

149 FERC ¶ 61,178
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

California Independent System
Operator Corporation

Docket Nos. ER14-1206-001
ER14-1206-002

ORDER ON REHEARING AND COMPLIANCE

(Issued November 26, 2014)

1. On April 30, 2014, California Independent System Operator Corporation (CAISO) filed a request for rehearing of a March 31, 2014 Commission order¹ that conditionally accepted tariff revisions to the phase 3 competitive solicitation procedures of CAISO's transmission planning process. Also on April 30, 2014, CAISO made a filing with the Commission to comply with the directives of the March 31 Order. In this order we grant rehearing, and accept in part and reject in part CAISO's compliance filing.

I. Background

2. On January 30, 2014, CAISO submitted proposed tariff revisions in this proceeding relevant to the phase 3 competitive solicitation procedures under its transmission planning process. The proposed revisions were intended to clarify the procedures, implement enhancements, and address certain issues raised by stakeholders. In the March 31 Order, the Commission conditionally accepted the proposed tariff revisions, effective April 1, 2014, subject to a compliance filing reflecting two changes.

3. First, the Commission directed CAISO to revise its tariff to state that, under the phase 3 competitive solicitation procedures, a refund of the difference between CAISO's study costs and the deposit provided by a project sponsor will include interest calculated as set forth in 18 C.F.R. § 35.19a(a)(2) (Commission Interest Rate),² instead of including interest calculated at the rate CAISO earned on the deposit, as CAISO had proposed.³

¹ *Cal. Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,237 (2014) (March 31 Order).

² 18 C.F.R. § 35.19a(a)(2) (2014).

³ March 31 Order, 146 FERC ¶ 61,237 at PP 35, 39.

Second, the Commission directed CAISO to correct a typographical error in the proposed tariff language.⁴

II. Rehearing Request

4. In its rehearing request, CAISO states that the Commission erred in concluding that refunds of the difference between a project sponsor's deposit and CAISO's study costs should include interest calculated in accordance with the Commission Interest Rate rather than with the actual interest earned in the account where the deposit is held.

5. CAISO argues that this directive is inconsistent with its Commission-approved tariff, as well as Commission precedent allowing CAISO and other independent system operators to refund generator interconnection study deposits with the interest earned in the account where the deposit is held. CAISO states that the existing generator interconnection process in Appendix Y to its tariff has required CAISO to deposit all interconnection study deposits in an interest bearing account at a bank or financial institution designated by CAISO.⁵ CAISO further states that sections 3.5.1.1(a), 3.5.1.1(b), and 3.5.1.1(d) of Appendix Y require it to refund portions of interconnection study deposits to interconnection customers "including interest earned at the rate provided for in the interest-bearing account from the date of deposit to the date of withdrawal."

6. CAISO states that the Commission first accepted these provisions in its September 2008 order conditionally approving the CAISO's generation interconnection process reform tariff amendment.⁶ CAISO states that identical provisions governing the interest to be calculated on CAISO refunds of interconnection study deposits are set forth in Section 3.5.1.1 of Appendix DD to the CAISO tariff, governing generator interconnections under CAISO's current generator interconnection and deliverability allocation procedures. CAISO notes that the Commission accepted these provisions in a July 2012 order conditionally accepting proposed Appendix DD.⁷

⁴ *Id.* P 39 & n.31.

⁵ Rehearing Request at 3 (citing CAISO tariff, Appendix Y, Generator Interconnection Procedures for Interconnection Requests, section 3.5.1.1).

⁶ *Id.* (citing *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,292 (2008)).

⁷ *Id.* at 3-5 (citing *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,070 (2012); also citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,027 (2004) (Commission accepting interconnection provisions that provide for refunds of study deposits with the interest actually earned); *Midwest Indep. Transmission Sys. Operator, Inc.*, 139 FERC ¶ 61,253 (2012) (same)).

7. CAISO argues that its proposal in this proceeding, to refund to project sponsors “interest at the rate that CAISO earned on the deposit,” is substantively the same as these generator interconnection study refund provisions. CAISO contends that the March 31 Order does not explain how an interest rate that the Commission has accepted as just and reasonable for generator interconnection study deposits would not be just and reasonable as applied to project sponsor study deposits.

