137 FERC ¶ 61,167
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

California Independent System Operator Corporation Docket No. ER11-4733-000

ORDER ON TARIFF FILING

(Issued November 30, 2011)

1. On September 30, 2011, California Independent System Operator Corporation (CAISO) submitted revisions to its open access transmission tariff to exempt Scheduling Coordinators for certain qualifying facilities that provide resource adequacy capacity (QF RA resources) from the reporting requirements under section 40.9.5 for purposes of the standard capacity product (SCP) availability determination. In this order, we conditionally accept the proposed tariff revisions to be effective December 1, 2011, subject to a compliance filing, as discussed below.

I. Background

2. On June 26, 2009, the Commission accepted CAISO's SCP proposal, a mechanism intended to enhance CAISO's RA program and support the reliable operation of the CAISO-controlled grid.[1] The SCP provides financial incentives for resources to meet their monthly Availability Standard in the form of Non-Availability Charges and Availability Incentive Payments.[2] The June 26 Order approved CAISO's proposal not to apply the SCP Availability Standards to resources whose RA qualifying capacity is determined by historical output data (RA historical output resources) from the California Public Utilities Commission (CPUC) or a local regulatory authority that does not adjust

[1] *Cal. Indep. Sys. Operator Corp.*, 127 FERC ¶ 61,298 (2009) (June 26 Order).

[2] A resource that has a lower availability than the Availability Standard minus 2.5 percent bandwidth will be subject to a Non-Availability Charge, while a resource that has a higher availability than the Availability Standard plus 2.5 percent will be eligible for an Availability Incentive Payment.

the historical output data to prevent the double counting of outages.[3] The Commission intended for this exemption to be temporary and, thus, directed CAISO to work with stakeholders, the CPUC, and local regulatory authorities to resolve the double counting issue so that these resources could be included in the SCP.[4]

3. On May 25, 2010, the CPUC announced a proposal to change its qualifying capacity calculation to eliminate the potential double counting that conflicted with CAISO's SCP.[5] On June 22, 2010, CAISO filed tariff revisions to remove the exemption in tariff section 40.9.2(4) and therefore apply the SCP Availability Standard for RA historical output resources. The Commission accepted CAISO's proposal, and the new reporting requirements became effective January 1, 2011.[6] However, Scheduling Coordinators for QF RA resources advised CAISO that they would be unable to obtain the information used to calculate these resources' SCP Availability Standards required by section 40.9.5 of the CAISO tariff.

4. Section 40.9.5 of CAISO's tariff requires Scheduling Coordinators to provide CAISO with information identifying all of the forced outages and temperature-related ambient de-rates that have occurred in the past calendar month for the resources not exempt under section 40.9.2.[7] According to CAISO, certain contractual provisions in the Scheduling Coordinators' agreements with QF RA resources prevent them from obtaining the outage information necessary to comply with the section 40.9.5 tariff requirements. In order to resolve this issue, CAISO began a stakeholder process in January 2011 to determine how to apply the SCP outage reporting requirements for these QF RA resources. Two Scheduling Coordinators for the QF RA resources, Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SoCal Edison), filed requests for waiver of section 40.9.5 so that they would not be found in violation of the CAISO tariff during the stakeholder process.[8] The Commission granted

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[3] CAISO provides that currently, RA historical output resources include wind, solar, and qualifying facility (QF) resources.

[4] June 26 Order, 127 FERC ¶ 61,298 at P 58.

[5] The CPUC adopted this proposal as Decision 10-06-036 on June 24, 2010.

[6] *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,148 (2010) (August 20 Order).

[7] Scheduling Coordinators must report outage information for: (1) generating units or resource-specific resources under the RA program with a maximum output of one MW or more; and (2) RA resources whose maximum output is ten MW or more.

[8] *See* Docket Nos. ER11-2592 and ER11-2694.

these requests in March 2011[9] and, subsequently, extended the temporary waiver twice.[10] The current waiver is set to expire on the earlier of the date of the Commission's order on CAISO's Filing proposing a permanent solution to the reporting issue or December 31, 2011.[11]

II. CAISO Filing

5. CAISO proposes to amend its tariff to add new sections 40.9.2(7) and 40.9.2(8) to exempt Scheduling Coordinators for certain QF RA resources from the section 40.9.5 reporting requirements. CAISO proposes that the new exemption apply to RA capacity under an existing regulatory must-take generation agreement that (1) is already grandfathered under current tariff section 40.9.2(2) or 40.9.2(3), or (2) was executed before the August 22, 2010 deadline to be eligible for the section 40.9.2(2) exemption and was extended by the CPUC. CAISO states that it continues to find that including forced outage information from these categories of QF RA resources in the SCP Availability Standards is important, but realizes that the Scheduling Coordinators for these resources cannot comply with the tariff's requirements.[12]

6. In addition to exempting Scheduling Coordinators for QF RA resources whose contracts were extended by the CPUC, CAISO also proposes to exempt these Scheduling Coordinators from receiving SCP Availability Incentive Payments and paying Non-Availability Charges. CAISO contends that without this corresponding exemption, Scheduling Coordinators would be entitled to receive a 100 percent SCP Availability Incentive Payments, possibly to the detriment of other RA resources that do report forced outages but actually achieve superior Availability during that calendar month.[13]

7. CAISO explains that the exemptions in proposed sections 40.9.2(7) and 40.9.2(8) will end for each QF RA resource when its existing agreement for regulatory must-take generation terminates, the agreement is no longer grandfathered or eligible for

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[9] *Pacific Gas and Electric Co.*, 134 FERC ¶ 61,265 (2011).

