

88 FERC - 61,182
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James J. Hoecker, Chairman;
Vicky A. Bailey, William L. Massey,
Linda Breathitt, and Curt H,bert, Jr.

California Independent System Operator Corporation
Docket No.
ER99-3289-000

ORDER CONDITIONALLY ACCEPTING PROPOSED TARIFF REVISIONS

(Issued August 16, 1999)

In this order we conditionally accept tariff revisions and other proposals filed by the California Independent System Operator Corporation (ISO), to become effective as discussed herein.

Background

On June 17, 1999, the ISO filed Tariff Amendment No. 17, containing numerous amendments to the ISO Tariff and related Protocols. Briefly, these revisions include: (1) changes related to implementing a pro forma Participating Load Agreement, and the Participating Load Agreement itself; (2) revision of the ISO's Outage Coordination Protocol; (3) a change to expand the options available to Scheduling Coordinators to satisfy creditworthiness criteria; (4) changes to the Grid Management Charge (GMC) to remove a telecommunications charge and to add a mechanism for recovery of Western Systems Coordinating Council (WSCC) fines; (5) revised allocation of the Regulation Energy Payment Adjustment (REPA); (6) changes to the ISO's Payment Calendar; and (7) revision of the Dispatch Protocol.

The ISO requests that all but one of the proposed changes be made effective on August 16, 1999. Software modifications are necessary to implement the revised Payment Calendar, and therefore, the ISO requests that those revisions become effective on the later of September 1, 1999, or at least seven days after the ISO posts notice on its home page that that software is ready for use.

Notice, Interventions and Responsive Pleadings

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Notice of the ISO's filing was published in the Federal Register, 64 Fed. Reg. 35,148 (1999), with motions to intervene and protests due on or before July 7, 1999. A notice of intervention was filed by the Public Utilities Commission of the State of California (California Commission). Timely motions to intervene, comments, and protests were filed by the California Department of Water Resources (DWR); California Electricity Oversight Board (Oversight Board); California Power Exchange Corporation (PX); Cities of Redding and Santa Clara, California (Cities); City and County of San Francisco, California; Electric Clearinghouse, Inc. (ECI); Enron Power Marketing, Inc. (Enron); Metropolitan Water District of Southern California (Metropolitan); Modesto Irrigation District (Modesto); Northern California Power Agency (NCPA); Pacific Gas and Electric Company (PG&E); Sacramento Municipal Utility District (SMUD); San Diego Gas & Electric Company (SDG&E); Southern California Edison Company (SoCal Edison); Transmission Agency of Northern California (TANC); and Western Area Power Administration (WAPA).

On July 8, 1999, Reliant Energy Power Generation, Inc. (Reliant) filed a motion for leave to intervene out of time and for conditional acceptance of the filing.

On July 22, 1999, the ISO filed an answer.

Discussion

Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 1/ the notice of intervention and the timely, unopposed motions to intervene serve to make the above-listed intervenors parties to this proceeding. Given the early stage of the proceeding and the absence of undue delay or prejudice, we find good cause to accept Reliant's motion to intervene out-of-time.

Although answers to protests generally are prohibited under 18 C.F.R. 385.213 (a)(2), we nevertheless find good cause to allow the ISO's answer in this proceeding because it provides additional information that assists us in the decision-making process.

Payment Calendar

In Amendment No. 17, the ISO proposes to extend the current payment calendar by two weeks, but commits to study its billing

1/ 18 C.F.R. 385.214 (1999).

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process to identify what changes could be made to shorten the

time frame. The ISO states that it began a stakeholder process to investigate participants' concerns about its settlement process, including the settlement payment calendar. Some participants had expressed concern that more time was needed to submit quality meter data, issue preliminary ISO statements, and resolve disputes. This stakeholder process did not result in a consensus, however. Therefore, the ISO explains that the proposed amendment represents the ISO Governing Board's "determination of the best balance between satisfying market needs for additional time for critical settlement functions and minimizing the cost to the ISO and Market Participants in credit requirements and carrying costs." 2/

Intervenors are concerned that once the payment period is lengthened, the issue will not be studied, and they will permanently lose the time value of their money. Reliant requests that, if the Commission accepts the amendment, then it do so only on the condition that the ISO fulfills its commitment to perform a study. ECI questions the validity of activities that the ISO claims are reasons market participants need more time. ECI asserts that the proposed 78 day payment calendar is long by industry standards and alleges that the time value of money is significant if payments to suppliers are held back for an additional two weeks. ECI requests that the Commission reject the amendment.

In its answer, the ISO states that it is committed to pursuing the concerns of all market participants and that it will continue its efforts to explore this issue. The ISO urges the Commission not to require it to file a tariff amendment.

We will accept the current proposal as a reasonable interim measure but agree with Reliant's request to condition approval on the ISO completing its evaluation of the payment calendar as soon as possible. We will not require the ISO to shorten the payment calendar cycle, but if its study identifies means to do so, the ISO may submit appropriate tariff revisions as part of a quarterly tariff filing.

Pro Forma Participating Load Agreement

The ISO tariff contemplates that loads may participate in the Ancillary Service markets if the loads can be curtailed or dispatched at the direction of the ISO. The ISO committed to develop a pro forma Participating Load Agreement (PLA) to encourage load-based participation in the Ancillary Service markets in Amendment No. 14, approved by the Commission on May

2/ See Filing at 6-7.

