

the event Western and the ISO cannot agree upon potential changes to its existing agreement(s), the ISO can submit its proposed changes to the Commission for resolution.

Many of the commentors in this public process expressed concerns with the long-term durability of any arrangement with the ISO because the agreement would be tariff-based. Many of the comments equated stable, long-term business relationships as occurring through contract-based and not tariff-based relationships.

For instance, the TANC stated:

We believe in the durability of long-term contracts for establishing rights and obligations of load serving entities. Western has always utilized this approach to doing business. The CAISO has historically attempted to alter the rights and obligations of existing contracts. The CAISO utilizes tariffs that can and have been frequently changed. The CAISO files amendments too frequently to consider the CAISO Tariff durable or predictable.

Others such as the MID, the TID, and the SVP cite the 55 amendments filed by the ISO at the Commission in the last 5 years as evidence that a relationship with the ISO is not durable.

The ISO commented:

The ISO's operating protocols have remained substantially the same since the ISO start-up date in 1998. The only changes in operating protocols are based on the need to comply with changing operational criteria from the NERC and WECC. However, every control area, including the Western Control Area, would have to make similar changes over time. Admittedly, the ISO has necessarily changed the protocols associated with markets, market implementation and market rules a number of times over the past 6 years. Given that the ISO was the first of its kind in the United States, an evolutionary process has been necessary when it comes to markets. Thus Western's concern with durability with respect to operating protocols has been met, but market durability is still evolving and will continue to evolve for a number of years to come. Western cannot disguise its concern regarding "operating protocol durability" as an off-hand reference to the energy crisis and changing market rules. Moreover, the ISO's ongoing market modifications are designed to promote stability based on experience, best practices, and coordination of operations to the benefit of all California consumers and market participants.

From a durability standpoint, the MSS Alternative is only as durable as the ISO Tariff is over time. Fifty-seven ISO Tariff amendments have been filed since the ISO became operational in 1998. Western notes the ISO has filed four tariff amendments since this public process began on June 24, 2003. Notwithstanding a contractual agreement, Western would need to

conform its business practices every time the ISO Tariff is revised. Although it is important to distinguish between procedural and substantive changes to the ISO Tariff, the underlying ability of the ISO to undertake changes to its business and operating protocols and procedures creates business uncertainty and risk.

Based on the affected term or condition, these changes can materially affect the relationship between the benefits and burdens that each party would receive and impart as a result of being an MSS. Stakeholders continue to have ongoing concerns related to the frequency and number of amendments to the ISO Tariff. Although many of these changes would parallel changes that other control area operators must implement in response to ongoing industry changes, because of their frequency and the number of substantive changes, Western concludes that the PTO Alternative almost meets the durability criteria.

Evaluation of the Operating Transparency Criteria Under the MSS Alternative

Under the MSS Alternative, Western would operate its system as a sub-control area within the ISO control area. Western would dispatch the internal generation of Reclamation, as needed, to satisfy the needs of the sub-control area and to maintain the net scheduled interchange with the ISO. Western would schedule the use of its transmission system to meet its statutory obligations to Project Use loads and contractual obligations to its customers as well as to meet the needs of the sub-control area and MSS participants in aggregate. Operation of the Federal system would not be a concern to the ISO as long as Western maintains its scheduled flows with the ISO.

Scheduling the use of Western's ownership in the Malin-Round Mountain transmission line and the COTP would remain Western's responsibility and would be performed under NERC and WECC protocols and operating procedures developed by the Bonneville Power Administration (BPA), the ISO, Western, and others. Under the MSS Alternative, and unless otherwise desired, the ISO would continue to remain the single path operator for the COI south of the California-Oregon Border (COB).

Because operation of the Federal system would have to meet the terms of the MSS agreement and operating procedures for the COI developed under NERC and WECC operating criteria, Western would not be able to change the

operation of the Federal system unilaterally. Western acknowledges that changes in the operation of the Federal system would have to be structured to assure that unintended impacts to third parties do not occur. Because of these considerations, Western concludes that the MSS Alternative meets the operational transparency criteria.

Evaluation of the Cost-Effectiveness Criteria Under the MSS Alternative

Navigant prepared a revised comparative economic benefit analysis for each post-2004 operational alternative considered on behalf of Reclamation and Western incorporating comments received from the ISO and others related to the underlying assumptions used in the study. The revised study shows that, comparatively, the cost of the MSS and control area alternatives remain similar and that the PTO option continues to be the least cost-effective of the three post-2004 alternatives being considered.

Commentors during the public process expressed their views about the comparative economic study performed by Navigant and the importance of the cost effectiveness criteria.

The TANC commented:

* * * given the rapid escalation of the CAISO costs, numerous inaccuracies of CAISO settlements, and extreme complexity and variability of CAISO market design, assumption-based cost forecasts in the CAISO environment are difficult to estimate and cannot be the most important evaluation criteria for Western and its Customers.

The TPUD stated:

The Navigant study and the forthcoming Cal ISO study, which will no doubt repudiate most, if not all, of Navigant's work, are a waste of time, money and effort. A prediction of how many tariff amendments the Cal ISO will file over the next twenty years would be more certain than anyone's prediction of the Cal ISO costs just two years from now.

The TID commented:

Western should not be persuaded to forego the FCA [Federal Control Area] option because some indicate that it *may* not be the low cost option. If, as the CAISO, and perhaps others, purport, participating in the CAISO is the most cost effective approach, then over time, Western customers will migrate to the CAISO market. The CAISO has a mission of being the preferred transmission provider. If they meet the goal, Western customers will find ways to participate and join the CAISO.

A number of Western's customers were especially concerned about increases in their internal costs associated with meeting the billing and settlements requirements associated with participating in the ISO markets. Increased complexity and the need for