114 FERC ¶ 61,199
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. ER05-1501-000
Pacific Gas and Electric Company	Docket Nos. ER06-550-000 ER06-550-001
	(Not Consolidated)

ORDER APPROVING TARIFF REVISIONS

(Issued February 24, 2006)

1. In an effort to streamline the existing California Independent System Operator Corporation's (CAISO) Tariff, the Commission accepts proposed revisions to the ISO Tariff, which were filed in Docket No. ER05-1501-000 as the CAISO Simplified and Reorganized Tariff (S&R Tariff), to become effective on March 1, 2006. Concurrently, in Docket No. ER06-550-000, as amended in Docket No. ER06-550-001, the Commission accepts with modifications certain housekeeping revisions to Pacific Gas and Electric Company's (PG&E) Transmission Owner Tariff (TO Tariff), Grid Management Charge Pass-Through Tariff, and the Western Area Power Administration Scheduling Coordinator Services Tariff. PG&E's proposed revisions align references in its tariffs with the appropriate sections of the S&R Tariff. The Commission also grants certain waivers requested by PG&E to allow its tariff revisions to become effective March 1, 2006.

Background

2. On September 22, 2005, the CAISO filed its S&R Tariff proposal to transform the CAISO Tariff into a more straightforward and transparent document and to establish a more workable tariff structure for the CAISO's planned Market Redesign and

Technology Update (MRTU) proposal.[1] According to the CAISO, the S&R Tariff reflects all amendments and corrections to the CAISO Tariff that were accepted by the Commission and made effective as of August 31, 2005, and no substantive changes to any rate provisions, CAISO operations or practices, or terms or conditions of service are proposed.[2] While the CAISO recognizes that additional changes will be required at some future date (*e.g.*, moving the appended sections of the S&R Tariff to a separate Business Practices Manual), it asserts that the S&R Tariff proposal contains changes that are organizational in nature and not intended to have a substantive impact on rates, CAISO operations or practices, or terms or conditions of service. The CAISO also states that, because its main impetus for making the S&R Tariff filing is to lay the foundation for the MRTU tariff filing, it believes that proposing the S&R Tariff structure first and then applying the MRTU changes to the reorganized tariff is a more rational approach than trying to reorganize the tariff at the same time it proffers the MRTU proposal. In other words, the CAISO presumes that allowing market participants to review and comment on the newly proposed structure of the CAISO tariff in a separate proceeding would permit the Commission and market participants to focus on the more substantive issues proposed in the MRTU Tariff when it is ultimately submitted for review.

3. On November 21, 2005, the Commission issued an order finding that, while the proposed structure of the S&R Tariff appears to be acceptable, it agreed with intervenors that inadvertent errors may have affected the interpretation of the substance of the S&R Tariff.[3] Furthermore, the Commission recognized that the proposed changes to the S&R Tariff in the CAISO's answer are not necessarily insignificant or minor, and may have more substantive impact than is readily apparent. Therefore, in order to give market participants an opportunity to respond to the proposed changes, the Commission accepted

---

[1] The CAISO filed its MRTU proposal on February 9, 2006 in Docket No. ER06-615-000.

[2] Specifically, the CAISO states that the S&R Tariff simplifies and reorganizes the existing CAISO tariff by: (1) including certain provisions of the Ancillary Services, Billing and Settlement, and Enforcement Protocols, among other things, in the appropriate sections of the main body of the CAISO tariff; (2) deleting duplicative provisions; (3) consolidating tariff language addressing similar issues; (4) appending remaining protocols to the main body of the CAISO tariff that are not addressed elsewhere; and (5) reorganizing the S&R Tariff to serve as a better platform for the MRTU Tariff in Docket No. ER06-615-000.

[3] *California Independent System Operator Corporation*, 113 FERC ¶ 61,186 (2005) (the November 21 Order).

the S&R Tariff proposal for filing, suspended it for five months, or until an earlier date set by subsequent Commission order, subject to refund. The November 21 Order also directed the Commission staff to convene a technical conference to address the concerns raised in this proceeding.

