

125 FERC ¶ 61,002
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 No. ER06-615-015

ORDER ON COMPLIANCE

(Issued October 1, 2008)

1. On October 26, 2007, the California Independent System Operator Corporation (CAISO) submitted proposed revisions to its *pro forma* Reliability Must-Run (RMR) Contract pursuant to directives in the Commission's September 21, 2006 order. The CAISO also submitted related changes to the Market Redesign and Technology Upgrade (MRTU) Tariff to move the provisions concerning the settlement and billing of RMR charges and payments from Part J of Appendix N to section 11.13, update those provisions, update the related provisions of section 41, and add to and modify the definitions in Appendix A, as appropriate. In this order, the Commission conditionally accepts the CAISO's proposed revisions to its *pro forma* RMR Contract and MRTU Tariff, subject to modification, effective upon MRTU implementation, as requested and as discussed below.

I. Background

2. The CAISO states that the current version of the *pro forma* RMR Contract was approved by the Commission prior to the inception of MRTU,¹ and has not been included in earlier versions of the CAISO Tariff, the current CAISO Tariff, or the MRTU Tariff. In the September 21 Order, the Commission acknowledged that the CAISO would file the RMR Contract upon settlement of certain terms and conditions related to MRTU. The Commission then directed the CAISO to continue its efforts to address the *pro forma* RMR Contract concerns through the stakeholder process and file any amendments with the Commission as necessary and appropriate.²

¹ See *Cal. Indep. Sys. Operator Corp.*, 87 FERC ¶ 61,250 (1999); *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274, at P 416 n.195 (2006) (September 21 Order).

² September 21 Order at P 417.

3. The CAISO states that on September 5, 2007, it posted a draft revised *pro forma* RMR Contract for MRTU on its website for stakeholder comment. On October 2, 2007, the CAISO asserts that it held a conference call with interested stakeholders to discuss the proposed changes and stakeholder comments. On October 12, the CAISO posted on its website: (1) a table of the changes that the CAISO proposed to make to the draft *pro forma* RMR Contract based on stakeholder comments; (2) a draft of a further revised *pro forma* RMR Contract; (3) and a draft of related changes to the MRTU Tariff. With only one stakeholder submitting minor comments, the CAISO states that the changes provided in the instant filing are in accordance with the directive in Paragraph 417 of the September 21 Order, that the CAISO “file any amendments with the Commission as necessary and appropriate,” following the conclusion of a CAISO stakeholder process, with regard to issues relating to the *pro forma* RMR Contract.

II. CAISO Filing

4. In the instant filing, the CAISO states that it has revised its *pro forma* RMR Contract to comply with Paragraph 417 of the September 21 Order and accommodate stakeholder concerns. As examples, the CAISO provides that it has: (1) modified, added, and deleted defined terms to conform the terminology used in the *pro forma* RMR Contract with the terminology used in the MRTU Tariff as it will be implemented; (2) modified the definition of Dispatch Notice, and has added the defined terms Manual RMR Dispatch Notice and RMR Dispatch, to clarify how RMR Dispatch will be handled under the MRTU Tariff. Specifically, the CAISO states, RMR Units will be dispatched through the Market Power Mitigation and Reliability Requirements Determination (MPM-RRD) process set forth in the MRTU Tariff³ but may also be dispatched manually; and (3) modified the definition of Requested MWh to clarify that the definition includes ramping energy calculated pursuant to the MRTU Tariff.⁴

5. Also in the instant filing, the CAISO asserts that in addition to the changes to the *pro forma* RMR Contract, it has made changes to the MRTU Tariff with regard to the settlement and billing of RMR charges and payments. For example, the CAISO proposes to move all of the provisions in Part J of Appendix N concerning the settlement and billing of RMR charges and payments to section 11.13, and to delete the balance of Part J of Appendix N (regarding the rules of interpretation of that Part J, the relationship of Part J with Appendix N, amendments to that Part J, etc.), which becomes irrelevant text once the provisions are moved to section 11.13.⁵ Also, the CAISO proposes to delete the

³ See CAISO MRTU Tariff Fourth Replacement Tariff Volume No. I sections 31.2, 31.2.1, 33.4 and 41.5.

