126 FERC ¶ 61,278
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corp. Docket Nos. ER06-615-038
ER08-1113-000
ER08-1113-001

ORDER ON EMERGENCY MOTION FOR CLARIFICATION

(Issued March 27, 2009)

1. In this order, we clarify our earlier orders in response to the Emergency Motion for Clarification filed by Modesto Irrigation District, Transmission Agency of Northern California, City of Redding, California, Sacramento Municipal Utility District (SMUD), and the Turlock Irrigation District (Turlock) (Affected IBAA Entities)[1] seeking clarification that the California Independent System Operator Corporation (CAISO) is precluded from implementing the integrated balancing authority area (IBAA) proposal by the Commission's March 13, 2009 Order on CAISO's Market Redesign and Technology Upgrade (MRTU) readiness.[2] As discussed in more detail below, the Commission finds that the Affected IBAA Entities do have the option to enter into a Market Efficiency Enhancement Agreement (MEEA) for an interim period, the elements of which are set out in the MRTU Tariff and the Commission's March 6, 2009 Order on

[1] Affected IBAA Entities March 19, 2009 Emergency Motion for Clarification and Request for Shortened Response Time, Docket Nos. ER06-615-038, ER08-1113-000 (Affected IBAA Entities' Emergency Motion).

[2] *Cal. Indep. Sys. Operator Corp*., 126 FERC ¶ 61,221 (2009) (March 13 Readiness Order).

Compliance,[3] and thereby can choose whether to obtain Locational Marginal Pricing (LMP) under a MEEA, or accept the CAISO's default pricing. The Commission also finds that the CAISO has provided IBAA training, as required by our prior order.[4]

I. Background

2. On June 17, 2008, the CAISO filed a proposal to establish an IBAA and to apply the IBAA model to price import and export transactions with SMUD and Turlock. The proposal established a single hub for modeling and pricing all imports and exports between the CAISO and SMUD and Turlock regardless of the 12 interconnection points that separate the CAISO from the SMUD and Turlock balancing authority areas.

3. As an alternative to the single hub pricing mechanism, the CAISO proposed to provide market participants the option to execute a MEEA. The CAISO stated that a market participant wishing to execute a MEEA would provide the CAISO with additional information sufficient to allow verification of the specific location and operation of the external resource that is used to provide interchange transactions in exchange for an alternative pricing and modeling arrangement. The Commission's September 19, 2009 Order accepted the CAISO's proposal subject to modification and directed the CAISO to make a further compliance filing in response to several concerns.[5]

4. On November 25, 2008, the CAISO filed revised tariff language to comply with the Commission's September 19 IBAA Order. The CAISO asserted that the revised tariff language would ensure that the CAISO's nodal pricing under MRTU would reflect the impacts of interchange transactions between the CAISO and the SMUD and Turlock balancing authority areas and that those transactions would be priced at just and reasonable levels.

---

[3] *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,207 (2009) (March 6 IBAA Order).

[4] March 13 Readiness Order, 126 FERC ¶ 61,221 at P 81.

[5] *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,271 (2008) (September 19 IBAA Order).

5. In the Commission's March 6 IBAA Order, the Commission conditionally accepted, subject to modification, the CAISO's proposed tariff language on compliance with the Commission's September 19 IBAA Order. The Commission directed the CAISO to make a further compliance filing within 60 days, modifying several parts of the proposed tariff language.

6. In the March 13 Readiness Order, the Commission accepted the CAISO's filing that certified the readiness of the CAISO MRTU to go into effect on March 31, 2009.

II. Motion for Clarification, Notice and Responsive Pleadings

7. On March 18, 2009, the Affected IBAA Entities sought emergency clarification that the March 13 Readiness Order on the CAISO's MRTU readiness filing precludes the CAISO from implementing its IBAA proposal until (1) IBAA entities have been afforded a bona fide prior opportunity to complete IBAA training and (2) the CAISO has in place MEEA tariff provisions compliant with the Commission's directives. Affected IBAA Entities also requested the Commission to set a shortened response time of two business days.

