

113 FERC ¶ 61,262  
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. ER06-61-000

ORDER CONDITIONALLY ACCEPTING METERED SUBSYSTEM AGREEMENT  
AND NOTICE OF CANCELLATION

(Issued December 15, 2005)

1. In this order, we conditionally accept a Metered Subsystem Agreement (MSS Agreement) between the California Independent System Operator Corporation (California ISO or ISO) and the City of Vernon, California (Vernon), and the notice of cancellation of the Utility Distribution Company Operating Agreement, in order to allow Vernon to change from a Utility Distribution Company and Participating Generator to a Metered Subsystem (MSS)<sup>1</sup> effective December 1, 2005, as requested.

**Background**

2. On October 21, 2005, the California ISO filed the Vernon MSS Agreement establishing the terms and conditions by which Vernon will: (1) operate electric resources within the California ISO Control Area; (2) schedule transactions using the California ISO Controlled Grid; (3) participate in the California ISO's markets through a Scheduling Coordinator; and (4) meet its obligations under the California ISO Tariff.<sup>2</sup> The California ISO's October 21, 2005 filing also included a notice of cancellation of the Utility Distribution Company Operating Agreement between the ISO and Vernon.<sup>3</sup>

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<sup>1</sup> A Metered Subsystem is a geographically contiguous system located within a single zone that has been operating as an electric utility within the ISO Control Area. It is encompassed by ISO-certified revenue quality meters at each interface point with the ISO-Controlled Grid, and has ISO-certified revenue quality meters on all Generating Units, or, if aggregated, each individual resource and participating load internal to the system. The Metered Subsystem operates in accordance with an MSS Agreement.

<sup>2</sup> To be designated as Non-Conforming Service Agreement No. 626.

<sup>3</sup> Service Agreement No. 364.

3. The California ISO states that the purpose of the submission of the MSS Agreement and the cancellation of the Utility Distribution Company Operating Agreement is to allow Vernon to change from a Utility Distribution Company to a MSS effective December 1, 2005, as requested.

4. The California ISO notes that, in *California Independent System Operator Corporation*,<sup>4</sup> the Commission conditionally accepted MSS Agreements with the City of Roseville and with Silicon Valley Power, as well as an MSS Aggregator Agreement with the Northern California Power Agency. The California ISO states that the Vernon MSS Agreement differs from the MSS Agreements in the August 2002 Order because it reflects: (a) the particular features of Vernon as an MSS; and (b) the results of the negotiations that resulted in its MSS Agreement with Vernon. The California ISO argues that these differences are permissible because the August 2002 Order stated that the individual MSS Agreements filed in that proceeding “were not intended to and do not establish a *pro forma* MSS Agreement” and that “the terms of an MSS agreement may reflect the unique nature of differing systems.”<sup>5</sup>

### **Notice of Filing and Responsive Pleadings**

6. Notice of the California ISO’s filing was published in the *Federal Register*, 70 Fed. Reg. 66,832 (2005), with interventions and protests due on or before November 4, 2005. The City of Santa Clara, California (Santa Clara) and Northern California Power Agency (NCPA) filed timely motions to intervene. Southern California Edison Company (SoCal Edison) filed a timely motion to intervene and protest. On November 21, 2005, the California ISO filed an answer to SoCal Edison’s protest. Vernon filed an answer to SoCal Edison’s protest on November 29, 2005.

### **SoCal Edison’s Protest**

7. SoCal Edison argues that the Commission should reject the Vernon MSS Agreement because it contains provisions that go beyond what the California ISO Tariff specifies for an MSS. SoCal Edison references section 8.2.1 of the Vernon MSS Agreement, which provides that:

Nothing in this agreement shall obligate Vernon to make any Generating Units available as Reliability Must-Run Generation, unless Vernon notifies the ISO that it desires to participate in the RMR Unit designation process.

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<sup>4</sup> 100 FERC ¶ 61,234 (2002) (August 2002 Order). By unpublished letter order issued on January 3, 2003, the Commission accepted a filing complying with the Commission’s directions in the August 2002 Order.

<sup>5</sup> August 2002 Order, 100 FERC ¶ 61,234 at P 52, 53.

8. SoCal Edison contrasts this provision with sections 5.2.3 and 23.4.4 of the ISO Tariff. Section 5.2.3 of the ISO Tariff provides that:

The ISO will, subject to any existing power purchase contracts of a Generating Unit, have the right at any time based upon ISO Controlled Grid technical analyses and studies to designate a Generating Unit as a Reliability Must-Run Unit.

Section 23.4.4 of the ISO Tariff provides that:

Each MSS Operator shall be responsible for any Reliability Must-Run Generation and Voltage Support required for Reliability of the MSS, including the responsibility for any costs of such Reliability Must-Run Generation, and Voltage Support and may satisfy this requirement through Generating Units owned by the MSS or under contract to the MSS . . . .

