

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 Nos. ER04-938-001  
ER04-938-002

ORDER ON REHEARING AND COMPLIANCE FILING

(Issued July 26, 2005)

1. In this order, we grant, in part, and deny, in part, the requests for rehearing of the Commission's order issued on August 17, 2004 in this proceeding on the California Independent System Operator Corporation's (CAISO or ISO) Amendment No. 61 revisions to its open access transmission tariff (ISO Tariff).<sup>1</sup> These revisions addressed market participants' concerns that the CAISO did not have authority to charge a unit, which was shut off to manage intra-zonal congestion, its minimum load costs and that such a unit should only be charged its "shut down" reference price.<sup>2</sup> We also accept, in part, and reject, in part, the CAISO's September 16, 2004 compliance filing submitted in response to the August 17 Order and direct the CAISO to submit a further compliance filing.

---

<sup>1</sup> *California Indep. Sys. Operator Corp.*, 108 FERC ¶ 61,193 (2004) (August 17 Order).

<sup>2</sup> We note that, on April 1, 2005, in Docket No. PL05-6-000, the Commission invited all interested persons to file comments addressing, among other things, whether the discretion used by Regional Transmission Organizations, Independent System Operators, their market monitors, or their consultants in setting reference prices is an impermissible delegation of the Commission's authority. Notice Inviting Comments on the Establishment and Use of Reference Prices, 70 Fed. Reg. 17,993 (2005).

## **Background**

2. On March 31, 2003, the CAISO filed Amendment No. 50 to the ISO Tariff to provide the CAISO with a revised method for managing intra-zonal congestion. The CAISO stated that under its existing ISO Tariff provisions it had to resolve intra-zonal congestion in real time which placed undue burdens on its real time operating staff and introduced potentially serious reliability problems. Amendment No. 50 was proposed as an interim solution until the implementation of Locational Marginal Pricing or some other long-term comprehensive management solution.

3. In an order issued on May 30, 2003,<sup>3</sup> the Commission accepted the CAISO's Amendment No. 50, subject to modification, noting that its approval should not be a substitute for the ultimate goal of a rational market-based congestion management system. The Commission approved the CAISO's proposal to use proxy bids to manage intra-zonal congestion and mitigate local market power but limited its application to decremental bids.<sup>4</sup> The Commission directed the CAISO to use reference prices instead of cost-based proxies for decremental bids which were to be administered by an independent entity and applied to all generators – both thermal and non-thermal.<sup>5</sup>

4. On June 18, 2004, the CAISO filed Amendment No. 61 to modify ISO Tariff sections 7.2.6.1 and 7.2.6.1.1 in response to a market participant's concern that the ISO did not have authority to charge a unit, which was shut off to manage intra-zonal congestion, its minimum load costs and that such a unit should only be charged its "shut down" reference price (*i.e.*, the reference price between zero MW output and the unit's minimum operating level).

---

<sup>3</sup> *California Indep. Sys. Operator Corp.*, 103 FERC ¶ 61,265 (2003), *order on reh'g*, 107 FERC ¶ 61,028 (2004) (April 16 Order).

<sup>4</sup> Decremental bids reflect the highest price at which a generator is willing to purchase energy from the CAISO rather than produce it to fulfill its scheduled energy obligation. Decremental bids are used by the CAISO to relieve congestion when the CAISO faces a transmission constraint. When the CAISO faces intra-zonal congestion it redispatches the system based on "inc" (incremental) and "dec" (decremental) bids submitted by generators to increase or decrease the output of their units.

<sup>5</sup> In addition, the Commission rejected the CAISO's proposal to publish generating limits.

5. In the August 17 Order, the Commission accepted, in part, and rejected, in part, the Amendment No. 61 revisions and directed the CAISO to make a compliance filing.

6. On September 16, 2004, the CAISO and the California Department of Water Resources State Water Project (CDWR) filed requests for rehearing of the August 17 Order. Energia Azteca X, S. de R.L. de C.V. and Energia de Baja California, S. de R.L. de C.V. (collectively, Energia) and Coral Power, L.L.C. (Coral) filed answers to the CAISO's request for rehearing. The CAISO filed a motion to strike Coral's answer, and Coral filed an answer in turn.