8. On March 20, 2009, the CAISO and the Western Area Power Administration (Western) filed answers to the Affected IBAA Entities' motion.

9. On March 23, 2009, the Commission issued a Notice Regarding Answer Period with answers to the emergency motion due on or before March 24, 2009, and the Affected IBAA Entities filed an amendment to their emergency motion. On March 24, 2009, the City of Santa Clara, California (Santa Clara) filed comments.

III. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Market Efficiency Enhancement Agreements

11. The CAISO's IBAA proposal provided the opportunity to enter into a MEEA as a means for any entity that is willing to provide the CAISO with the information needed to model its imports and exports with the CAISO a price that

is more favorable than the proposed default prices during periods of congestion. The Commission found that this option to execute a MEEA provided entities specifying the information required to accurately model interchange transactions compensation commensurate with the LMP at the node at which the transaction with the CAISO is taking place.[6] The Commission further determined that benefits from executed MEEAs will accrue to both the CAISO and the owners of or entities controlling such resources, and thus it is necessary that MEEAs be developed in an open and equitable manner.[7] The September 19 IBAA Order determined that the "alternative pricing arrangement offered by the CAISO in exchange for the sharing of information is an integral part of the CAISO's proposal."[8] Accordingly, the Commission required that the option of entering into a MEEA be available to any entity controlling supply in the SMUD or Turlock balancing authority areas that opted to provide the information necessary for the CAISO to model its interchange transactions with the CAISO and that every transaction for which the CAISO received the requisite information would qualify for the LMP at the node.

12. In the March 6 IBAA Order, the Commission accepted the CAISO's compliance filing, but found that a few aspects of the CAISO's MEEA tariff language were inconsistent with the September 19 IBAA Order and would fail to offer a "transparent and balanced agreement for which the parties may develop an alternative pricing arrangement in a non-discriminatory manner."[9] In particular, the Commission provided guidance that several of the CAISO's proposed MEEA requirements were inconsistent with the direction provided by the September 19 IBAA Order or beyond the scope of the compliance filing. Accordingly, the Commission required the CAISO to amend those aspects of its compliance MEEA filing, and required the CAISO to file new MEEA tariff language within 60 days of the date of the order.

---

[6] *Id.* P 181.

[7] *Id.*

[8] *Id*. P 6.

[9] March 6 IBAA Order, 126 FERC ¶ 61,207 at P 16 (citing September 19 IBAA Order, 124 FERC ¶ 61,271 at P 182).

13. The Affected IBAA Entities claim that the Commission granted provisional approval to the CAISO's IBAA filing, finding that the MEEA was "integral" to the IBAA proposal. The Affected IBAA Entities claim the Commission provisionally found the IBAA proposal reasonable only because it contained a MEEA alternative that would allow signatories actual pricing.[10] The Affected IBAA Entities contend that the Commission's March 6 IBAA Order rejected the CAISO's compliance filing, making clear that the CAISO still does not have in place tariff provisions that would comport with the Commission's directives.

14. The Affected IBAA Entities request that the Commission not approve implementation of the IBAA until after the CAISO can demonstrate compliance with the Commission's directives to offer a MEEA option, i.e., one that identifies the actual prices to which a MEEA signatory would be entitled, one that removes unreasonable data requirements and that eliminates unjustified limitations on the quantities eligible for actual pricing. The Affected IBAA Entities claim that the MEEA is an essential component of the IBAA proposal and the IBAA cannot be reasonable until MEEA provisions compliant with the Commission's directives are in effect.

15. The Affected IBAA Entities assert that the Commission's prior pronouncements lead to the conclusion that implementation of the CAISO's IBAA proposal at MRTU start up would be unreasonable because without the changes ordered to the MEEA tariff provisions, there is no means for the Affected IBAA Entities to avoid the default import and export prices under the IBAA. The Affected IBAA Entities contend that since the availability of a non-discriminatory MEEA is, by the Commission's own account, "integral" to the reasonableness of the IBAA mechanism and since a MEEA mechanism compliant with the Commission's directives is still not in place, it follows that permitting the CAISO to put its IBAA proposal in effect at MRTU start up would mean that the CAISO would be allowed to implement a tariff provision FERC had declared unreasonable.

