

126 FERC ¶ 61,148
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation Docket Nos. ER06-615-026
ER07-1257-008

ORDER CONDITIONALLY ACCEPTING TARIFF MODIFICATIONS

(Issued February 19, 2009)

1. In this order, we conditionally accept for filing, subject to modification, proposed revisions to the California Independent System Operator Corporation's (CAISO) current Tariff and the Market Redesign and Technology Upgrade (MRTU) Tariff. The CAISO has submitted the proposed tariff modifications in response to the Commission's order issued on June 20, 2008.¹ The CAISO's tariff filing includes modifications to tariff provisions addressing market power mitigation, Residual Unit Commitment process, Full Network Model, Congestion Revenue Rights, locational marginal pricing, Transmission Ownership Rights and Existing Transmission Contracts, metered subsystems, and participating load.

I. Background

2. On February 9, 2006, the CAISO filed its MRTU Tariff for Commission approval. On September 21, 2006, the Commission issued an order conditionally accepting the MRTU Tariff.² The Commission also ordered significant changes to be made to various aspects of the MRTU Tariff and directed that all modifications discussed in the MRTU Order be included in various compliance filings.

3. In response to the MRTU Order's directives, the CAISO submitted compliance filings on November 20, 2006, December 20, 2006, and March 20, 2007. On April 20, 2007, the Commission issued an order responding to requests for clarification and

¹ *Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,285 (2008) (June 2008 Order).

² *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 (2006) (MRTU Order).

rehearing of the MRTU Order, which upheld most of the Commission's findings from the MRTU Order.³

4. On June 25, 2007, the Commission accepted for filing, subject to further modifications, the November 20, 2006 and December 20, 2006 compliance filings submitted by the CAISO and directed another compliance filing.⁴

5. On August 3, 2007, as supplemented on August 10, 2007, the CAISO filed proposed further revisions to its MRTU Tariff in compliance with the Compliance Filing Order's directives, as well as a number of changes separate from compliance obligations, which were designed as enhancements to the overall MRTU structure already approved by the Commission.⁵ On October 5, 2007, the CAISO also filed a reply to comments and protests regarding the August 2007 Filing (October 2007 Filing). The August 2007 Filing was conditionally accepted for filing by the Commission in January 2008.⁶ Because the August 2007 Filing also raised issues pertaining to the Business Practice Manuals, those issues were addressed in a separate order issued in March 2008.⁷

6. In the June 2008 Order, the Commission conditionally accepted, subject to modifications, the CAISO's March 20, 2007 compliance filing and tariff proposals included in the August 2007 Filing not previously addressed by the Commission.

II. Filing

7. The CAISO states that it submits the proposed modifications to the currently-effective CAISO Tariff and the MRTU Tariff to comply with the directives in the Commission's June 2008 Order. The CAISO explains that the compliance filing is divided into three sections: (1) tariff changes explicitly directed by the Commission, (2) tariff revisions that the CAISO committed to develop in the October 2007 Filing, and that the Commission directed it to develop in paragraph 237 of the June 2008 Order; and (3) responses to matters discussed in the June 2008 Order that the Commission did not direct

³ *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,076 (2007).

⁴ *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,313 (2007) (Compliance Filing Order).

⁵ CAISO August 3, 2007 Modifications to MRTU Tariff and August 10, 2007 Supplemental Information, Docket Nos. ER06-615-011 and ER07-1257-000 (August 2007 Filing).

⁶ *Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,017 (2008).

⁷ *Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,271 (2008).

be included in a compliance filing. Specifically, in the instant filing, the CAISO proposes clarifying revisions to tariff provisions on: (1) market power mitigation and categories of conduct that may warrant mitigation; (2) Residual Unit Commitment zones, availability bid cost recovery and allocation of compensation costs; (3) access to the Full Network Model; (4) Congestion Revenue Rights; (5) metered subsystems definitions and bid cost recovery issues; (6) locational marginal pricing; (7) bilateral agreements addressing Transmission Ownership Rights and transmission losses; (8) issues common to Transmission Ownership Rights and Existing Transmission Contracts; and (9) participating load.