7. On September 16, 2004, the CAISO filed a compliance filing in response to the August 17 Order.

### **Notice and Pleadings**

8. Notice of the CAISO's compliance filing was published in the *Federal Register*, 69 Fed. Reg. 58,425 (2004) with protests and interventions due on October 7, 2004. Energia and Coral (collectively, Energia/Coral) and CDWR filed timely protests to the compliance filing. The CAISO filed an answer. CDWR filed an answer to the CAISO's answer.

### **Discussion**

#### **A. Procedural Matters**

9. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d)(1) (2004), prohibits answers to requests for rehearing. Accordingly, we will reject Energia's and Coral's answers to the CAISO's request for rehearing and clarification.

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answers of the CAISO and CDWR with regard to the compliance filing because they have provided information that assisted us in our decision-making process.

#### **B. ISO Tariff Sections 7.2.6.1 and 7.2.6.1.1**

##### **1. Pricing Methodology**

11. In the August 17 Order, the Commission stated that, if any deviation from the previously established methodology was necessary, the Commission directed the CAISO

to submit a compliance filing outlining the necessary changes and supplying adequate justification for such deviation.<sup>6</sup> The Commission found that, by following the established methodology, the shut-down reference levels will be developed in a clear, consistent and transparent manner.<sup>7</sup>

### **Compliance Filing**

12. In its compliance filing, the CAISO states that no deviation from the process set forth in ISO Tariff section 7.2.6.1.1 is necessary. Accordingly, we find that no further action on this issue is necessary.

### **2. Start-up Costs**

13. In the August 17 Order, the Commission noted that, in its answer, the CAISO had agreed to compensate generators for the costs associated with keeping a unit warm if the unit is needed to meet the next day's schedule and it is economical to do so.<sup>8</sup> Thus, the Commission directed the CAISO to submit revised tariff sheets that implement the changes it committed to make.<sup>9</sup>

### **Compliance Filing**

14. In its compliance filing, the CAISO revised ISO Tariff section 7.2.6.1 as directed. Accordingly, we accept the revisions.

### **3. Merit Order Methodology**

15. In the August 17 Order, the Commission agreed with Termoelectrica de Mexicali S. de R. L. de C.V. (Termoelectrica) that the CAISO, when determining which units to shut down, should take into account the expected total cost of the shut down. The Commission explained that, by considering the total cost of a shut down, the CAISO will more accurately reflect the cost of shutting down a unit to manage intra-zonal congestion. The Commission directed the CAISO to submit revised tariff sheets to clarify that the merit order of shut-downs will be based on the expected total shut down cost.

---

<sup>6</sup> August 17 Order, 108 FERC ¶ 61,193 at P 13.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at P 16.

<sup>9</sup> *Id.*

**a. Request for Rehearing**

16. The CAISO seeks clarification as to when it should take into account the expected total cost of the shut down.<sup>10</sup> Specifically, the CAISO requests that the Commission clarify what it means by “total cost of a shut down.” The CAISO highlights two statements in the August 17 Order that, in its view, are inconsistent: (1) in footnote 8, the Commission states that a unit shut down will be charged the lesser of the market clearing price (MCP) or the “shut-down reference price” for the period of the shut-down; and (2) in paragraph 32, the Commission directs the CAISO to charge a unit ordered to be shut down (and unable to restart in time to meet the unit’s day-ahead energy schedule due to legitimate operational limitations) the lesser of the MCP or the decremental reference price corresponding to the generating unit’s day-ahead schedule. The CAISO states that this latter reference price is different from the shut-down reference price referred to in footnote 8. The CAISO states that, if the paragraph 32 charge is to be included in the total shut down cost for a unit until it can again meet its day-ahead schedules, the CAISO will face a quandary because the CAISO cannot know *a priori* when the generating unit will again be able to meet its day-ahead schedule.

17. In response, we clarify that we did not intend to require the CAISO to include an estimate of future costs resulting from a shut-down order in calculating total shut-down costs.<sup>11</sup> Rather, our directive regarding total shut-down costs was in response to comments of Termoelectrica regarding the “lumpy” nature of shutting down a unit from its minimum operating level. That is, a generator operating at its minimum operating level can reduce its output level down to zero, but not down to a different level below its minimum operating level. Thus, if a generator is operating at its minimum operating level of 50 MWs, it can reduce its output by 50 MWs (by shutting down) but not by 10 MWs, even if the CAISO needs only a 10 MW reduction in output to manage intra-zonal congestion in an area.