---

[10] Affected IBAA Entities' Emergency Motion, Docket Nos. ER06-615-038, ER08-1113-000, at 1.

1. Comments and Answers[11]

16. The CAISO responds that the Affected IBAA Entities will not be subject to unjust or unreasonable interchange pricing prior to the Commission approving tariff language associated with MEEAs. The CAISO states that the reasoning of the Affected IBAA Entities is based on an incorrect premise that the default import and export prices under the IBAA proposal are "unreasonable." The CAISO claims that the Commission held in the September 19 IBAA Order and in the March 6 IBAA Order that the default pricing points are just and reasonable.[12] As a result, the CAISO reasons that the Affected IBAA Entities will not be subject to unjust and unreasonable interchange pricing prior to final approval of the MEEA requirements.

17. The CAISO contends that in its March 6 IBAA Order, the Commission directed the CAISO to make changes to its tariff language related to MEEAs but accepted default IBAA pricing for voluntary interchange transactions. The Commission directed that the CAISO submit these tariff changes after the anticipated start of MRTU. The CAISO notes that the Commission did not modify its prior determination that the CAISO should implement the IBAA proposal simultaneously with the start of MRTU, nor did the Commission direct the CAISO to suspend IBAA implementation until final tariff language addressing MEEAs

---

[11] In its answer, Western states that the IBAA was unilaterally implemented by the CAISO and unquestionably contains discriminatory provisions. Western further states that it agrees with many of the concerns raised by the Affected IBAA Entities, including that the option to enter into a MEAA is integral to the launch of IBAA. Western claims that implementing the CAISO's IBAA proposal at this stage may result in a number of unintended and unknown adverse impacts on Western, the CAISO and their respective customers and rate payers. Western acknowledges that the issues it raises in its answer have been raised in the dockets associated with IBAA, and only summarizes, updates, and re-iterates those concerns in its answer. Therefore, we do not revisit those claims that the Commission addressed in previous orders in this limited order. Western March 19, 2009 Answer, Docket Nos. ER06-615-038; ER08-1113-000, at 3.

[12] CAISO March 20, 2009 Answer, Docket Nos. ER06-615-038, ER08-1113-000, at 4 (CAISO Answer) (citing September 19 IBAA Order, 124 FERC ¶ 61,271 at P 82-92; March 6 IBAA Order, 126 FERC ¶ 61,207 at P 130).

was approved. Thus, the CAISO claims the Commission confirmed that the CAISO should implement the IBAA simultaneously with MRTU Go-Live.

18. Finally, the CAISO claims that in its March 13 Readiness Order, the Commission explicitly rejected arguments that the CAISO should delay IBAA implementation until after MRTU Go-Live while pending IBAA issues still exist.[13] The CAISO also argues that even if there were no pending compliance obligation regarding the MEEA requirements, implementing a MEEA with an IBAA entity will still require negotiation, execution, and filing at the Commission under section 205 of the Federal Power Act.[14] The CAISO adds that the just and reasonable default pricing points for interchange transactions with the IBAA do not become unjust and unreasonable as a result of the need to finalize the tariff language associated with MEEAs.

19. The Affected IBAA Entities respond that the CAISO's default pricing was only conditionally found to be reasonable. They argue that its reasonableness was found dependent on the availability of an alternative pricing arrangement through a non-discriminatory MEEA. Since the availability of an alternative pricing arrangement is integral to the IBAA proposal, the Affected IBAA Entities claim the default price mechanism, by itself, is inherently unreasonable.

