

129 FERC ¶ 61,293
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer and Philip D. Moeller.

California Independent System Operator Corporation Docket No. ER08-585-003

ORDER DENYING REHEARING

(Issued December 30, 2009)

1. On July 14, 2009, the Commission issued an order¹ accepting the California Independent System Operator's (CAISO's) tariff revision related to the CAISO's Grid Management Charge.² The tariff revision addressed the treatment of physical and financial Inter-Scheduling Coordinator Trades with regard to the Market Usage-Forward Energy Charge component of the CAISO's Grid Management Charge. On July 28, 2009, the Financial Institutions Energy Group (Financial Institutions) filed a request for rehearing of the July 2009 Order. We deny Financial Institutions' request for rehearing, as discussed below.

Background

2. On February 20, 2008, the CAISO proposed revisions to its Grid Management Charge rate design in response to changes in the CAISO's market operations under the CAISO's Market Redesign and Technology Upgrade (MRTU) Tariff.³ In the December 2008 Order, the Commission accepted the tariff revisions for the Grid Management Charge rate design, subject to a compliance filing, and directed the CAISO to propose

¹ *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,021 (2009) (July 2009 Order).

² The Grid Management Charge recovers the CAISO's administrative and operating costs through eight categories of services that the CAISO provides. *Cal. Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,338, at P 2-3 (2008) (December 2008 Order).

³ CAISO February 20, 2008 Filing.

tariff language addressing how Inter-Scheduling Coordinator Trades⁴ would be treated with regard to the calculation of Market Usage-Forward Energy Charges.⁵

3. On January 21, 2009, the CAISO submitted a compliance filing and proposed new tariff language for Inter-Scheduling Coordinator Trades, providing that the Market Usage-Forward Energy Charge will apply to energy in the day-ahead market as offset by physical (but not financial) Inter-Scheduling Coordinator Trades.⁶ Thereafter, in its answer, the CAISO agreed to a tariff change proposed by the Northern California Power Agency (NCPA) to apply the Market Usage-Forward Energy Charge to energy in the day-ahead market as offset by both physical and financial Inter-Scheduling Coordinator Trades.⁷ The CAISO also stated that it would hold a future stakeholder process to re-evaluate the Market Usage-Forward Energy Charge and to address the appropriate Grid Management Charge rate structure for recovery of the administrative costs associated with Inter-Scheduling Coordinator Trades.⁸ The Commission accepted the CAISO's January 21, 2009 compliance filing, subject to the CAISO making a further compliance filing to include the tariff language agreed to by NCPA and the CAISO.⁹

⁴ An Inter-Scheduling Coordinator Trade is a “trade between Scheduling Coordinators of Energy, Ancillary Services, and [Integrated Forward Market] Load Uplift Obligations in accordance with the CAISO Tariff.” CAISO Tariff, Appendix A, Master Definitions Supplement.

⁵ December 2008 Order, 125 FERC ¶ 61,338 at P 46. The Market Usage Charge, which is split into the Market Usage-Forward Energy and Market Usage-Ancillary Services and Real Time Energy Charges, is defined as the “component of the Grid Management Charge that provides for the recovery of the CAISO's costs, including, but not limited to the costs for processing Day-Ahead, Hour-Ahead Scheduling Process and Real-Time Bids, maintaining the Open Access Same-Time Information System, monitoring market-performance, ensuring generator compliance with market rules as defined in the CAISO Tariff and the Business Practice Manuals, and determining [Locational Marginal Prices].” CAISO Tariff, Appendix A, Master Definitions Supplement.

⁶ CAISO January 21, 2009 Filing in Docket No. ER08-585-001 (proposing to revise CAISO Tariff, Appendix F, Schedule 1, Part 1, Paragraph 7).

⁷ CAISO February 26, 2009 Answer at 3.

⁸ *Id.*

⁹ *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,289 (2009) (March 2009 Order).

4. On March 31, 2009, the CAISO submitted a tariff revision to comply with the March 2009 Order. The revised tariff provision provides that physical and financial Inter-Scheduling Coordinator Trades “will be netted against energy sales in the Day-Ahead Market for purposes of calculating the Grid Management Charge Market Usage-Forward Energy Charge.”¹⁰ Protests to this revised tariff provision were submitted by Western Power Trading Forum (WPTF) and Financial Institutions, but were determined by the Commission to be beyond the scope of the compliance proceeding.¹¹ In the July 2009 Order, the Commission determined that the CAISO’s tariff revision satisfactorily complied with the Commission’s March 2009 Order and accepted it.¹² Also, in this order the Commission took note of the CAISO’s representation that in a future stakeholder process it would address alternative methods of cost recovery for Inter-Scheduling Coordinator Trades. The Commission commented that it “encourage[s] any party with a concern about this allocation procedure to participate in the CAISO stakeholder process addressing this issue.”¹³

Request for Rehearing

5. Financial Institutions request rehearing of the July 2009 Order. In this request, Financial Institutions explain that they are neither challenging the filed CAISO Tariff, nor the Commission’s approval of the tariff provision in the July 2009 Order. Rather, they argue that the Commission should grant rehearing because Financial Institutions contend that the tariff language approved by the Commission is not being implemented properly by the CAISO.¹⁴ Specifically, Financial Institutions assert that the CAISO Tariff does not specify that Inter-Scheduling Coordinator Trades would be assessed the Market Usage-Forward Energy Charge.¹⁵ Accordingly, Financial Institutions argue that the CAISO’s application of the Market Usage-Forward Energy Charge to Inter-Scheduling Coordinator Trades is inconsistent with the tariff. Further, Financial Institutions assert that the only reference to the netting out of Inter-Scheduling

¹⁰ CAISO March 31, 2009 Filing at 2.