18. We clarify that the total shut down cost for the generator should be calculated as the product of its shut down reference price and its minimum operating level (*i.e.*, 50 MWs in this example), not the output reduction needed (*i.e.*, 10 MWs). Thus, if the generator’s shut-down reference price is \$10/MWh, the total cost of shutting the generator down for the hour is \$500 (*i.e.*, \$10 x 50 MWh). A second generator might have a lower shut-down reference price (*e.g.*, \$4/MWh) but a larger minimum operating

---

<sup>10</sup> *Id.* at P 20.

<sup>11</sup> We agree with the CAISO that it cannot know *a priori* when a generating unit will again be able to meet its day-ahead schedule.

level (*e.g.*, 150 MW). As a result, the total shut-down cost of the second generator would be \$600 (*i.e.*, \$4 x 150 MWh), which is larger than that of the first generator, even though the shut-down reference price of the second generator is smaller than that of the first generator.

19. Total shut-down costs measure the costs saved by shutting down a unit. Of course, to the extent that shutting down a unit would require the unit to incur costs to start up or to keep warm for the next day in order to satisfy a non-zero final day-ahead schedule for energy for the next day, these latter costs would reduce the cost savings from shutting down the unit. Thus, we further clarify that these latter costs should be subtracted from the calculation described in the previous paragraph (*i.e.*, the shut-down reference price multiplied by the minimum operating level) in arriving at a total shut-down cost figure.

20. In addressing the CAISO's comment about an inconsistency between footnote 8 (to paragraph 20) and paragraph 32 in the August 17 Order, it is important to distinguish between the issues of (i) how to select among generators to shut down, and (ii) what to charge the selected generators. In paragraph 20 of the August 17 Order, the Commission addresses the issue of selection and directs that the total shut down cost should be considered in selecting among generators to shut down. We clarify that, in calculating the total shut down costs for purposes of selection, the shut-down reference price should be used (as described in footnote 8 to paragraph 20) and not the reference price for the generator's day-ahead schedule (described in paragraph 32). However, in determining what to charge a generator selected to be shut down, it is important to distinguish between (a) the charge for production reductions during the period when the shut down is needed to manage intra-zonal congestion, and (b) the charge for production reductions occurring in subsequent periods that result from the shut down direction. During period (a) (the period when the shut down is needed to manage intra-zonal congestion), the production reduction resulting from the shut down is that associated with the unit's *minimum operating level*, and the shut-down reference price is the appropriate reference price, as described in footnote 8 to paragraph 20. However, for some units, a shut down direction will prevent the unit from restarting in time to meet the unit's day-ahead energy schedule in the next day due to legitimate operational limitations. As a result, the shut-down direction will reduce the amount of energy production during the next day below its *day-ahead energy schedule*. For these production reductions that occur subsequent to the period of the shut-down direction (*i.e.*, during period (b)), the decremental reference price corresponding to the unit's day-ahead schedule is the appropriate reference price, as described in paragraph 32.

**b. Compliance Filing**

21. In its compliance filing, the CAISO revised ISO Tariff section 7.2.6.1 as directed. As clarified above,<sup>12</sup> no further revisions are needed. Accordingly, we accept the proposed revisions.

**4. Hydroelectric Resources**

22. In the Amendment No. 50 proceeding, which addressed the CAISO's revised method for managing intra-zonal congestion, the Commission stated that its acceptance of the proposal was not intended to allow the CAISO to violate any provisions in the Metered Subsystem (MSS) Agreement.<sup>13</sup> In the transmittal letter to Amendment No. 61, which described a modification to the intra-zonal congestion management proposal, the CAISO stated that the proposed changes in Amendment No. 61 did not conflict with the principles of the MSS Agreement. The CAISO also mentioned that it had previously agreed that MSS resources would not be dispatched according to the provisions of ISO Tariff section 7.2.6.1 (Decremental Bids) in advance of real-time to manage intra-zonal congestion.<sup>14</sup>

23. In its protest to Amendment No. 61, CDWR argued that it was unduly discriminatory not to grant hydroelectric facilities treatment similar to that provided to MSS resources. CDWR requested that the CAISO exempt its hydroelectric facilities from unilateral dispatch for purposes of improving the economics of the CAISO's intra-zonal congestion management. In its answer to CDWR's protest, the CAISO stated that its re-dispatch is not unduly discriminatory because it treats CDWR's hydroelectric resources and MSS resources in the same way: if there is an emergency, the CAISO can and will dispatch the hydroelectric and MSS resources.