20. The Affected IBAA Entities continue that the whole point of a MEEA is to allow IBAA entities to avoid default pricing. If that pricing were reasonable without a MEEA there would be no need to execute a MEEA. The Affected IBAA Entities claim that CAISO representatives stated at the March 19, 2009 IBAA training session that a MEEA, even if executed, (1) would not take effect until it is approved by the Commission and (2) would provide no relief from default pricing for the period between MRTU start up and approval of the MEEA. They argue that this would mean that, even for an entity willing to execute a MEEA, alternative pricing would likely be many months off. Thus, the Affected IBAA Entities claim they will be paying default prices, with no MEEA option, for an indeterminate period lasting many months.

---

[13] CAISO Answer, Docket Nos. ER06-615-038, ER08-1113-000, at 5 (citing March 13 Readiness Order, 126 FERC ¶ 61,221 at P 80).

[14] 16 U.S.C. § 824d (2006).

21. Santa Clara contends that the CAISO lacks procedures for negotiating a MEEA and that its questions posed to the CAISO regarding IBAA have not been adequately addressed.[15]

2. Commission Determination

22. The Commission clarifies that the Affected IBAA Entities have the option to enter into a MEEA for an interim period to be effective March 31, 2009. Nothing in the Commission's March 6 Order changes that entitlement. Such MEEAs would become subject to the Commission's final order on compliance.

23. The Commission finds that the Affected IBAA Entities mischaracterize the Commission's past determinations. The Commission did not reject the CAISO's November 25, 2008 compliance filing. Rather, the Commission conditionally accepted the filing, subject to modification.[16] Accepted tariff language and the guidance in past Commission orders provide sufficient direction for negotiating and entering into a MEEA.[17] In section 27.5.3.2 of the MRTU Tariff, the CAISO provides that any entity controlling supply within the IBAA that provides the CAISO with the requisite information will be able to enter into a MEEA.[18] The Commission's March 6 IBAA Order addresses, among other things, the CAISO's proposal to limit the quantity of transactions eligible for LMP pricing.[19]

24. As we said in the September 19 IBAA Order, the MEEA is an "integral part of the CAISO's proposal,"[20] and due to the integral nature of the MEEA and the fact that the CAISO is not directed to make its compliance filing in response to the March 6 IBAA Order until May 6, 2009, the Affected IBAA Entities have the

---

[15] Santa Clara March 24, 2009 Comments, at 2-3.

[16] March 6 IBAA Order, 126 FERC ¶ 61,207 at P 1.

[17] *Southwest Power Pool, Inc.*, 100 FERC ¶ 61,248, at P 14 (2002) (stating that using provisions conditionally accepted by the Commission as a template for another agreement is reasonable.).

[18] MRTU Tariff § 27.5.3.2.

[19] March 6 IBAA Order, 126 FERC ¶ 61,207 at P 61.

[20] September 19 IBAA Order, 124 FERC ¶ 61,271 at P 6, 181.

option of entering into a MEEA to act as a temporary agreement, effective upon commencement of MRTU, through which the CAISO can receive information necessary to allow the CAISO to compute, and the Affected IBAA Entities to receive, LMP pricing.

25. While the Commission acknowledges that the CAISO has not yet made a compliance filing giving the exact tariff language delineating the final data requirements for executing a MEEA, we refer entities interested in executing a MEEA to our prior orders for guidance in negotiating data requirements with the CAISO. The data elements currently covered under the MEEA that the CAISO most recently proposed, absent the limitations dismissed in the March 6 IBAA Order, are sufficient to ensure that any entity that controls supply within the IBAA and provides the CAISO with information verifying the location of the resources supporting their interchange transactions with the CAISO will receive the appropriate LMP.