III. Notice, Intervention, and Responsive Pleadings

8. Notice of the proposed tariff revisions was published in the *Federal Register*, 73 Fed. Reg. 44,715 (2008) with interventions and protests due on or before August 11, 2008. Timely comments were filed by the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Six Cities). The California Department of Water Resources State Water Project (SWP) filed comments one day out-of-time.⁸

9. On August 27, 2008, the CAISO filed a motion to file an answer one day out of time, and an answer to the comments submitted in this proceeding.

IV. Discussion

A. Procedural Matters

10. We will accept SWP's comments one day out of time. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the CAISO's answer to the protests because it has assisted us in the decision-making process.

B. Substantive Matters

11. The Commission finds that the CAISO's filing is generally in compliance with the Commission's directives in the June 2008 Order. However, we direct further modifications to several proposed tariff revisions. Below are the Commission's discussion and findings that primarily address aspects of the CAISO's tariff filing that have been contested by various commenters. Our review of the proposed tariff revisions that are not contested and not specifically discussed herein indicates that they are just and reasonable and are hereby accepted for filing.

⁸ The CAISO states that it does not oppose SWP's late filing. See CAISO Answer at 3.

1. Allowable Congestion Revenue Rights

12. In the June 2008 Order, the Commission agreed with Six Cities that sections 36.8.2 and 36.8.3.4.1 of the currently effective CAISO Tariff and MRTU Tariff should require that the list of allowable sources and sinks be posted no less than 30 days prior to the date load serving entities submit their nominations for Congestion Revenue Rights.⁹ The Commission found that the posting of allowable sources and sinks is appropriate because market participants need time to prepare for the Congestion Revenue Rights allocation process and directed the CAISO to submit the applicable tariff sheets in a compliance filing.¹⁰ In response to this Commission directive, the CAISO proposes revisions to these sections that it says will provide for the 30-day posting requirement for the annual allocation process and require Congestion Revenue Rights sources and sinks be consistent with the Full Network Model.

Comments and Protests

13. Six Cities argue that additional language inserted by the CAISO allows the CAISO to revise the list of allowable sources and sinks at any time up to the due date for requesting Congestion Revenue Rights. Six Cities claim that the language added by the CAISO would undermine the purpose of the 30-day notice requirement adopted by the Commission and that the CAISO has made no effort to justify the need to retain discretion to alter the allowable sources and sinks prior to the due date for nominations.

14. Six Cities urge the Commission to reject the unauthorized language added by the CAISO as beyond the scope of the compliance filing. Six Cities state that if the CAISO thinks that these changes are truly necessary, the CAISO should file proposed amendments to tariff sections 36.8.2 and 36.8.3.4.1 pursuant to section 205 of the Federal Power Act (FPA)¹¹ and provide sufficient justification for the proposed revisions.

CAISO Answer

15. The CAISO argues that it has fully complied with the Commission's directive by including in the tariff the requirement that the CAISO post the allowable sources and sinks no later than 30 days before the date participants are required to submit their nominations for Congestion Revenue Rights.

16. The CAISO explains that the proposed tariff language is not intended to undermine the CAISO's primary responsibility to post the allowable sources and sinks 30

⁹ June 2008 Order, 123 FERC ¶ 61,285 at P 137.

¹⁰ *Id.*

¹¹ 16 U.S.C. § 824d (2006).

days prior to the close of nominations for Congestion Revenue Rights. Instead, the CAISO claims that the language is intended to ensure that the participants have available all allowable sources and sinks in the event that network changes require the addition of new, or the removal of previously-listed, allowable sources and sinks. The CAISO claims that in the event that it discovers unforeseen changes to the network after the 30-day posting but prior to the close of nominations, this information should be used to update the list of allowable sources and sinks for Congestion Revenue Rights.

17. The CAISO argues that contrary to Six Cities' assertions, the proposed tariff language does not provide the CAISO with broad authority to revise the list of allowable sources and sinks. The CAISO points out that it will only update the list of allowable sources and sinks if it becomes aware of such unforeseen changes to the network after the required 30-day advance posting.

18. The CAISO states that it expects changes to the required 30-day advance posting to be a rare, but not an impossible, occurrence. The CAISO claims that market participants would want to take such updates into account when formulating their nominations for Congestion Revenue Rights. Further, the CAISO states that without this updated information market participants will not be able to take advantage of the capacity on the system to the maximum extent possible.