24. In the August 17 Order, the Commission found reasonable the CAISO's commitment.<sup>15</sup> The Commission summarized the CAISO's commitment as follows: the

---

<sup>12</sup> See *supra* at P 17-20.

<sup>13</sup> April 16 Order, 107 FERC ¶ 61,028 at P 14.

<sup>14</sup> The CAISO cites to its May 17, 2004 compliance filing in the Amendment No. 50 proceeding submitted in Docket No. ER03-683-005. See *California Indep. Sys. Operator Corp.*, 110 FERC ¶ 61,007 at P 22 (2005) (finding that the CAISO's proposed modification supports the intended purpose of the MSS Agreement).

<sup>15</sup> August 17 Order, 108 FERC ¶ 61,193 at P 23.

CAISO would dispatch a hydroelectric resource *only* if such resource is the only resource available to relieve intra-zonal congestion in real-time in order to avoid a system emergency.<sup>16</sup> The Commission found that the CAISO's proposed tariff language was unclear on this point and, therefore, directed the CAISO to modify its tariff to detail the procedure it will utilize in determining the need to dispatch a hydroelectric unit to manage intra-zonal congestion.<sup>17</sup>

**a. Request for Rehearing**

25. On rehearing, CDWR argues that the Commission erred by affirming an exemption for MSS resources while denying the same exemption to CDWR resources. Upon further consideration, the Commission grants rehearing on this issue. As mentioned above, in its answer to CDWR's protest, the CAISO stated that it "treats [CDWR's] hydroelectric resources and MSS resources the same way: If there is an emergency, the ISO can and will dispatch the hydroelectric and MSS resources."<sup>18</sup> In the August 17 Order, the Commission intended to direct the CAISO to include language to this effect in its ISO Tariff. However, in the August 17 Order, the Commission inadvertently provided an incorrect summary of the CAISO's commitment, which resulted in an incorrect directive. To correct this error, we now direct the CAISO to submit a compliance filing, within 30 days of the date of this order, in which it modifies ISO Tariff section 7.2.6 to indicate that it treats hydroelectric resources in the same manner as it treats MSS resources, as described in the CAISO's answer.

**b. Compliance Filing**

26. In its compliance filing, the CAISO proposes new ISO Tariff section 7.2.6.4 that provides as follows: "If the ISO must dispatch hydroelectric resources for which no Supplemental Energy bids have been submitted to manage Congestion, the ISO shall do so only after dispatching all other reasonably effective resources that could be used to manage the Congestion." CDWR protests this modification.

---

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> CAISO July 26, 2004 Answer at 4.

27. Per our discussion above,<sup>19</sup> we find that the proposed revision does not comply with our intent on this matter. Accordingly, we reject this proposed modification.

**5. Reliability Must Run Units and Must-Offer Obligation**

28. In the August 17 Order, the Commission noted that, in its answer, the CAISO agreed that proposed Amendment No. 61 does not apply when the ISO must shut down a reliability must-run (RMR) unit or a must-offer unit.<sup>20</sup> The CAISO also agreed that a must-offer unit should be shut off by granting a must-offer waiver and should not be charged the decremental reference price.<sup>21</sup> Thus, the Commission directed the CAISO to submit revised tariff sheets that implement the changes it committed to make.<sup>22</sup>

**Compliance Filing**

29. In its compliance filing, the CAISO revised ISO Tariff section 7.2.6.1 as directed. Accordingly, we accept the revisions.

**6. Day-Ahead Energy Schedules and Day-Ahead Ancillary Service Capacity Schedules**

30. In the August 17 Order, the Commission found that, if a generating unit has been ordered by the CAISO to shut down to relieve intra-zonal congestion and is unable to restart in order to meet the unit's day-ahead energy schedule due to legitimate operational limitations, the CAISO should charge the resource the lesser of the decremental reference price corresponding to that resource's day-ahead energy schedule or the MCP.<sup>23</sup> The Commission found that this approach was consistent with the proposed methodology for

---

<sup>19</sup> See *supra* at P 25.

<sup>20</sup> August 17 Order, 108 FERC ¶ 61,193 at P 24-25.

<sup>21</sup> *Id.* at P 25.

<sup>22</sup> *Id.* at P 27.