4. On December 7, 2005, the Commission held a technical conference with representatives of the CAISO, Commission staff and interested persons in attendance. In accordance with the Commission's Notice of Post-Technical Conference Schedule, the CAISO submitted comments on January 13, 2006, to propose resolution of certain outstanding issues raised by intervenors prior to and during the technical conference. The CAISO also included revised *pro forma* tariff sheets in its submittal. Reply comments were filed by PG&E on January 27, 2006. The Northern California Municipals[4] filed comments on the same date. Comments by the Sacramento Municipal Utility District (SMUD) were submitted out of time. On February 2, 2006, the CAISO made an errata filing to include an agreed upon change that was inadvertently omitted from its revised *pro forma* tariff sheets.

5. On January 26, 2006 in Docket No. ER06-550-000, PG&E filed revisions to three of its tariffs to correct cross references to various sections in the CAISO Tariff that had to be renumbered as a result of the CAISO's tariff reorganization. Additionally, PG&E proposes language that expands upon section 5.4 (Transmission Revenue Requirement) of its TO Tariff, as discussed further below.

6. On February 9, 2006, PG&E amended its filing in Docket No. ER06-550-001 to correct a typographical error.

Notice and Interventions

7. Notice of the PG&E's filing in Docket No. ER06-550-000 was published in the *Federal Register*, 71 Fed. Reg. 6468 (2006), with interventions and protests due on or before February 16, 2006. The California Electricity Oversight Board (CEOB), MID, TANC, and Redding/Santa Clara/and M-S-R (jointly as Cities/M-S-R) filed timely motions to intervene raising no substantive issues. In addition, the Northern California Power Agency (NCPA) filed a timely motion to intervene that raised a substantive concern, which is discussed below. Notice of the PG&E's amendment in Docket No.

[4] The Northern California Municipals comprise the Transmission Agency of Northern California (TANC), the Modesto Irrigation District (MID), and the City of Redding, California (Redding), the City of Santa Clara, California, doing business as Silicon Valley Power (SVP), and the M-S-R Public Power Agency (M-S-R).

ER06-550-001 was published in the *Federal Register*, 71 Fed. Reg. 9533 (2006), with interventions and protests due on or before February 24, 2006.

Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motion to intervene filed by CEOB serves to make it a party to the proceeding in Docket No. ER06-550-000, as amended in Docket No. ER06-550-001.

B. S&R Tariff Revisions

9. In its post-technical conference comments in the S&R Tariff proceeding, the CAISO agrees to make additional tariff revisions to allay intervenors concerns and further demonstrate that the S&R Tariff is not intended to alter CAISO operations, practices, rates, terms or conditions of service. Specifically, the CAISO states that, in response to concerns raised before, during and after the technical conference, it proposes to: (1) incorporate all changes proposed in the CAISO's November 4, 2005 answer, (2) correct two additional S&R Tariff errors that were discovered after the S&R Tariff was filed, (3) incorporate two changes that were discussed during the conference, (4) incorporate some of the proposed changes submitted by the Northern California Municipals after the conference was held, and (5) request an effective date of March 1, 2006 in order to close out this initial phase of reorganization and allow for the second phase to ensue.[5]

10. The primary concern raised by intervenors at the technical conference was how disputes arising over the interpretation of any provision of the S&R Tariff would be handled if it were later determined that certain revisions made by the CAISO in this

[5] The CAISO also commits to the Commission that it will make a subsequent filing during the coming months to account for any additional amendments and/or compliance filings that have been approved by the Commission and gone into effect between August 31, 2005 and the effective date of the S&R Tariff. In addition, certain "deferred maintenance" issues were raised at the technical conference and, likewise, the earlier effective date will allow the parties to proceed to address these issues as well. See CAISO November 4, 2005 answer at 3.

proceeding had in fact caused a substantive tariff change. In response, the CAISOattempts to provide additional assurance to intervenors by proposing the following commitment:

> Disputes over the interpretation of any provision of the Simplified and Reorganized Tariff resulting from the simplification and reorganization process shall be resolved in accordance with the conformed [CA]ISO Tariff in effect immediately prior to March 1, 2006, until amendments that substantively alter the relevant provisions are made effective by the Commission pursuant to a filing by the CAISO or any other party under sections 205 or 206 of the Federal Power Act, as applicable.