26. The Commission notes that it rejected certain informational requirements of the CAISO's most recently proposed MEEA language as being excessive because those overly-broad data requirements included more information than the CAISO needs to compute an appropriate LMP consistent with the guidance we provided in the March 6 IBAA Order. Nevertheless, given the protections afforded to any information provided under a MEEA, as elaborated below, and the Affected IBAA Entities' apparent desire to enter into a MEEA in the time remaining prior to the planned MRTU start, we clarify that the Affected IBAA Entities have the option to enter into a MEEA on an interim basis with the data requirements set out in the CAISO's proposed MEEA that would be replaced by more appropriate data requirements after the CAISO makes its compliance filing. To the extent that the data requirements may be overly-broad, the Commission reiterates that this would be for only a temporary period and would enable the parties to enter into a MEEA on an expedited basis.[21]

27. The Commission also finds that the confidentiality protection and limitations on the use of information provided under a MEEA to the CAISO as outlined in the March 6 IBAA Order and the September 19 IBAA Order[22]

---

[21] Nothing in this order or in the interim MEEAs should be read to prejudge the CAISO's compliance obligations.

[22] *Id*. P 184 (requiring the CAISO to include a tariff provision that specifies the measures the CAISO must take to preserve the confidentiality of the

(continued…)

indicates specific obligations on the CAISO to maintain the strict confidentiality and to limit the use of any information provided by another entity.[23] Thus, any information provided by an Affected IBAA Entity pursuant to any MEEA would be afforded appropriate protections. If the parties to the MEEA wish to refine the protection of the information, they can negotiate those terms into the MEEA, consistent with the confidentiality provisions necessary to conform to the protections required in our prior orders.

28. The Commission notes that the CAISO has stated that it is prepared to commence MEEA negotiations upon request.[24] Also, in the most recent filing the Affected IBAA Entities recognize that the CAISO stands ready to negotiate the terms of a MEEA.[25] The opportunity to enter into such an agreement is and has been available to the Affected IBAA Entities. The opportunity to choose is available and either choice would result in just and reasonable prices, i.e., parties can enter into a MEEA to obtain LMP pricing or choose not to enter into a MEEA and obtain default pricing.[26] Thus, even if parties choose not to enter into a MEEA to obtain LMP pricing, the Affected IBAA Entities would be subject to just

---

information provided to it and to specify the limited purpose for which the CAISO will use the information.).

[23] March 6 IBAA Order, 126 FERC ¶ 61,207 at P 91 (stating "the CASIO must ensure that any information provided by a market participant to the CAISO during the negotiations of a MEEA or under an executed MEEA is kept confidential.").

[24] *Id.* P 96; CAISO November 25, 2008 Compliance Filing, Docket No. ER08-1113-002, at 11.

[25] Affected IBAA Parties March 23, 2009 Amendment to Emergency Motion, Docket Nos. ER06-615-038, ER08-1113-000, at 5 (stating that during the March 19, 2009 training session the CAISO represented that "[a]lthough the CAISO will not be making a compliance filing until May, its representatives said it would be willing to negotiate an MEEA now, i.e., before the compliance filing is made or ruled upon.").

[26] September 19 IBAA Order, 124 FERC ¶ 61,271; March 6 IBAA Order, 126 FERC ¶ 61,207.

and reasonable rates under the default pricing.[27] If the Affected IBAA Entities choose to exercise their option to enter into a MEEA for the interim period, they as well as the CASIO are encouraged to use the guidance provided by the September 19 and March 6 IBAA Orders to contact the CAISO and avail themselves of such an option.[28]

C. Training

29. In the Commission's March 13 Readiness Order, the Commission addressed certain concerns regarding the IBAA training provided by the CAISO.[29] The Commission directed the CAISO to offer training on IBAA implementation to the market participants prior to the implementation of IBAA.[30]

30. The Affected IBAA Entities state that the Commission expressly directed the CAISO to afford market participants an opportunity for sufficient IBAA training "prior to implementation of IBAA," and that since the CAISO cancelled a direct training session with the IBAA parties scheduled for March 6 on grounds that it was too busy to offer it prior to MRTU Go-Live, the only logical conclusion is that the Commission intended to delay implementation of the IBAA until after MRTU start up.