[10] *Pacific Gas and Electric Co.*, 135 FERC ¶ 61,282 (2011); and *Pacific Gas and Electric Co.*, 136 FERC ¶ 61,243 (2011).

[11] *Pacific Gas and Electric Co.*, 136 FERC ¶ 61,243 at P 1.

[12] CAISO Transmittal Letter at 8.

[13] CAISO clarifies that it is unnecessary to exempt Scheduling Coordinators for QF RA resources with grandfathered contracts because these resources are already exempt from receiving SCP availability incentive payments and non-availability charges under current tariff sections 40.9.2(2) or 40.9.2(3). CAISO Transmittal Letter at 9.

exemption, or if requested by the Scheduling Coordinator. At that time, a QF RA resource whose existing contract has terminated will be able to execute one of the four *pro forma* agreements that will be available as a result of the ongoing CPUC QF settlement proceeding.[14] CAISO maintains that these *pro forma* agreements contain provisions that require QF RA resources to provide outage information to their Scheduling Coordinators in a manner that will allow the Scheduling Coordinator to comply with the reporting requirements in section 40.9.5 of CAISO's tariff.[15]

III. Notice, Interventions, and Responsive Pleadings

8. Notice of CAISO's tariff filing was published in the *Federal Register*, 76 Fed. Reg. 62,801 (2011), with interventions, comments, and protests due on or before October 21, 2011. Timely motions to intervene were filed by Cogeneration Association of California and Energy Producers and Users Coalition (CAC/EPUC), PG&E, SoCal Edison, the California Department of Water Resources State Water Project, and the City of Santa Clara, California and the M-S-R Public Power Agency.

9. PG&E and SoCal Edison filed comments in support of the proposed tariff revisions. CAC/EPUC filed a protest stating that although it supports CAISO's filing, certain "clarifying revisions" to the proposed tariff language are appropriate.[16] CAISO filed an answer to CAC/EPUC's comments, arguing that the suggested revisions to section 40.9.2(7) are unnecessary, since the language as proposed is clear and does not require additional clarification. CAISO, however, states that it agrees to the minor modifications CAC/EPUC suggests in section 40.9.2(8) and proposes to reflect those changes in a compliance filing.

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the filing of timely, unopposed motions to intervene serve to make the movants parties to the proceeding. Rule 213(a) of the Commission's Rules of

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[14] CAISO states that this proceeding, Decision 10-12-035, will become a final, non-appealable order by early 2012. CAISO Transmittal Letter at 4.

[15] According to CAISO, these *pro forma* agreements will also be available for new QF/combined heat and power facilities (CHP) and QF/CHP facilities with existing contracts that choose to execute one of the new agreements. *Id*. at 5.

[16] The CAC/EPUC's "clarifying revisions" are stylistic and/or typographical. CAC/EPUC Protest at 3-4.

Practice and Procedure, 18 C.F.R. § 385.213(a) (2011), prohibits an answer to a protest unless otherwise permitted by the decisional authority. We accept CAISO's answer to CAC/EPUC's protest because it has assisted in our decision-making.

B. Commission Determination

11. We find that CAISO's proposed tariff revisions provide a balanced approach to a difficult set of circumstances as it relates to the contractual provisions in the Scheduling Coordinator agreements with QF RA resources. The proposed revisions exempt from the reporting requirement a narrowly-defined group of QF contracts and outline specific conditions upon which the exemption is to terminate. The proposed tariff revisions also exempt Scheduling Coordinators with the specified QF contracts from receiving SCP Availability Incentive Payments and paying Non-Availability Charges, thereby preventing negative impacts on other RA resources that comply with the forced outage reporting requirement. Additionally, we find that the proposed tariff revisions will ensure adequate compensation to RA resources that meet or exceed the SCP Availability Standard.

12. We also note that PG&E and SoCal Edison, the two Scheduling Coordinators currently receiving waiver from current tariff section 40.9.5, support the proposed tariff changes. CAC/EPUC also supports the instant tariff filing, but requests a stylistic change to section 40.9.2(7) and corrections to several typographical errors in proposed section 40.9.2(8). After a careful review of the originally-proposed tariff language and CAC/EPUC's proposed stylistic change to section 40.9.2(7), we conclude that CAC/EPUC's proposed revision is unnecessary because it is purely stylistic and has no effect on the overall meaning of section 40.9.2(7), nor does it provide any additional clarity. We, therefore, reject CAC/EPUC's proposed clarification to CAISO's proposed tariff language in section 40.9.2(7), but direct CAISO to file a compliance filing correcting the typographical errors in section 40.9.2(8) identified by CAC/EPUC in its protest.

13. Based on the above, we find CAISO's proposed tariff revisions to be just and reasonable, and conditionally accept them for filing, subject to a compliance filing, effective December 1, 2011.

The Commission orders:

(A) CAISO's tariff filing is hereby conditionally accepted for filing, subject to a compliance filing, effective December 1, 2011, as requested.

(B) CAISO is hereby directed to submit a compliance filing, as discussed in the body of this order.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.