Commission Determination

19. We agree with the CAISO that the proposed tariff language is in compliance with the Commission's directive in the June 2008 Order. Specifically, the proposed modifications require the CAISO to post information regarding allowable sources and sinks 30 days prior to the date load serving entities must submit their request for Congestion Revenue Rights. Contrary to Six Cities' assertions, we find that the proposed language does not provide the CAISO with discretion to change which sources and sinks are eligible for nomination. The proposed tariff provisions require the CAISO to update this information if unforeseen system network changes occur. We agree with the CAISO that market participants should be provided such information. Accordingly, we accept proposed tariff sections 36.8.2 and 36.8.3.4.1 as filed.

2. Participating Load¹²

20. In the June 2008 Order, the Commission directed the CAISO to modify section 11.8.6.5.3 of the MRTU Tariff to exempt Participating Load from the allocation of Residual Unit Commitment costs to the extent that participating load does not underschedule in the day-ahead market.¹³ The CAISO states that the proposed tariff modifications provide that the CAISO will allocate Residual Unit Commitment costs to participating loads to the extent of any net negative demand deviation that is not the result of a CAISO instruction to increase real-time consumption.

Comments

21. SWP states that it does not oppose the CAISO's proposed language as long as SWP can avoid penalties for underscheduling when the CAISO requests increased pumping in the Hour-Ahead Scheduling Process or the real-time market. SWP requests that the Commission allow SWP to respond with increased pumping not only in reply to CAISO non-market requests, but also to price signals sent to participating load through locational marginal prices.

22. SWP argues that the CAISO's proposal will penalize participating load to the extent its load increases in real time. SWP claims that the CAISO's proposal to avoid erecting demand response barriers to CAISO directives, but then to establish such barriers to price signals, undermines the very purpose of instituting locational pricing for demand response resources. Further, SWP states that thwarting demand response to actual prices cannot be reconciled with the push to institute scarcity pricing. SWP concludes that it is unduly discriminatory to allow generators to freely respond to price signals and at the same time punish participating load for attempting to do the same.

23. Finally, SWP states that it seeks to reserve all rights to its pending rehearing request in this docket.¹⁴

¹² Participating load is defined in the MRTU Tariff as hydro pumping load that provides curtailable demand and has undertaken in writing by execution of a Participating Load Agreement to comply with all applicable provisions of the CAISO Tariff. *See* MRTU Tariff, Appendix A.

¹³ June 2008 Order, 116 FERC ¶ 61,274 at P 92.

¹⁴ SWP refers to its request for rehearing of the June 2008 Order in Docket Nos. ER06-615-025 and ER07-1257-007. The Commission issued an order denying SWP's request for rehearing on February 3, 2009. *See Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,089 (2009).

CAISO Answer

24. The CAISO states that while SWP raises an issue that is worthy of exploration following MRTU implementation, the Commission should reject the request at this time because the Commission directive requested by SWP would be entirely outside the scope of the instant compliance filing. The CAISO claims that the proposed tariff language fully complies with the June 2008 Order. Additionally, the CAISO explains that SWP's request that CAISO be required to allow SWP to respond to price signals amounts to a request that pump load be given the opportunity to respond to anticipated market conditions in real time by submitting a bid to pump more in real time.

25. Under the current MRTU functionality, the CAISO states that it will not have the ability to accept demand bids in real time. However, the CAISO notes that the current functionality provides the opportunity for participating load using the pumped storage model to submit a supply bid in real time (i.e., a bid to deviate from its day-ahead schedule that would be treated as energy in the real-time energy market). The CAISO explains that this functionality allows participating load using the pumped storage model to offer to consume more or less and be dispatched accordingly.

26. Finally, the CAISO states that it is simply not feasible for the CAISO to deliver SWP's requested functionality at the start of MRTU. However, the CAISO states that it is committed to such changes for future enhancements to the participating load functionality.

Commission Determination

27. We agree with the CAISO that the proposed changes to MRTU Tariff section 11.8.6.5.3 comply with the Commission's directive in the June 2008 Order. In the June 2008 Order, the Commission found that parties raised legitimate concerns regarding the possible underscheduling of participating load in the day-ahead market.¹⁵ Therefore, the Commission directed the CAISO to make clear that participating load will only be exempt from the Residual Unit Commitment charges to the extent that participating load does not underschedule in the day-ahead market.¹⁶ On rehearing of the June 2008 Order, SWP argued that its participating load should not bear Residual Unit Commitment costs when it responds to price signals. The Commission denied SWP's request for rehearing.¹⁷

¹⁵ See June 2008 Order, 123 FERC ¶ 61,285 at P 92.