31. The Affected IBAA Entities claim that the Commission should not permit the CAISO to implement its IBAA mechanism on March 31, 2009 based on the

---

[27] September 19 IBAA Order, 124 FERC ¶ 61,271 at P 84 ("[t]he IBAA proposal's default pricing is a reasonable way for the CAISO to manage congestion absent more specific information about resources supporting interchange transactions."); March 6 IBAA Order, 126 FERC ¶ 61,207 at P 130 ("[t]he Commission approves this portion of the CAISO compliance filing as just and reasonable.").

[28] Also, when submitting a MEEA to the Commission pursuant to section 205 of the Federal Power Act, the parties may wish to request waiver of the advance notice requirement in order to expedite the potential acceptance of the MEEA.

[29] March 13 Readiness Order, 126 FERC ¶ 61,221.

[30] *Id*. P 81.

CAISO's announcement that it would not conduct additional training until after MRTU Go-Live. The Affected IBAA Entities claim that such training is transparently intended to give the CAISO cover after the Commission's March 13 Readiness Order, not to provide affected parties bona fide help.

32. Western adds that it has concerns about the ability to fully test and verify that IBAA is functioning while awaiting CAISO's IBAA compliance filing.

1. Comments and Answers

33. The CAISO claims it has provided IBAA training consistent with the Commission's March 13 Readiness Order. The CAISO contends that it has afforded all market participants opportunities for IBAA training, and representatives of all of the Affected IBAA Entities participated in that training.

34. The CAISO notes that on February 24, 2009, it held a training session on IBAA issues. The training focused on the mechanics of scheduling and settling IBAA interchange transactions. With limited exceptions, scheduling an IBAA interchange transaction is the same as scheduling any other interchange transaction under MRTU. With respect to settlements, the training provided an overview of how to validate LMPs for IBAA interchange transactions. The CAISO claims that at the training, it received a number of questions related to the IBAA proposal. The CAISO prepared and posted on its website responses to these questions.

35. Also, on March 19, 2009, the CAISO held a supplemental training session to make-up for the cancelled session and to provide an overview of its responses and walk through examples of IBAA interchange transactions and the calculation of LMPs for those transactions. The CAISO maintains that the training it offered is consistent with the Commission's March 13 Readiness Order, and representatives of each of the Affected IBAA Entities attended both training sessions. The CAISO states that it is committed to resolving any remaining questions market participants may have and agrees to continue to provide support to those participants engaging in IBAA transactions after launch of MRTU.

36. The Affected IBAA Entities contend that the training provided on March 19, 2009 was inadequate. The Affected IBAA Entities argue that the CAISO representatives did not provide sufficient answers regarding the MEEA provisions of the IBAA and how the IBAA will operate between MRTU start up on March 31, 2009 and when MEEA provisions compliant with the Commission's March 6 IBAA Order are placed in effect.

37. The Affected IBAA Entities add that during the question and answer portion of its training session, the CAISO confirmed that it plans to apply its IBAA provisions concurrently with MRTU start up based on the Commission's conditional approval of IBAA. The Affected IBAA Entities noted that at the March 19, 2009 IBAA training, the CAISO's representatives said it would be willing to negotiate a MEEA now, i.e., before the compliance filing is made or ruled upon but did not provide a definite answer regarding what MEEA provisions would govern the negotiations.

38. The Affected IBAA Entities also claim that they were not able to review the business practice manuals at the training.

2. Commission Determination

39. The Commission finds that the CAISO has provided training with respect to the IBAA, consistent with the requirements of our prior order. We will hold the CAISO to its commitment to continue to provide support to those engaging in IBAA transactions after the launch of MRTU. In response to the Affected IBAA Entities' concerns regarding what MEEA provisions would govern negotiations of MEEAs to be effective during the interim period, we address those concerns above.

40. Further, Western's claim that the MRTU testing is incomplete due to the CAISO's upcoming compliance filing is unsupported because the CAISO's compliance filing regarding MEEAs will not affect the operation of MRTU, only the terms of the MEEAs.[31]

[31] Western March 19, 2009 Answer, Docket Nos. ER06-615-038; ER08-1113-000, at 8.

The Commission Orders:

Clarification of the March 13 Readiness Order is hereby provided, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.