SoCal Edison argues that, by departing from these provisions of the ISO Tariff, the ISO is allowing Vernon to avoid responsibility for Reliability Must-Run (RMR) costs and to shift that responsibility to other ISO participants.<sup>6</sup>

9. SoCal Edison also references section 8.2 of the Vernon MSS Agreement, which provides that Vernon is not responsible for the costs of RMR units located in another Participating Transmission Owner's (PTO) service territory. SoCal Edison acknowledges that ISO Tariff section 5.2.8 provides that the PTO in whose service territory the RMR unit is located is responsible for the costs of the unit. But SoCal Edison argues that, "at some future point in time," the ISO may modify its tariff to specify a different cost responsibility for RMR costs. Since RMR billing procedures may change in the future, SoCal Edison argues that it is unjust, unreasonable and unduly discriminatory to include a contractual provision in the Vernon MSS Agreement providing that Vernon does not have to pay RMR costs for RMR units located outside of its service territory.<sup>7</sup>

10. Finally, SoCal Edison objects to a statement in the Vernon MSS that refers to the must-offer obligations set out in the ISO Tariff. The statement is as follows:

The Parties acknowledge that Vernon's Generation resources are dedicated first and foremost to serve Vernon's retail native Load within Vernon's Service Area and that such resources are, except for times of System Emergency or Vernon's voluntary participation in the ISO markets or other circumstances as specified in this Agreement, not subject to ISO Dispatch.<sup>8</sup>

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<sup>6</sup> SoCal Edison Protest at 2, 5-7.

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

<sup>8</sup> Vernon MSS Agreement at 2, recital J.

SoCal Edison states that it is concerned that, if there is a Commission-sanctioned must-offer obligation, or successor requirement for load-serving entities to be resource adequate, and a requirement for resource adequacy resources to be available to the California ISO for dispatch, Vernon may claim that this provision overrides that requirement. SoCal Edison argues that the Commission should reject the Vernon MSS Agreement and require that the California ISO modify the agreement to state that no provision in the agreement exempts Vernon from any must-offer obligations set out in the California ISO Tariff.<sup>9</sup>

## **Discussion**

### **Procedural Matters**

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely motions to intervene serve to make the entities that filed them parties to this proceeding.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept the California ISO's and Vernon's answers and will, therefore, reject them.

### **Commission's Determination**

#### **Section 8.2.1 of the Vernon MSS Agreement**

13. Section 8.2.1 of the Vernon MSS Agreement relieves Vernon of RMR responsibility unless Vernon notifies the California ISO that it desires to participate in the RMR Unit designation process. As SoCal Edison has observed, this provision of the Vernon MSS Agreement directly contradicts sections 5.2.3 and 23.4.4 of the ISO Tariff, which, subject to certain qualifications, gives the California ISO the right to designate generating units as RMR Units and impose upon MSS Operators responsibility for RMR Generation and Voltage Support, including the cost of RMR Generation and Voltage Support.

14. Section 8.2.1 is inconsistent with the California ISO Tariff in a manner that could be unduly preferential to Vernon and unduly discriminatory to others on the California ISO system. The California ISO has not stated why the waiver of the RMR obligation is

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<sup>9</sup> SoCal Edison Protest at 8.

necessary. Neither has it provided an explanation for the proposed departure from its tariff, nor given any indication that it has considered the effect of this departure upon the other participants on its system.<sup>10</sup>

15. We will reject this provision and require the California ISO, within 30 days from the date of this order, to file an amendment to the Vernon MSS Agreement deleting section 8.2.1. If the California ISO wants to relieve MSS entities of their RMR obligations, it must amend its tariff to make the provision applicable to all of its MSS entities and explain why it is doing this. It must also make it clear that it has taken into account the effect of this measure upon all market participants on its system.

### **Section 8.2 of the Vernon MSS Agreement**

16. SoCal Edison's concerns regarding section 8.2 of the Vernon MSS Agreement and the statement regarding generation subject to ISO dispatch is that, "at some future point in time," the ISO may modify its tariff to specify a different cost responsibility for RMR, and that Vernon "may" claim that the statement regarding generation subject to ISO dispatch overrides a must-offer obligation that the Commission may impose at some future date.<sup>11</sup>

17. These concerns are speculative and we will not address them here. If, at some future date, the California ISO *does* amend its tariff to specify a different cost responsibility for RMR Units and if, at some future date, the Commission *does* impose a must-offer obligation and Vernon claims that the statement regarding ISO dispatch overrides that requirement, it will be appropriate to address these issues at that time.

### **Notice of Cancellation**

18. As noted above, in connection with the Vernon MSS Agreement, the California ISO filed notice of cancellation of the Utility Distribution Company Operating Agreement. We accept this notice of cancellation.

### **Waiver**

19. We will grant waiver of the Commission's 60-day prior notice requirement and accept the California ISO's filing, to become effective December 1, 2005, as requested.<sup>12</sup>

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<sup>10</sup> While the MSS Agreements covered in the August 2002 Order had similar provisions, no one raised this issue there, and the Commission did not consider it.

<sup>11</sup> SoCal Edison Protest at 2, 7-8.

<sup>12</sup> See *Central Hudson Gas & Electric Corporation*, 60 FERC ¶ 61,106 at 61,337, *reh'g denied*, 61 FERC ¶ 61,089 (1992) (Commission will waive prior notice requirement when filing has no rate impact).

The Commission orders:

(A) The Vernon MSS Agreement is hereby conditionally accepted for filing, to become effective December 1, 2005, as requested, as discussed in the body of this order.

(B) The notice of cancellation of the Utility Distribution Company Operating Agreement between the California ISO and Vernon is hereby accepted for filing, to become effective December 1, 2005, as discussed in the body of this order.

(C) As discussed in the body of this order, the California ISO is hereby directed to make a compliance filing within 30 days of the date of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.