

107 FERC ¶ 61,048  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeen G. Kelly.

California Independent System Operator  
Corporation

Docket Nos. ER04-115-001  
EL04-47-001

Pacific Gas & Electric Company

Docket Nos. ER04-242-001  
EL04-50-001

ORDER ON CLARIFICATION AND REHEARING

(Issued April 16, 2004)

1. In this order, we grant in part and deny in part a motion for clarification or, alternatively, a request for rehearing filed by the California Independent System Operator Corporation (CAISO). The CAISO seeks clarification and rehearing of the Commission's December 31, 2003, order on the CAISO's Grid Management Charge (GMC) for year 2004.<sup>1</sup> This order is helpful to customers because it removes uncertainty surrounding the Commission's decision on the CAISO's 2004 GMC proposal.

**Background**

2. On October 31, 2003, the CAISO filed its GMC for year 2004.<sup>2</sup> In its filing, the CAISO, among other things: (1) sought to revise the GMC rate to further unbundle the charges, increasing the number of categories from three to seven, (2) sought authority to permit the GMC to function as a formula rate and proposed to make annual informational filings; thereby eliminating the need for an annual section 205 filing, and (3) requested

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<sup>1</sup> California Independent System Operator Corporation, 105 FERC ¶ 61,406 (2003) (December 31 Order).

<sup>2</sup> The GMC is an annual charge assessed to scheduling coordinators and others to recover the CAISO's administrative and general operating costs, including those costs incurred in establishing the CAISO prior to the commencement of operations.

authority to exercise conditional surcharge authority if the Commission determines that a different cost allocation should be applied retroactively. The CAISO contends that the rates for 2004 reflect a net revenue requirement of \$218 million, a decrease from \$237.6 million in 2003. The CAISO asked for an effective date of January 1, 2004.

3. The CAISO stated that its 2004 GMC rate structure has been arrived at through a deliberative process in which the CAISO, in consultation with market participants and independent rate consultants, has redesigned and refined the GMC rate to better reflect cost causation and respond to market participant and Commission concerns. It contends that the redesign consists of seven distinct charges that significantly improve the alignment between the cost responsibility of CAISO customers for GMC charges and the costs they cause the CAISO to incur.<sup>3</sup>

### **Protests to the CAISO's October 31, 2003 GMC Filing**

4. The protests and comments<sup>4</sup> to the CAISO's 2004 GMC filing raised numerous issues including, but not limited to, the following: the filing fails to include all of the necessary supporting documentation required by section 18 C.F.R. Part 35 of the Commission's regulations; the new rate design fails to reflect cost causation as directed by the Commission's Opinion No. 463;<sup>5</sup> and the CAISO has arbitrarily assigned and inappropriately allocated certain costs. Many protestors opposed the use of an automatically adjusting formula rate for the GMC charges.

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<sup>3</sup> CAISO asserts that the costs applied to the redesigned GMC rate formula to produce the year 2004 rates contained in this filing were reviewed separately and approved by its Finance Committee and by its full Board through the budget process. It contends that the costs comprising the budget are prudent expenditures that will be incurred by the CAISO in the furtherance of its role as a non-profit, independent operator of the CAISO Controlled Grid.

<sup>4</sup> Modesto Irrigation District, State Water Project of the California Department of Water Resources, the Transmission Agency of Northern California, the Cities of Redding and Santa Clara, California and the M-S-R Public Power Agency, Southern California Edison Company, Powerex Corp., California Municipal Utilities Association, the Bonneville Power Administration (BPA), San Diego Gas & Electric Co., the Metropolitan Water District of Southern California and Pacific Gas and Electric Company filed comments and protests.

<sup>5</sup> 103 FERC ¶ 61,114 (2003), on reh'g, 106 FERC ¶ 61,032 (2004) reh'g pending.

5. The Commission in its December 31 Order found that CAISO's proposed revisions to its GMC formula were not shown to be just and reasonable, and may be unjust, unreasonable and unlawful. The December 31 Order accepted the CAISO's proposed revisions to its GMC formula and suspended the rate changes effective January 1, 2004, subject to refund, and instituted hearing and settlement procedures.<sup>6</sup> Also, the Commission instituted an investigation of the CAISO's proposed GMC rates should it be found that the CAISO's proposed GMC rates are unjust and unreasonable, and that lower GMC rates would be just and reasonable.<sup>7</sup>

6. Additionally, the Commission denied CAISO's proposal to make yearly informational filings with the Commission to describe adjustments that result automatically from the operation of the GMC formula. The Commission found that the CAISO was required to make section 205 filings to implement any future GMC changes. The Commission dismissed as premature the CAISO request for surcharge authority.