¹⁶ *Id.*

¹⁷ *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,089, at P 36-37 (2009).

28. To comply with this directive, the CAISO proposes that participating load be exempt from Residual Unit Commitment charges “to the extent that the participating load’s Net Negative CAISO demand deviation in that Trading Hour is incurred pursuant to a CAISO directive to consume in a Dispatch Instruction.”¹⁸ We find that the proposed language appropriately clarifies the circumstances under which participating load will not be subject to the allocation of Residual Unit Commitment costs. Accordingly, we accept the MRTU Tariff section 11.8.6.5.3 revision as in satisfactory compliance with our prior order.

29. We also note the CAISO’s commitment to pursue market design enhancements that will permit participating load to more freely respond to price signals. In this regard, we encourage the CAISO to pursue the implementation of such functionality following MRTU implementation. We note that the Commission has directed the CAISO to work with interested stakeholders to develop proposals for integrating demand response resources into the MRTU markets,¹⁹ and that the CAISO is complying with this directive and its schedule provides for the enhancements to demand response participation in the MRTU Tariff to be filed in 2009.²⁰

3. Six Cities’ Request for Clarification of Proposed Tariff Language

30. In the October 2007 Filing, the CAISO committed to modify MRTU Tariff sections 11.10.2.1.3 and 11.10.2.2.2 to clarify the terms of the hourly net obligation for regulation service. In the June 2008 Order, the Commission accepted the CAISO commitment to make such modifications.²¹

31. In the June 2008 Order, the Commission also accepted the CAISO’s commitment to clarify MRTU Tariff Appendix C, section A to explain that market clearing prices are limited by the resources that are eligible to set the market price, and, therefore, it is not the case that the highest price resource will always set the price.²²

¹⁸ See proposed section 11.8.6.5.3 of the MRTU Tariff.

¹⁹ MRTU Order, 116 FERC ¶ 61,274 at P 689-90.

²⁰ CAISO Demand Response Integration Working Group Meeting Introduction & Overview (December 12, 2008). The CAISO’s timeline can be found at: <http://www.caiso.com/209b/209b856053f80.pdf>.

²¹ See June 2008 Order, 123 FERC ¶ 61,285 at P 237.

²² *Id.* P 173.

Comments

32. Six Cities note that the CAISO's transmittal letter states that the final sentence of section 11.10.2.1.3 has been revised to read as follows:

Each Scheduling Coordinator's Ancillary Services Obligation percentage for Regulation Down in an hour is equal to the total requirement for Regulation Down in that hour divided by the hourly metered CAISO Demand for that hour.

33. Six Cities also point out that the transmittal letter further states that the CAISO made parallel changes to section 11.10.2.2.2. However, Six Cities claim that the tariff sheets submitted with the CAISO's compliance filing omit a portion of the language quoted above and that the omissions render sections 11.10.2.1.3 and 11.10.2.2.2 incomprehensible. Six Cities request that the Commission direct the CAISO to correct the tariff language to be consistent with the language shown in the transmittal letter.

34. In addition, Six Cities explain that the CAISO's compliance filing proposes to add the following language to Appendix C, Section A:

The Locational Marginal Prices are determined by resources that are not eligible to set the Locational Marginal Price, which includes resources that have constraints that prevent them from being marginal.

35. Six Cities argue that the language added by the CAISO makes no sense and fails to provide any clarity. Six Cities state that the defect could be cured by adding "not" prior to "determined." Six Cities argue that the Commission should direct the CAISO to clarify the revised section in an appropriate manner.

CAISO Answer

36. The CAISO states that it agrees with Six Cities and requests the Commission to direct the revisions identified above.

Commission Determination

37. We direct the CAISO to make a compliance filing within 30 days of the date of this order to: (1) include the omitted language in sections 11.10.2.1.3 and 11.10.2.2.2, and (2) clarify the language in Appendix C, Section A.

The Commission orders:

(A) The CAISO's compliance filing is hereby conditionally accepted for filing, subject to further modifications, as discussed in the body of this order.

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

By the Commission. Commissioner Kelliher is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.