<sup>23</sup> *Id.* at P 32.

determining and evaluating the shut down reference level.<sup>24</sup> The Commission directed the CAISO to submit revised tariff sheets that incorporate these changes.<sup>25</sup>

31. In addition, the Commission found that a market unit that has been shut down by the CAISO to relieve intra-zonal congestion should be required to meet its ancillary services obligation.<sup>26</sup> The Commission also found that, if a generating unit is required by the CAISO to shut down, it should not be subject to Uninstructed Deviation Penalties (UDPs).<sup>27</sup>

a. **Request for Rehearing**

32. The CAISO states that it is not clear how charging the lesser of the MCP or the decremental reference price is consistent with the proposed methodology for determining the shut down reference level. The CAISO states that the procedures for determining decremental reference levels (including the shut down reference level) set forth in ISO Tariff section 7.2.6.1.1 do not include a methodology based on charging the generator the lesser of the MCP or the decremental reference price. Therefore, the CAISO requests that the Commission explain how paying a generating unit the lesser of the MCP or its decremental reference price is consistent with the provisions for establishing reference prices.

33. In the August 17 Order, the Commission stated that paying a generating unit the lesser of the MCP or its decremental reference price is consistent with the provisions for establishing reference levels. For purposes of clarification, we believe that it is consistent because it does not alter the previously accepted methodology utilized to determine reference levels and the corresponding prices.

34. The CAISO argues that, for the CAISO to comply with the Commission's direction to charge the generating unit the lesser of the decremental reference price at the scheduled operating level or the MCP, the generating unit's forward schedule would have

---

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at P 33.

<sup>27</sup> *Id.* at P 34.

to remain in place. The CAISO contends that requiring the CAISO and the generating unit's scheduling coordinator to pretend that the shut down generating unit was still operating as if nothing had occurred violates Market Behavior Rule 3.<sup>28</sup>

35. Contrary to the CAISO's assertion, the mere use of a forward schedule after it has been submitted to determine a reference price does not constitute a violation of Market Behavior Rule 3, even if that schedule was not used to schedule energy. At the time of filing, the seller may have provided accurate and factual information and not have submitted false or misleading information or omitted material information, in accordance with Market Behavior Rule 3. Those facts would not change due to the subsequent use of the schedule to determine reference prices. Accordingly, we deny this request for rehearing.

36. The CAISO believes that, instead of leaving the generating unit's forward energy schedule in place, the shut down generating unit's scheduling coordinator should "zero out" that unit's schedule (at least until the time that the generating unit can be restarted) and should serve the demand that would have been served by that generating unit by using another source in the scheduling coordinator's portfolio. The CAISO contends that charging a generating unit that is shut down to manage intra-zonal congestion the lesser of the decremental reference price or the imbalance energy MCP for its day-ahead schedule allows the generating unit to purchase replacement energy from the CAISO to meet its scheduled obligation at the most favorable price possible. The CAISO asserts that these generators will have an incentive to provide "inflated" schedules in the day-ahead because they would be charged at most the discounted decremental reference price to replace the scheduled energy that cannot be delivered. The CAISO also argues that the additional cost that will result from allowing these generators to buy imbalance energy at a favorable price does not reflect cost causation principles and will not serve as a meaningful price signal to address the causes of the problem. The CAISO claims the additional cost that may result from the CAISO dispatching additional imbalance energy to make up for the scheduled output of the generating unit if the scheduling coordinator does not "zero out" that unit's schedule and use a substitute resource will not be borne by

---

<sup>28</sup> *Citing Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 at Appendix A (2003) ("Seller will provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, Commission-approved market monitors, Commission-approved regional transmission organizations, or Commission-approved independent system operators, or jurisdictional transmission providers, unless Seller exercised due diligence to prevent such occurrences.")

the demand that was being served by the shut down generating unit's schedule. The CAISO asserts that, instead, the cost will be borne by all parties purchasing imbalance energy from the CAISO (even parties remote from the congestion) and, therefore, the additional cost will not serve as a price signal for the generating unit to perform the maintenance that may have allowed it to restart in time and will not serve as a price signal for upgrading the congested transmission element.

37. We find that holding market participants responsible for a flawed congestion management system that lacks appropriate price signals is not an equitable result and, therefore, is not just and reasonable. Accordingly, we deny this request for rehearing.