⁴ For a complete list of proposed revisions to the *pro forma* RMR Contract, see the CAISO October 26, 2007 Filing at 3-5 (CAISO Filing).

⁵ *Id.* at 6.

reference in section 41.1 of the MRTU Tariff to the Hunters Point power plant (which has been retired), and it proposes minor conforming revisions to section 41.6 of the MRTU Tariff to reflect changes in section references to the new provisions of section 11.13 and changes in the defined terms.⁶

6. The CAISO requests waiver of the Commission's regulations (18 C.F.R. § 35.3) so that all of the changes in the instant filing will be made effective as of March 31, 2008, which the CAISO states is the date on which MRTU was scheduled to be implemented. However, since this filing, the implementation date of MRTU has been delayed to a yet unspecified point in time.

III. Notice of Filing

7. Notice of the filing was published in the *Federal Register*, 72 Fed. Reg. 64,599 (2007), with motions to intervene, comments, and protests due on or before November 16, 2007. Timely motions to intervene and comments were filed by Southern California Edison Company (SoCal Edison), the Transmission Agency of Northern California (TANC), the City of Santa Clara, doing business as Silicon Valley Power (SVP), and M-S-R Public Power Agency (M-S-R) (jointly, as SVP/M-S-R). The CAISO filed an Answer to Protests, and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities) filed a Motion for Leave to Answer and Answer.

IV. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

9. 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. The Commission will accept Six Cities' motion for leave to answer and answer and CAISO's answer to protests because they have provided information that assisted us in our decision-making process.

⁶ For a complete list of proposed revisions to the MRTU Tariff, see the CAISO Filing at 6-7.

B. Substantive Matters**1. Protests and Answers****a. CAISO Controlled Grid**

10. TANC and SVP/M-S-R state that the CAISO has proposed a definition for the term “CAISO Controlled Grid” that is different from and inconsistent with the definition found in Appendix A of the MRTU Tariff. Specifically, TANC and SVP/M-S-R assert that, according to Appendix A - Master Definitions Supplement - of the MRTU Tariff, the term “CAISO Controlled Grid” is defined as:

The system of transmission lines and associated facilities of the Participating TOs that have been placed under the CAISO’s Operational Control.

However, TANC and SVP/M-S-R contend that Appendix G of the *pro forma* RMR Contract defines “CAISO Controlled Grid” as:

...the system of transmission lines and associated facilities that from time to time are under CAISO’s operational control.

TANC and SVP/M-S-R state that differing definitions can create confusion and conflicts in interpretation and application of the relevant provisions, as well as improper implementation of tariff and RMR procedures. Further, TANC and SVP/M-S-R assert that the omission of the term “Participating TOs” from the definition of “CAISO Controlled Grid” proposed in the *pro forma* RMR Contract leaves ambiguity as to whether non-Participating TOs can, or are required to, provide the CAISO with operational control over their transmission facilities, and also can result in the unauthorized expansion of the CAISO’s authority over transmission facilities that are not permitted to be placed under the CAISO’s Operational Control. Thus, TANC and SVP/M-S-R request that the Commission order the CAISO to revise the definition of the term “CAISO Controlled Grid” in the *pro forma* RMR Contract so that it is consistent with the approved definition of the same term as it is set forth in Appendix A - Master Definitions Supplement - of the MRTU Tariff.

