAISO (and the Commission) to have a more complete set of data on

¹⁵ *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106 at 61,338 (1992), *reh'g denied*, 61 FERC ¶ 61,089 (1992).

scheduling practices. Accordingly, we direct SCs that have not yet submitted data pursuant to Amendment No. 72 for the period starting September 23, 2005 to do so within 14 days of the date of issuance of this order.

H. Miscellaneous Issues

51. SDG&E objects to Amendment No. 72 because the CAISO has not demonstrated how its proposal will enhance reliability and may lead to some SCs' scheduling increased amount of imports to the detriment of reliability. We disagree. The CAISO has provided sufficient explanation of how a 95 percent day-ahead scheduling requirement will improve its operations.¹⁶

52. The Cities request that section 2.2.7.2.1.1 and any other applicable Tariff provisions be modified to make clear that, consistent with existing Western Electricity Coordinating Council (WECC) compliant scheduling practices, two-day-ahead demand forecasts and schedules can be submitted to the CAISO for weekends and holidays. In its answer, the CAISO clarifies that proposed section 2.2.7.2.1.1 does not restrict the current two-day-ahead scheduling practice for weekends and holidays. The CAISO also states that the requirement applicable to day-ahead schedules in other provisions of the CAISO Tariff already have sufficient flexibility to accommodate these WECC scheduling practices. We find that the clarification provided by the CAISO resolves the Cities' concern.

53. AReM argues that Amendment No. 72 is deficient because it does not address overscheduling. According to AReM, parties who overscheduled dump power into the real-time market at below market prices, thus creating a strong incentive for other parties to underschedule. AReM recommends that Amendment No. 72 contain a maximum limitation for scheduling.

54. We are not persuaded by AReM's argument. It is not clear why AReM believes parties dump power into the real-time energy market at below market prices, nor is it clear what limitation on overscheduling AReM seeks. In its filing, the CAISO has identified a specific set of problems related to day-ahead underscheduling and specific measures to addresses them. The overscheduling problem AReM alleges is not sufficiently explained, and we will not entertain it as part of Amendment No. 72.

¹⁶ See the CAISO's Transmittal Letter at 3-4.

The Commission orders:

(A) Waiver of the 60-day prior notice requirement is hereby granted; proposed Amendment No. 72 is hereby accepted for filing, effective September 23, 2005, as requested, and subject to the modifications discussed in the body of this order.

(B) The CAISO is hereby directed to submit, within 30 days of the date of issuance of this order, a compliance filing reflecting the tariff changes directed in the body of this order.

(C) Scheduling Coordinators that have not done so are hereby directed to submit to the CAISO data required under Amendment No. 72 within 14 days of the date of issuance of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Motions to Intervene
Docket No. ER05-1502-000

Alliance for Retail Energy Markets*
California Municipal Utilities Association*
California Public Utilities Commission*
Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California*
Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency
Constellation Energy Commodities Group Inc. and Constellation NewEnergy Inc.
Independent Energy Producers Association*
Metropolitan Water District of Southern California*
Modesto Irrigation District
Northern California Power Agency
Powerex Corp.*
Sacramento Municipal Utility District and the Transmission Agency of Northern
California
San Diego Gas & Electric Company*
Southern California Edison Company*
The Utility Reform Network and Pacific Gas and Electric Company*
Williams Power Company, Inc.*

*parties who filed comments and/or protests