**b. Compliance Filing**

38. In its compliance filing, the CAISO revised ISO Tariff section 7.2.6.1 to state as follows: "If a Generating Unit shut down according to this section 7.2.6.1 cannot start up in time to meet its next day's Energy Schedules, the ISO shall charge the Scheduling Coordinator for that Generating Unit the lesser of the decremental reference price or the [MCP] at the operating level set forth in the relevant Energy Schedule for any deviation from the next day's Final Day-Ahead Schedules for Energy caused by such shut-down." We find that the CAISO revised this section as directed and, accordingly, accept this revision.

**7. Effective Date**

39. In the August 17 Order, the Commission accepted Amendment No.61, subject to modification, to be effective August 18, 2004.<sup>29</sup>

**Compliance Filing**

40. In its compliance filing, the CAISO states that it cannot implement all of the Commission's directives immediately. The CAISO states that it can immediately implement: (1) the provisions to dispatch hydroelectric generating units to manage congestion only after all other effective resources have been used, and (2) charging the lesser of the MCP or the decremental reference price to a unit shut down until it is restarted. The CAISO states that it cannot immediately implement: (1) the new shut-down reference price due to limited availability of market operations staff, and (2) basing a shut-down decision on total shut-down costs because the ISO does not yet have those costs and because of the limited availability of market operations staff to incorporate

---

<sup>29</sup> August 17 Order, 108 FERC ¶ 61,193 at P 41.

those costs into the tool that will be used to make shut-down decisions. The CAISO estimates that it may be able to implement these directives by “January 30, 2004 [sic].” The CAISO acknowledges that, if it is required to apply some provisions of ISO Tariff section 7.2.6.1 between now and the time the modifications can be made, it will have to continue to apply existing charges and later re-run settlements to apply the proper charges. The CAISO adds that there are some provisions that it cannot immediately implement that cannot be re-run.

41. In its protest, Energia/Coral argue that the CAISO’s proposal to delay the effective date is impermissible under section 205 of the FPA and section 35.1(e) of the Commission’s regulations. Energia/Coral add that it is unclear whether the CAISO seeks to delay implementation of certain portions of the approved ISO Tariff or all of ISO Tariff section 7.2.6.1 until the CAISO provides notice that it has the proper systems in place. Energia/Coral request that the Commission reject the CAISO’s request to delay the effective date of the provisions of ISO Tariff section 7.2.6.1, which direct the CAISO to charge units shut down due to intra-zonal congestion the lower of the decremental reference price or the MCP.

42. In its answer, the CAISO states that it only seeks to identify for the Commission the consequences of making effective provisions that the CAISO cannot yet implement. The CAISO states that, if the Commission determines that provisions that the CAISO cannot implement immediately should not be effective on August 18, 2004 but instead on the date that the systems necessary to implement such provisions were modified, then the CAISO would apply the revised charges at that time and would not have to undertake another re-run of the market.

43. In the August 17 Order, the Commission granted the CAISO’s requested effective date of August 18, 2004, and the rates, terms and conditions accepted in that order have taken effect. In order to have rates, terms and conditions with a different effective date, the CAISO would have to make a new filing under section 205 of the FPA. The CAISO cannot request such a change in a compliance filing.<sup>30</sup>

---

<sup>30</sup> See *New England Power Pool*, 95 FERC ¶ 61,383 at 62,423 (“As a general matter, the Commission may and frequently does reject a compliance filing which goes beyond those changes which the Commission sought, and a party includes new material in a compliance filing at its own risk”), *order on reh’g*, 96 FERC ¶ 61,228 (2001); *Southern Company Serv., Inc.*, 61 FERC ¶ 61,339 at 62,331 (1992) (“The Commission has long rejected compliance filings that include changes neither directed nor otherwise authorized”), *reh’g denied*, 63 FERC ¶ 61,217 (1993).

## 8. Inter-Zonal and Intra-Zonal Congestion

44. In its compliance filing, the CAISO states that, in the proceeding addressing Amendment No. 50,<sup>31</sup> the CAISO modified ISO Tariff section 7.2.6.1 to provide that a generating unit that is shut down to manage intra-zonal congestion may invoice the ISO to be paid its start-up costs in accordance with ISO Tariff section 2.5.23.3.7.6. The CAISO states that it recently encountered a situation in which a generating unit was shut down to manage inter-zonal congestion, not intra-zonal congestion. The CAISO states that there is no logical reason to deny a generating unit shut down due to inter-zonal congestion the same possibility of invoicing the CAISO for its start-up costs. Therefore, although the Commission has not directed it to do so, the CAISO requests that it be permitted to modify the ISO Tariff to allow generating units shut down to manage inter-zonal congestion to invoice the ISO for their start-up costs.