11. PG&E states that, while it appreciates the CAISO's attempt to alleviate the parties' concerns regarding the impact of the S&R Tariff, it believes that the proposed language does not clearly address the potential situation "where the CAISO's current interpretation and pattern of operation is somewhat inconsistent with a strict reading of the Existing CAISO Tariff."[6] PG&E asserts that the CAISO's proposed language does not clarify the situation but in fact creates confusion as to how and under what tariff provisions disputes regarding a market participant's behavior will be decided. PG&E's pleading itself is confusing in that it refers to the "pre-March 1, 2006 CAISO Tariff" and the "pre-S&R Tariff," without explanation. On their face, these two terms appear to describe the same tariff, that is, the CAISO Tariff that is being simplified and reorganized in the form of the S&R Tariff. That said, PG&E and the CAISO have agreed to the following language, which they urge the Commission to include in the instant order:

> The S&R Tariff shall in no way alter the rights and responsibilities of the CAISO or any market participant.[7]

12. Finally, the Northern California Municipals and SMUD request that parties be allowed to raise any remaining S&R Tariff issues that are subsequently discovered during the review process in the MRTU proceeding in Docket No. ER06-615-000.[8]

---

[6] PG&E Response at 4.

[7] Response of PG&E at 5. In its February 2, 2006 errata filing in this proceeding, the CAISO concurs with PG&E's request.

[8] These intervenors also comment that the CAISO was remiss in not removing the term "technical" from section 8.5.4(f) of the CAISO Tariff, as agreed to at the technical conference and in the CAISO's January 13, 2006 comments, at II.C. The CAISO has

(continued)

C. PG&E's Tariff Revisions

13. In Docket No. ER06-550-000, as amended in Docket No. ER06-550-001, PG&E has filed revised tariff sheets to its TO Tariff, Grid Management Charge Pass-Through Tariff, and the Western Area Power Administration Scheduling Coordinator Services Tariff. PG&E states that "the proposed changes to [these tariffs] constitute the minimum changes necessary to avoid confusion by replacing references to sections in the current CAISO Tariff with the superseding sections in the CAISO's S&R Tariff," and that "[t]hese proposed changes are not intended to change or affect any rates, sales, services, or revenues under [these] tariffs."[9] PG&E also proposes to correct a typographical error in its TO Tariff. PG&E contends that section 3.64 of its TO Tariff, which describes metered subsystems, refers to section 3.3.1 of the CAISO's Tariff, which does not exist. PG&E contends that the correct section number reference is section 10.3.1 of the CAISO Tariff, which is now section 10.2.7.1 of the CAISO's S&R Tariff.

14. In its motion to intervene, NCPA states that it has identified an error in PG&E's TO Tariff that was highlighted as a result of PG&E's proposed change in the reference number for section 3.64 of its TO Tariff. NCPA argues that PG&E's definition of metered subsystem does not match the CAISO's definition. NCPA believes the language reflects an older version of the definition and is likely an inadvertent failure to conform this section of the TO Tariff to the CAISO's Tariff when the definition changed. NCPA suggests that the Commission direct PG&E to replace the existing definition of metered subsystem with the correct CAISO definition, while adjusting references to the appropriate section numbers of the S&R Tariff.

D. Commission's Determination

15. The Commission recognizes the enormous efforts made by the CAISO and the intervenors in this process of streamlining and restructuring the existing CAISO Tariff. The technical conference revealed just how tedious it was for parties to review hundreds of tariff sheets to check for unintended substantive changes to tariff provisions and cross references. Now that market participants have been engaged in this formal process for several months and recognizing that the participants evaluated draft proposals and communicated among themselves for nearly a year prior to the S&R Tariff filing, the outcome has resulted in a comprehensive tariff reorganization that will benefit the

---

acknowledged the inadvertent error in its February 2, 2006 errata filing and removed this term from section 8.5.4(f).