8. CAISO also submits that as a not-for-profit, public benefit corporation, it does not have shareholders or profits from which it can fund any shortfall in interest earned. Rather, CAISO contends that it would have to recover any shortfall from ratepayers through its Grid Management Charge, Neutrality Charge, or some other new mechanism. CAISO argues that requiring ratepayers to fund any interest shortfall would be inconsistent with the very reason that CAISO proposed -- and the Commission approved -- the deposit requirement in the first place, i.e., that project sponsors, not ratepayers, should bear the costs incurred by CAISO to qualify and select an approved project sponsor as part of the competitive solicitation process.⁸

III. Compliance Filing

9. Notwithstanding its request for rehearing, in the instant compliance filing, CAISO revised the refund provisions in tariff section 24.5.6 to comply with the Commission’s directive to employ the Commission Interest Rate for the refunds of the difference between study costs and deposits provided by project sponsors.

10. Next, CAISO revised Appendix F, Rate Schedules, to insert the word “be” between the words “shall” and “consistent” in order to correct a typographical error that CAISO agreed to fix (in a prior answer) on compliance.⁹ CAISO had also previously agreed to delete an extraneous use of the word “not” from tariff section 24.6. However, the Commission found that the CAISO’s proposal to correct that typographical error in this proceeding was moot because the Commission had already directed CAISO to correct it in a different proceeding.¹⁰ Notice of CAISO’s compliance filing was published in the *Federal Register*, 79 Fed. Reg. 26,746 (2014), with intervention and protests due on or before May 21, 2014. No interventions or protests were filed.

⁸ *Id.* at 5-6 (citing March 31 Order, 146 FERC ¶ 61,237 at PP 13, 34, 36).

⁹ Compliance Filing at 2 (citing March 31 Order, 146 FERC ¶ 61,237 at PP 27, 39).

¹⁰ *Id.* (citing March 31 Order, 146 FERC ¶ 61,237 at P 39, n.31).

IV. Commission Determination

11. We will grant CAISO's rehearing request and permit CAISO in its tariff to provide that, under the phase 3 competitive solicitation procedures, a refund of the difference between the CAISO's study costs and the deposit provided by a project sponsor will include interest calculated at the rate CAISO earned on the deposit, as CAISO originally proposed in this proceeding. CAISO correctly asserts that its Commission-approved tariff allows CAISO to refund generator interconnection study deposits with the interest earned in the account where the deposit is held, rather than requiring use of the Commission Interest Rate.¹¹ CAISO is also correct that its currently-effective tariff provides for it to pay interest "as received" (and not via the Commission Interest Rate) in a number of other instances as well. One example is a congestion revenue rights balancing account (CAISO tariff section 11) and another is related to forfeited interconnection security deposits (section 11 of Appendix DD of the CAISO tariff).¹² Granting rehearing regarding project sponsor deposits aligns that provision more consistently with these other Commission-accepted CAISO tariff provisions.¹³

12. In light of the foregoing, we accept in part and reject in part CAISO's April 30, 2014 compliance filing. Specifically, we accept CAISO's revision to Appendix F to correct a typographical error, as in compliance with the March 31 Order, but given our decision to grant rehearing, we reject CAISO's revisions to section 24.5.6 requiring the use of the Commission Interest Rate.¹⁴

The Commission orders:

(A) CAISO's rehearing request is hereby granted, as discussed in the body of this order.

¹¹ See CAISO tariff, Appendix Y, Generator Interconnection Procedures for Interconnection Requests, section 3.5.1.1.

¹² The Commission issued a letter order granting a petition filed by CAISO to distribute funds, plus accrued interest, forfeited by interconnection customers that have withdrawn from CAISO's interconnection queue. See *Cal. Indep. Sys. Operator Corp.*, 145 FERC ¶ 61,223 (2013).

¹³ Given our granting of rehearing, we need not address CAISO's argument regarding the potential recovery shortfall from ratepayers.

¹⁴ Because CAISO's proposed revision to section 24.5.6 is rejected, as discussed above, the language initially proposed by CAISO in its January 30, 2014 filing will be reflected in the effective version of section 24.5.6.

(B) CAISO's April 30, 2014 compliance filing is hereby accepted in part and rejected in part, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.