45. In its protest, CDWR argues that the Commission has not authorized the CAISO to modify its ISO Tariff to specify that the ISO should manage inter-zonal congestion by shutting down generators. CDWR contends that, to the contrary, the CAISO is supposed to manage inter-zonal congestion through markets with its congestion management system (CONG).<sup>32</sup> CDWR states that it is not clear whether shutting down generators is in accord with adjustment bids, with the remedy of curtailment in real time or with adjustments based on the merit order stack. CDWR notes that the CAISO has not stated why the new costs of shutting down generating units are needed in light of the market-based approach to inter-zonal congestion management in the ISO Tariff.

46. CDWR raises concerns with the proposal due to the rising costs of ISO congestion management and the evidence in Docket No. ER04-835 of serious deficiencies in this area. CDWR argues that the Commission has not authorized the CAISO to socialize these additional costs to the grid and that the socialization of these costs contravenes Commission policy. CDWR contends that the imposition of socialized

---

<sup>31</sup> Proposed Amendment No. 50 was filed in Docket No. ER03-683-000.

<sup>32</sup> CONG is the congestion management software used by the ISO. It analyzes inter-zonal congestion conditions in the system, determines the revised schedules, and calculates congestion transmission path prices based on adjustment bids submitted by scheduling coordinators. CONG also disaggregates the results of the congestion management by individual scheduling coordinator and by zone. CONG provides the results to the Scheduling Infrastructure subsystem, which in turn publishes it to the respective scheduling coordinator's workspace and the ISO Open Access Same Time Information System internet site.

inter-zonal congestion costs on all scheduling coordinators also violates the CAISO's obligation to honor firm existing transmission contract rights. CDWR claims that the CAISO's intervention to shut down generators instead of using the "CONG" congestion management system fails to provide the required firm transmission product. CDWR asserts that failing to use the ISO Tariff-based inter-zonal congestion scheme to manage inter-zonal congestion destroys intended efficiencies and proper price signals. CDWR argues that the proposed charge should be rejected because the CAISO cannot introduce new terms and conditions or new charges in a compliance filing, which is supposed to implement the express directives of a specific Commission order.

47. In its answer, the CAISO states that it is not seeking to bypass its existing forward market inter-zonal congestion management process, which it contends would not have been effective in the event at issue because the inter-zonal congestion in that event occurred in real-time. The CAISO states that instead it seeks to eliminate the meaningless distinction that would have allowed a generating unit shut down to manage intra-zonal congestion to collect its start-up costs but not have allowed a generating unit shut down to manage inter-zonal congestion from collecting those costs. The CAISO adds that it is not seeking to change the constituency to whom start-up costs would be allocated. The CAISO also contends that CDWR is knowingly using incorrect, unestablished data from the proceedings in Docket Nos. ER04-835 and EL04-103 as the basis for allegations that the CAISO is amassing huge costs to manage inter-zonal congestion outside of its ISO Tariff authority. Finally, the CAISO states that it did not propose these changes in a new section 205 filing because: (1) the effect of paying start-up costs for generating units shut down to manage inter-zonal congestion is *de minimus* given the Commission's apparent approval of payment of start-up costs for generating units shut down to manage intra-zonal congestion and (2) if the Commission did approve payment of start-up costs for generating units shut down in real-time to manage intra-zonal congestion, there is no reason to decline to apply the same to units shut down in real-time to manage inter-zonal congestion. CDWR challenges the CAISO assertion that the impact of this proposed change would be *de minimus*.

48. This proposal was not raised in the CAISO's initial filing in this proceeding; therefore, it is outside the scope of this proceeding. Since this proposal may impact entities that are not parties to this proceeding, if the CAISO seeks to modify the CAISO Tariff in this manner, it must make a separate section 205 filing that will subject this proposal to public notice and comment.<sup>33</sup> Accordingly, we reject this proposed modification.

---

<sup>33</sup> See *supra* note 30.

The Commission orders:

(A) The requests for rehearing are hereby granted, in part, and denied, in part, as discussed in the body of this order.

(B) The CAISO's proposed compliance filing, as modified, is hereby accepted, in part, to become effective on August 18, 2004, and rejected, in part, as discussed in the body of this order.

(C) The CAISO is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Linda Mitry,  
Deputy Secretary.