11. In its December 3 Answer, the CAISO states that it is unnecessary to revise the definition of “CAISO Controlled Grid” contained in the revised *pro forma* RMR Contract for the following reasons: (1) there is no substantive difference between that definition and the corresponding definition contained in the MRTU Tariff; (2) except for the substitution of the word “CAISO” in place of “ISO,” the definition of “CAISO Controlled Grid” contained in the revised *pro forma* RMR Contract reads exactly the same as it did under the previous version of the *pro forma* RMR Contract, which has

been in effect practically since the start of CAISO operations; and (3) TANC and SVP/M-S-R fail to show that any such conflicts in interpretation, confusion, or improper implementation may suddenly arise due to the inclusion of the *pro forma* RMR Contract in the MRTU Tariff, and they also fail to show that the Commission-approved definitions are no longer just and reasonable. Therefore, the CAISO states that the Commission should reject the arguments of TANC and SVP/M-S-R.

b. Manual RMR Dispatch

12. SoCal Edison claims that the CAISO-proposed RMR Contract provisions, both in the MRTU Tariff provisions and the *pro forma* RMR Contract provisions, will serve to expand the bases upon which the CAISO can utilize RMR units. SoCal Edison states that the *pro forma* RMR Contract proposed by the CAISO would allow the CAISO to dispatch RMR units by, among other means, issuing a “Manual RMR Dispatch.” SoCal Edison contends that the definition of “Manual RMR Dispatch” in the proposed *pro forma* RMR Contract contains “no ascertainable or substantive limits on the CAISO ability to dispatch RMR units using Manual RMR Dispatch.”⁷ Thus, SoCal Edison claims, Manual RMR Dispatch appears designed to provide the CAISO with the right to dispatch RMR units at will and without any accountability to the Commission or market participant.

13. SoCal Edison further asserts that there is no reason for the CAISO to use the Manual RMR Dispatch unless and until the ISO has exhausted all other effective Resource Adequacy (RA) and Interim Capacity Procurement Mechanism (ICPM) dispatch alternatives.⁸ Accordingly, SoCal Edison recommends the addition of the following sentence to the MRTU Tariff section 41.5.1:

RMR dispatches will be determined in accordance with the RMR Contract, the MPM-RRD process addressed in sections 31 and 33 and through manual RMR Dispatch Notices to meet Applicable Reliability Criteria. Manual RMR Dispatch Notices are only to be issued after exhaustion of alternative means of achieving any Applicable Reliability Criteria requirements, including the commitment and dispatch of available Resource Adequacy Resources or any other non-RMR resources for which the CAISO may have similar commitment and dispatch rights.

⁷ SoCal Edison November 16, 2007 Protest at 2 (SoCal Edison Protest).

⁸ *Id.*

In addition to the above tariff revision, SoCal Edison recommends the following definition of Manual RMR Dispatch:

An RMR Dispatch Notice issued other than as a result of the Market Power Mitigation and Reliability Requirements Determination process as defined in the CAISO Tariff. A Manual RMR Dispatch shall only be issued to ensure that the CAISO has on-line generation in sufficient quantity and specific location necessary to meet Applicable Reliability Criteria requirements, including: i) Generation constrained on-line to meet NERC and WECC reliability requirements for interconnected systems operation; ii) Generation needed to meet Load demand in constrained areas; and iii) Generation needed to be operated to provide voltage or security support of the CAISO or a local area.

14. The CAISO responds in its Answer that the *pro forma* RMR Contract provides the CAISO with the same authority to dispatch RMR units under MRTU that it has today, and that authority should not be limited until and unless the CAISO itself proposes to modify its authority through a filing pursuant to section 205 of the FPA, or that authority is found not to be just and reasonable under section 206 of the FPA.⁹ The CAISO asserts that the sole purpose for the definition of “Manual RMR Dispatch Notice” in the revised *pro forma* RMR Contract¹⁰ is to reflect that RMR Dispatches under MRTU can be initiated in one of two ways: (1) pursuant to the same non-automated process that is described under the current MRTU Tariff, or (2) pursuant to the new automated process under MRTU through the Market Power Mitigation and Reliability Requirements Determination (MPM-RRD) mechanisms. Additionally, the CAISO states that its authority to issue RMR Dispatches (manually or otherwise) is entirely governed by the RMR Contract, which authority is limited to address local reliability needs and to resolve “intra-zonal” congestion.¹¹ The CAISO further argues that the Commission found earlier in the MRTU proceeding that the “MRTU Tariff section 41 provides a reasonable amount of detail regarding the procurement procedures of RMR units by the CAISO.”¹² Because

⁹ CAISO December 3, 2007 Answer at 5 (CAISO Answer).