[9] Transmittal Letter at page 3.

CAISO and market participants alike. Therefore, the Commission finds that the S&R Tariff is just and reasonable, and accepts the S&R Tariff effective March 1, 2006, as requested. Once the S&R Tariff becomes effective, it, rather than the current tariff, will be the tariff that governs the CAISO markets. Therefore, we cannot accept the additional language proposed by PG&E and endorsed by the CAISO that "the S&R Tariff shall in no way alter the rights and responsibilities of the CAISO or any market participant." However, we accept the S&R Tariff with the clear understanding that the S&R Tariff was not intended to make any substantive changes to the current tariff.

16. Further, with regard to the requests of the Northern California Municipals and SMUD, the Commission finds that, to the extent concerns remain about unintended substantive changes made by the S&R Tariff, the parties are free to pursue those concerns either in the context of the MRTU proceeding or by the traditional means available under the Federal Power Act for resolving concerns with the tariff on file, in this case, the S&R Tariff. In the event of any dispute over the correct interpretation of the S&R Tariff, we will be guided by our understanding that no substantive changes were intended to be made by the S&R Tariff.

17. With respect to PG&E's proposed revisions to its tariffs, we accept all of the proposed changes that cross-reference the CAISO S&R Tariff, which were renumbered as a result of the S&R Tariff reorganization. However, PG&E also proposes to revise section 5.4 of its TO Tariff. Section 5.4 (Transmission Revenue Requirement) states that "As set forth in the [CA]ISO Tariff, the Transmission Revenue Requirement for each Participating TO is used to develop the Access Charges set forth in the [CA]ISO Tariff." PG&E proposes to add to the end of this sentence ". . . and is used by the [CA]ISO to calculate the disbursement of Wheeling revenues among Participating TOs." PG&E has not explained this revision in its transmittal letter, nor has it provided any justification for this revision. Accordingly, we reject this revision to section 5.4 and direct PG&E to file a revised tariff sheet removing this language. Likewise, with respect to NCPA's request that PG&E be directed to conform the definition of metered subsystems in its TO Tariff to the definition in the CAISO S&R Tariff, the Commission agrees that the definitions should be consistent and directs PG&E to include this correction in the compliance filing it makes pursuant to this order.

E. <u>Waiver</u>

18. In Docket No. ER06-550-000, as amended in Docket No. ER06-550-001, PG&E requests waiver of the Commission's sixty-day prior notice requirements in section 35.3 of the Commission's regulations (18 C.F.R. § 35.3) to allow its revised tariff sheets to become effective March 1, 2006 or the same effective date assigned to the S&R Tariff filing. PG&E also requests waiver of section 35.17(b) of the Commission's regulations (18 C.F.R. § 35.17(b)) to permit PG&E to file its proposed TO Tariff revisions during a

five-month suspension period in a parallel TO Tariff proceeding.[10] PG&E contends that these waivers are necessary to avoid inconsistencies between PG&E's three tariffs and the S&R Tariff, which could lead to confusion among market participants. The Commission agrees that the CAISO S&R Tariff and PG&E's tariff revisions should have the same effective date and therefore, the Commission grants waiver of sections 35.3 and 35.17(b) of the Commission's regulations to allow PG&E's proposed tariff revisions, as modified, to become effective on March 1, 2006.

The Commission orders:

(A) The S&R Tariff, as modified by the CAISO's post-technical conference comments, is hereby accepted for filing to become effective on March 1, 2006.

(B) PG&E's proposed revisions to its tariffs are hereby accepted for filing, as discussed in the body of this order, effective March 1, 2006, as requested.

(C) PG&E is directed to make a compliance filing within 60 days to reflect the modifications discussed herein.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

[10] Section 35.17(b) states that "[a] public utility may not within the period of suspension, file any change in a rate schedule or part thereof which has been suspended by order of the Commission except by special permission of the Commission granted upon application thereof and for good cause shown."