¹¹ July 2009 Order, 128 FERC ¶ 61,021 at P 10-11, 14.

¹² *Id.* P 13.

¹³ *Id.* n.27.

¹⁴ Financial Institutions request for rehearing at 3. Financial Institutions also acknowledge that it may be reasonable to debate what is the appropriate forum for correcting an inaccurate implementation of a tariff provision. *Id.* at 4.

¹⁵ *Id.* at 2-3.

Coordinator Trades in the development of the rate for this charge appears in Appendix F of the CAISO Tariff.¹⁶ Financial Institutions argue that this reference to either the netting out or the exclusion of Inter-Scheduling Coordinator Trades for developing the Market Usage-Forward Energy Charge would not lead a CAISO participant to conclude that Inter-Scheduling Coordinator Trades would be assessed the Market Usage-Forward Energy Charge.¹⁷ Finally, Financial Institutions assert that because the CAISO's implementation of this tariff provision would appear to imply that the principle of cost-causation is a basis for inclusion of the Inter-Scheduling Coordinator Trades in the Market Usage-Forward Energy Charge, the Commission should grant their request for rehearing.¹⁸

6. Financial Institutions also comment that the CAISO's Settlements Business Practice Manual contains additional details not provided in the tariff, including an algorithm regarding the application of the Market Usage-Forward Energy Charge to Inter-Scheduling Coordinator Trades.¹⁹ However, Financial Institutions assert that even if the algorithm applies the Market Usage-Forward Energy Charge to Inter-Scheduling Coordinator Trades, such a conclusion would result in the Business Practice Manual achieving a result at variance with what is implied in the CAISO Tariff.²⁰ Financial Institutions argue that such an error would encourage other situations where implementation of a tariff provision is at odds with the intent of a Commission-approved tariff language, and would imply that where there are inconsistencies between the CAISO Tariff and the Business Practice Manual, the Business Practice Manual may trump the CAISO Tariff.²¹

7. Further, in response to the CAISO's earlier assertions that market participants may use services other than Inter-Scheduling Coordinator Trades to settle bilateral energy transactions, Financial Institutions argue that there may be instances where it may not be possible for market participants to immediately switch to alternative platforms.²²

¹⁶ *Id.* at 3, citing CAISO Tariff Appendix F, Schedule 1, Part A, Paragraph 7.

¹⁷ *Id.*

¹⁸ *Id.* at 4.

¹⁹ *Id.*, citing CAISO Settlements Business Practice Manual Configuration Guide for the Market Usage-Forward Energy Charge.

²⁰ *Id.* at 5.

²¹ *Id.*

²² *Id.*

Moreover, Financial Institutions contend that because the CAISO collects a fee of a dollar per schedule that applies to Inter-Scheduling Coordinator Trades, if market participants switch to alternative platforms, the CAISO would assess higher charges to remaining CAISO transactions.²³

Commission Determination

8. We deny rehearing. In the July 2009 Order, the Commission determined that the CAISO's revised tariff language satisfactorily complied with the Commission's directives in the March 2009 Order and, accordingly, the Commission accepted this revised tariff language. The CAISO's revised tariff provision specifies that physical and financial Inter-Scheduling Coordinator Trades "will be netted against energy sales in the Day-Ahead Market for purposes of calculating the Grid Management Charge Market Usage-Forward Energy Charge." A request for rehearing of the Commission's July 2009 Order is limited in scope to the issue of whether the Commission erred when it accepted the CAISO's compliance filing. Financial Institutions state in their request for rehearing that they are not seeking rehearing of this issue. Specifically, Financial Institutions state that they are neither challenging the filed CAISO Tariff itself, nor the Commission's approval of this tariff language. Instead, Financial Institutions base their request for rehearing upon their objection to the CAISO's particular implementation of the approved tariff provision.²⁴ Consequently, we conclude that the issues raised by Financial Institutions are beyond the scope of a rehearing of the July 2009 Order.

9. As we indicated in the underlying order, if Financial Institutions had concerns about the CAISO's implementation of the Market Usage-Forward Energy Charge tariff provision, they could have sought relief in alternative forums.²⁵ For example, the CAISO conducted a stakeholder process to modify the Market Usage-Forward Energy Charge to address, among other issues, the inclusion of Inter-Scheduling Coordinator Trades in the Market Usage-Forward Energy Charge. Following this stakeholder process, on October 30, 2009, the CAISO filed revisions to its Market Usage-Forward Energy Charge for the Commission's review in Docket No. ER10-188.²⁶ Financial Institutions had an opportunity to raise their concerns related to the CAISO's Market Usage-Forward Energy

²³ *Id.* at 5-6.

²⁴ *Id.* at 3.

²⁵ July 2009 Order, 128 FERC ¶ 61,021 at n.27.

²⁶ The Commission is acting on the CAISO's filing in Docket No. ER10-188 in a concurrent order.

Charge by participating in the CAISO's stakeholder process and/or Docket No. ER10-188. They do not appear to have participated in either one.

10. For the reasons discussed above, Financial Institutions' request for rehearing is denied.

The Commission orders:

Financial Institutions' request for rehearing of the July 2009 Order is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.