

122 FERC ¶ 61,091  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation      Docket Nos. ER06-615-003  
ER06-615-005  
ER06-615-012  
ER07-1257-000

California Independent System Operator Corporation      ER02-1656-017  
ER02-1656-018

Independent Energy Producers Association

v.

EL05-146-000

California Independent System Operator Corporation

California Independent System Operator Corporation

EL08-20-000

ORDER ON CLARIFICATION

(Issued February 4, 2008)

1. On December 28, 2007, the California Independent System Operator Corporation (CAISO) filed a motion for clarification of the Commission's Order Instituting a Section 206 Investigation and Denying Motion for Reconsideration and Clarification, issued in the above-captioned proceeding.<sup>1</sup> For the reasons discussed below, we grant the CAISO's motion for clarification.

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<sup>1</sup> *Cal. Indep. Sys. Operator Corp.*, 121 FERC ¶ 61,281 (2007) (RCST Extension Order).

## **I. Background**

2. The RCST Extension Order contains a detailed description of the background and history of this proceeding.<sup>2</sup>

3. In brief, pursuant to section 206 of the Federal Power Act (FPA),<sup>3</sup> the Commission instituted an investigation into extending the CAISO's Reliability Capacity Services Tariff (RCST) until the earlier of the implementation of the Market Redesign and Technology Upgrade (MRTU) or the implementation of an alternative backstop capacity procurement mechanism.<sup>4</sup> We found that this action was necessary to ensure that generators are adequately compensated for fulfilling their must-offer obligation (MOO), which requires that most generators serving the California markets offer all their capacity in real time during all hours if they are available and not already scheduled to run through bilateral agreements.<sup>5</sup>

4. We also established a refund effective date of January 1, 2008, and sought comment on our proposal to extend the RCST beyond its original termination date.<sup>6</sup> In particular, we allowed parties to inform us whether extension of any specific RCST provisions would be wholly inappropriate.<sup>7</sup> Finally, we directed the CAISO to file by December 28, 2007, revised tariff sheets amending the effective date of RCST.<sup>8</sup>

## **II. Motion for Clarification and Answers**

5. On December 28, 2007, in addition to making the required compliance filing modifying tariff sheets, the CAISO filed a motion seeking clarification of certain aspects of the RCST Extension Order. The CAISO contends that certain provisions of the RCST are specific to 2006 and 2007 and, by their terms, are not applicable to 2008.<sup>9</sup> According

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<sup>2</sup> *Id.* P 3 – P 12.

<sup>3</sup> 16 U.S.C. § 824e (2000 & Supp. V).

<sup>4</sup> RCST Extension Order, 121 FERC ¶ 61,281 at P 34.

<sup>5</sup> *Id.* P 1 and P 34.

<sup>6</sup> *Id.* P 35.

<sup>7</sup> *Id.* P 48 n.106.

<sup>8</sup> *Id.* at Ordering Paragraph (B).

<sup>9</sup> CAISO December 28, 2007 Motion for Clarification, Docket Nos. ER06-615-003, *et al.*, at 2.

to the CAISO, these tariff provisions are not workable for 2008 designations unless they are modified to incorporate new processes, timelines and criteria that would apply for 2008.<sup>10</sup>

6. More specifically, the CAISO asks the Commission to clarify that the CAISO can base local and significant event RCST designations on the 2008 Local Capacity Technical Study. The CAISO notes that the Commission recently approved the use of the 2008 Local Capacity Technical Study for purposes of section 40 (Resource Adequacy) of the current CAISO tariff.<sup>11</sup> The CAISO further notes that in the December 14, 2007 Order, the Commission approved a process for demonstrating compliance with the local capacity area requirements (section 40.7 of the current CAISO tariff) that could be applied before the CAISO makes any local RCST designations in 2008.<sup>12</sup> In light of these previous approvals, the CAISO requests that the Commission clarify that the CAISO can use the 2008 Local Capacity Technical Study and the compliance provisions of section 40.7 for the purposes of determining whether local and significant event RCST designations are appropriate in 2008. The CAISO also asks the Commission to clarify that the RCST designations will terminate with the earlier of the implementation of MRTU or of an alternative backstop procurement mechanism.