¹⁰ The CAISO states that this definition reads, “...a Dispatch Notice issued other than as a result of the Market Power Mitigation and Reliability Requirements Determination process as described in the CAISO Tariff.” *Id.*

¹¹ *Id.*

¹² September 21 Order at P 429.

section 41.5.1 already existed in its current form when the Commission made this statement, the CAISO contends that the Commission has therefore found that section 41.5.1 provides an acceptable amount of detail.¹³

15. The CAISO states that the Commission should reject the attempts by SoCal Edison to limit the CAISO's ability to issue RMR Dispatches as currently identified in the RMR Contract and as noted above for local reliability and for intra-zonal congestion. CAISO points out that, under MRTU, RMR Dispatches are handled through the non-competitive constraint run of the MPM-RRD process. The CAISO further argues that if SoCal Edison believes that the CAISO should rely on the Interim Capacity Procurement Mechanism (ICPM) and Resource Adequacy in lieu of RMR, SoCal Edison can raise these concerns in the ICPM stakeholder process. Finally, the CAISO asserts that, given that the Commission has found the current *pro forma* RMR Contract to be just and reasonable, the burden should be placed on SoCal Edison to demonstrate that it is not just and reasonable.

c. Cost Allocation

16. SoCal Edison also contends that the RMR cost allocation methodology is unreasonable and incompatible with the current Load Serving Entity (LSE)-based resource adequacy requirements contained in the CAISO's Tariff.¹⁴ Additionally, SoCal Edison argues that the CAISO has not provided any justification for its failure to put in place the appropriate RMR cost allocation provisions in conjunction with its filing. Therefore, SoCal Edison requests that the Commission require the CAISO to modify the RMR cost allocation provisions to allocate all such costs to applicable LSEs.

17. In its Answer, the CAISO states that the Commission should reject SoCal Edison's request for the RMR cost allocation methodology to be modified because, to date, it has not become necessary for the CAISO to enter into an RMR Contract with a resource not currently under an RMR Contract, nor does the CAISO foresee such a need in the near future.¹⁵ However, the CAISO argues, even if it were to decide that it must extend an RMR Contract to an entity not currently under such a contract, the cost allocation would need to be addressed under the currently effective CAISO Tariff and the MRTU Tariff. The CAISO reiterates that it will propose changes to the RMR cost allocation methodology once it becomes clear that it will need to enter into an RMR Contract with a

¹³ CAISO Answer at 6.

¹⁴ *Id.* at 3.

¹⁵ CAISO Answer at 8.

resource currently not under an RMR Contract.¹⁶ Thus, the CAISO asserts that it should not be obligated to make changes to the MRTU Tariff before a need for revision has arisen, and the Commission should reject SoCal Edison's request to modify the RMR cost allocation methodology at this time.

18. Also, Six Cities states in its Motion for Leave to Answer and Answer that "it would be plainly inappropriate for the Commission to revise the RMR cost allocation terms of the tariff to impose RMR costs on LSEs in the absence of a properly developed evidentiary record supporting SoCal Edison's allegations that the current cost allocation provisions are unjust or unreasonable."¹⁷ Moreover, Six Cities argues that if SoCal Edison believes that the present cost allocation provisions are unjust and unreasonable, then SoCal Edison should attempt to follow the requirements of section 206 of the FPA and file a complaint with the Commission asking for, and supporting as just and reasonable, the changes to the RMR cost allocation provisions that it seeks. Lastly, Six Cities states that it is inappropriate for SoCal Edison to propose revising the RMR cost allocation provisions to impose potentially significant costs on LSEs via a protest, to which, unless waiver is granted, affected parties are not afforded the opportunity to reply. Therefore, Six Cities opposes SoCal Edison's request that the Commission order the CAISO to file to revise the RMR cost allocation methodology and establish preconditions to the use of Manual RMR Dispatch.

d. Waiver

19. The CAISO requested a waiver of section 35.3 of the Commission's regulations, 18 C.F.R. § 35.3 (2008), to permit the tariff sheets contained in the October 26, 2007 Filing to become effective more than 120 days after the date it was submitted. This order grants the requested modification and the requested waiver.