#### **Request for Clarification and Rehearing**

7. On January 29, 2004, the CAISO filed a motion for clarification, or, in the alternative, request for rehearing of the Commission's December 31 Order (Rehearing request). The CAISO believes the Commission, in its December 31 Order, approved the use of its formula rate but that the order is ambiguous and requires clarification. Specifically, the CAISO asserts that the Commission's directive that the CAISO file under section 205 to "implement any future GMC changes"<sup>8</sup> could be read to require filings each year for the new charges that result from the application of the GMC formula even though no change is proposed to the GMC formula itself.

8. In summary, the CAISO requests that the Commission clarify that the CAISO's formula rate satisfies the requirements the Commission has set for approving *automatically adjusting* formula rates.<sup>9</sup> Second, the CAISO seeks to eliminate the

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<sup>6</sup> The Pacific Gas & Electric Company tracking dockets were consolidated with the CAISO dockets by order issued on January 23, 2004, 106 FERC ¶ 61,036 (2004).

<sup>7</sup> The Commission instituted a Federal Power Act section 206 (16 U.S.C. § 824e (1994)) proceeding in Docket No. EL04-47-000.

<sup>8</sup> December 31 Order at P 17.

<sup>9</sup> CAISO Motion for Clarification and Request for Rehearing filed on January 29, 2004 (Motion) at 3 and 5.

requirement for a section 205 rate filing when applying the GMC formula causes rate changes to the GMC. Instead, the CAISO desires to make informational filings only.

9. In support of its Rehearing request, the CAISO believes its formula rate proposal should be approved because the Commission has approved formula rates for other ISOs and that its 2004 GMC formula rate follows the Commission Staff's proposals set out in the 2001 GMC proceeding.<sup>10</sup> The CAISO claims that market participants can address their concerns on allocation and costs in the ongoing proceedings before the ALJ.<sup>11</sup> The CAISO claims that market participants who do not agree with the informational filing can make a section 206 complaint and bear the burden of proof to show that the proposed GMC rate is unjust and unreasonable.<sup>12</sup>

### **Answers to the Requests for Clarification**

10. Answers to the requests for clarification were filed on February 13, 2004, by the Transmission Agency of Northern California (Transmission Agency), the Cities of Redding and Santa Clara, California and the M-S-R Public Power Agency (M-S-R) and the Modesto Irrigation District (Modesto) (jointly as respondents).

11. Respondents argue that the CAISO's Rehearing request should be denied for various reasons including: (1) the California ISO has an inordinately high budget compared to other ISOs and a costly infrastructure resulting from California deregulation; (2) the proposed 2004 GMC formula rate does not provide transparency and lacks enough detailed support to be allowed as a formula rate; (3) other market participants do not have the ability to challenge the rates in a section 206 complaint case and that these rates could place an undue burden on market participants; and (4) the CAISO budget process does not provide any requirement that the CAISO adopt the market participant proposals and

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<sup>10</sup> See Motion at 12.

<sup>11</sup> Motion at 14. Other interveners are Northern California Power Agency, Calpine Corp., the City and County of San Francisco, the Cogeneration Association of California, Mirant Corp., the California Municipal Utilities Association, the Arizona Public Service Company, the Imperial Irrigation District, Constellation Power Source, Inc., Duke Energy North America, Inc., Sempra Energy Solutions, Inc., Western Power Trading Forum, Conoco Phillips Company, TransAlta Energy Marketing US, Inc., PPM Energy, Inc., PacifiCorp, Cargill Power Markets, LLC and Morgan Stanley Capital Group Inc.

<sup>12</sup> CAISO cites California PUC v. FERC, 254 F3d 250, 254 (D.C. Cir. 2001).

that market participants need section 205 cost and revenue protection as the CAISO intends to add large capital expenditures in the future.

**Discussion**

12. The development by the CAISO of the unbundled GMC is a complex, ongoing process. Thus, we believe that it would be premature to approve automatic updates for CAISO's formula rate at this time.

13. However, we clarify that we do not reject the concept of operation of the GMC as a formula rate. The Commission has approved formula rates for other ISOs and agrees with the CAISO that there are benefits to be gained from the use of such rate methods.

14. For now the CAISO must continue to submit, as a section 205 filing, its GMC charges that result from the application of the GMC formula. The CAISO's formula rate presently lacks sufficient detail and transparency to warrant its automatic application as an informational filing. A satisfactory resolution of these issues, among the CAISO and market participants, may emerge from the settlement and hearing process we have directed. Once that process is complete, it may be appropriate for CAISO to once again seek acceptance of a properly revised GMC as an automatically-applied rate.

15. To the extent described above, we grant CAISO's motion for clarification. The request for rehearing is denied as described above.

**The Commission orders:**

(A) The CAISO's Motion for clarification is hereby granted in part as described above in the body of this order.

(B) The CAISO's request for rehearing is hereby denied.

By the Commission

( S E A L )

Magalie R. Salas,  
Secretary.