7. Finally, the CAISO notes that section 43.3 (System RCST Designations) of the CAISO tariff authorizes the CAISO to make system RCST designations for 2006 and 2007 only, and section 43.4 (RCST Designations for Significant Events) provides that such designations expire on December 31, 2007. The CAISO modified these sections in its December 28, 2007 compliance filing, but asks the Commission to confirm that the CAISO has properly implemented the Commission's intention. The CAISO also asks the Commission to clarify that any system RCST designations will terminate with the earlier of the implementation of MRTU or of an alternative backstop procurement mechanism.<sup>13</sup>

8. On January 14, 2008, Pacific Gas & Electric Company (PG&E) filed an answer in support of the CAISO's motion for clarification. PG&E agrees that the 2008 Local Capacity Technical Study should be used as the basis for local reliability RCST designations in 2008.<sup>14</sup> PG&E also has no objection to the CAISO's proposed use of the

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<sup>10</sup> *Id.* The CAISO cites sections 43.2.1, 43.2.1.2, 43.2.1.3 and 43.4 as examples of these provisions.

<sup>11</sup> *Id.* at 4 (citing *Cal. Indep. Sys. Operator Corp.*, 121 FERC ¶ 61,258 (2007)) (December 14, 2007 Order).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 5.

<sup>14</sup> PG&E January 14, 2008 Answer, Docket No. ER06-615-003, *et al.*, at 2.

compliance provisions for local reliability approved in the December 14, 2007 Order. Finally, PG&E argues that the Commission's intent with regard to the expiration of the RCST is clear, and that the 2008 RCST designations expire upon the earlier of the implementation of MRTU or the successor to RCST.

### **III. Commission Determination**

9. We grant the CAISO's motion for clarification. First, we clarify that in amending sections 43.3 and 43.4 of the CAISO tariff in its December 28 compliance filing, the CAISO correctly implemented the RCST Extension Order. Second, we agree that it would be inefficient and impractical to require the CAISO to rely on stale data when it determines local and significant event RCST designations. Therefore, we clarify that the CAISO should use the 2008 Local Capacity Technical Study and the compliance provisions of section 40.7 of its current tariff to determine whether local and significant event RCST designations are appropriate in 2008. Finally, we recognize that tariff provisions relating to the use of the 2008 Local Capacity Technical Study may not be workable unless they are modified to incorporate new processes, timelines, and criteria that would apply for 2008. Accordingly, the CAISO is directed to file appropriate tariff sheets reflecting this clarification in a compliance filing within 30 days of the date of this order.

10. Finally, the CAISO asks the Commission to clarify that the RCST designations will terminate with the earlier of the implementation of MRTU or an alternative backstop capacity procurement mechanism. In the RCST Extension Order, we expressly stated that the RCST is extended "until the implementation of either MRTU or an alternative backstop capacity procurement mechanism."<sup>15</sup> The Commission selected that termination date, subject to the outcome of our investigation, because we expect that some form of the stakeholder-vetted Interim Capacity Procurement Mechanism, or ICPM, will be implemented concurrently with MRTU start-up,<sup>16</sup> and it would be inappropriate to have two potentially conflicting backstop capacity procurement mechanisms in place simultaneously. Given that the RCST designations are a component of the RCST, it is reasonable for these designations to terminate when RCST terminates because, at that time, another capacity mechanism should be in place to provide generators with appropriate compensation for the capacity and reliability services they provide. To avoid the potential for conflict with the new methodology and other MRTU design elements, we clarify, therefore, that all features of the RCST, including RCST designations, will expire upon implementation of the earlier of either MRTU or an alternative backstop procurement mechanism.

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<sup>15</sup> RCST Extension Order, 121 FERC ¶ 61,281 at P 34, 35 and 53.

<sup>16</sup> *Id.* at P 34 (citing *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274, at P 31 (2006)).

The Commission orders:

(A) The CAISO's motion for clarification is hereby granted, and the Commission's determination is hereby clarified as discussed in the body of this order.

(B) The CAISO is directed to submit a compliance filing within 30 days of the date of issuance of this order, consistent with the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.