2. Commission Determinations

20. In its Answer, the CAISO argues that there is no substantive difference between the definition of "CAISO Controlled Grid" contained in the filed *pro forma* RMR Contract and the definition provided in the MRTU Tariff. The CAISO also argues that the protestors have failed to present evidence that conflicts in interpretation will suddenly arise from a difference in wording, or that the Commission-approved definitions are no longer just and reasonable. While the differences between definitions may not be substantial, the Commission finds that having a single, uniform definition would reduce the potential for confusion and eliminate any future conflict in interpretation. Therefore,

¹⁶ *Id.* at 9.

¹⁷ Six Cities December 3, 2007 Answer at 3.

the Commission directs the CAISO to submit, in a compliance filing within 60 days from the date of this order, a definition of “CAISO Controlled Grid” to be used in the *pro forma* RMR Contract and Appendix G of the MRTU Tariff consistent with the definition provided in Appendix A of the MRTU Tariff.

21. The Commission disagrees with SoCal Edison’s protest that the CAISO’s Manual RMR Dispatch procedure “appears designed to provide the CAISO with the right to dispatch RMR units at will and without any accountability to the Commission or Market Participants.”¹⁸ SoCal Edison’s argument is misplaced, as the proposed *pro forma* RMR Contract does not broaden any of the CAISO’s abilities to dispatch RMR units under MRTU beyond the abilities that it currently has. The CAISO’s authority to dispatch RMR units is limited to addressing local reliability needs and resolving intra-zonal congestion. However, because the process for dispatching RMR units to address intra-zonal congestion is handled through the automated MPM-RRD mechanisms, then the only reason for the CAISO to manually dispatch an RMR unit would be to address a local reliability concern. Additionally, at the outset of the MRTU implementation process, the CAISO provided sufficient detail regarding the RMR procurement procedure,¹⁹ and the CAISO has not modified this language. Therefore, the Commission agrees with the CAISO that its authority to address local reliability needs has not been extended in the proposed *pro forma* RMR Contract. Furthermore, the Commission will not interfere with the CAISO’s ability to address its local reliability concerns through the issuance of a Manual RMR Dispatch.

22. With respect to the cost allocation issue, the Commission finds that it is unnecessary to act on this issue because a change in cost allocation may only be necessary in the event that the CAISO extends an RMR Contract to an entity not currently under such a contract. In such an event the Commission will determine the proper cost allocation methodology under the circumstances at that point in time. In addition, the Commission expects that the CAISO will take the steps that it has indicated and “would avoid or minimize the need to make any additional changes to the *pro forma* RMR Contract.”

23. Further, the Commission finds SoCal Edison’s protest appropriate for these proceedings. The CAISO has proposed a new RMR *pro forma* contract and revised tariff sheets, and SoCal Edison is correct to enter its protests regarding the proposal in this filing. The Commission disagrees with Six Cities’ allegation that SoCal Edison is attempting to bury a complaint within its protest.

¹⁸ SoCal Edison Protest at 2.

¹⁹ September 21 Order at P 429.

24. Also, the Commission grants the CAISO's request for a waiver of section 35.3 of the Commission's regulations, 18 C.F.R. § 35.3 (2008), to permit the tariff sheets contained in the October 26 Filing to become effective more than 120 days after it was submitted.

The Commission orders:

(A) The proposed *pro forma* RMR Contract and the proposed revisions to the MRTU Tariff are hereby conditionally accepted, subject to modification, effective upon the date of MRTU implementation, as discussed in the body of this order.

(B) The CAISO is hereby directed to make compliance filings, within 60 days of the date of this order, as discussed in the body of this order.

(C) The CAISO is granted a waiver of section 35.3 of the Commission's regulations, to permit the tariff sheets contained in the October 26 Filing to become effective more than 120 days after it was submitted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.