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26, 1999. 3/ In this filing, the ISO submits for review a pro forma PLA and proposes certain tariff revisions to encourage load-based participation in the Ancillary Service markets in connection with implementation of the PLA.

Several market participants protest the pro forma PLA, complaining that the ISO has failed to account for the practices of loads currently participating in Ancillary Service markets and that the PLA's metering and communication requirements are too stringent. For example, Enron believes that the ISO's excess metering requirements do not take into account developing demand side management options and will hamper enthusiasm for such options. SoCal Edison complains that it cannot force customers under existing contracts to change their meters. DWR objects that it is unable to give control to the ISO for dispatching its pumping stations because they are an integral part of the state water project. TANC asserts that the sixty day notice requirement in the PLA for changing technical information is too long. PG&E requests that we encourage the ISO to liberalize the proposed PLA terms to allow greater participation as soon as reasonably possible.

In response, the ISO argues that the PLA strikes a reasonable balance between the existing ad hoc practices and the ISO's need to establish standard requirements to foster participation of load in the ISO administered ancillary services markets on a broad basis. The ISO claims that it is critical that the initial mechanisms established for the participation of loads in its ancillary service markets have sufficient metering, telemetry and communications standards in the PLA. The ISO advises that it will attempt to develop alternative metering, telemetry and communication for loads that may be unable to meet these requirements. As to DWR's concerns, the ISO notes that its Tariff allows for waiver in cases like DWR. In response to TANC's complaint about the 60 day notice requirement to change technical information in the PLA, the ISO explains that the information is much like what is contained in a Participating Generator Agreement and also that the PLA must be filed with FERC, necessitating a delay.

We will accept the pro forma PLA. The PLA is an important step in the process of developing demand responsiveness to prices. The proposed requirements are reasonable, and the ISO states that it is willing to work with participating load entities that may need waivers of the requirements.

- 3/ AES Redondo Beach LLC, et al., 87 FERC - 61,208 (1999), reh'g denied in part, 88 FERC - 61,096 (1999), reh'g pending.

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Revised Outage Coordination Protocol

The ISO tariff currently requires participating generators and operators of reliability must run (RMR) units to seek final ISO approval on the day of an approved maintenance outage. The ISO states that, based on its experience to date, final, same-day approval is not necessary for participating generators (other than RMR units) that have scheduled the outage with adequate lead time. Therefore, the ISO proposes to eliminate the need to seek

final ISO approval as long as the participating generator has given seven days advance notice of any change in the scope of the work or outage. In addition, the ISO proposes to correct the office designation to which confirmation is submitted, to be consistent with actual practice.

WAPA protests streamlining of the outage coordination protocol, but offers as a basis only the fact that it dislikes and has previously challenged the protocol. TANC suggests revising the amendment to refer to final notification, rather than final approval. The ISO clarifies that final approval is indeed required; notification is not enough.

We conclude that the amendment simply streamlines the existing procedures for coordinating maintenance outages, and find WAPA's protest outside the scope of this proceeding.

Recovery of WSCC fines

On April 14, 1999, the Commission approved the WSCC reliability management system which allows the WSCC to impose sanctions and monetary fines on transmission providers. 4/ The ISO Tariff currently provides no explicit provisions for the recovery of fines imposed by the WSCC. In order to ensure recovery of the cost of such fines, Amendment No. 17 proposes to revise the ISO Tariff in two places. First, the amendment provides that Scheduling Coordinators will bear the full cost of the penalties imposed on the ISO that the ISO determines are attributable to a market participant that the Scheduling Coordinator represents. Second, the amendment adds WSCC penalties and fines as a cost component of the Grid Maintenance Charge (GMC) formula so that fines not attributable to specific participants will be recovered from all transmission customers.

Intervenors are generally concerned that the ISO will simply pass WSCC penalties through the GMC rather than tracking down the responsible market participant. Intervenors contend that the ISO will have an incentive to do so because it would save the ISO the time and expenses. They also are unsure whether an ISO

4/ Western Systems Coordinating Council, 87 FERC - 61,060 (1999).

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determination not to seek recovery could be challenged and whether an ISO assignment of fines would be subject to Alternative Dispute Resolution procedures. Intervenors seek assurance that the ISO will pursue all possible remedies before it collects these fines under the GMC, such as those available to it under the WSCC Reliability Management System agreements. In addition, ECI and Metropolitan assert that the proposal indemnifies the ISO from its own wrongdoing or negligence and argue that participants should not have to pay for any such fines. WAPA also requests that the ISO clarify certain procedural matters.

In its answer, the ISO commits to develop, through a

stakeholder process, procedures that it will use to determine how to identify a responsible Scheduling Coordinator. Once completed, the ISO proposes to post the procedure on its website. The ISO also agrees to amend its proposal in a compliance filing in several respects to give added guidance and assurance to market participants, and to clarify types of noncompliance that could lead to assessment of a fine. The ISO also notes that all components of the GMC are presented for stakeholder review and Governing Board approval, including unassignable WSCC fines.

We support this effort to apportion sanctions against market participants contributing to reliability violations, and we believe that the ISO has adequately responded to intervenors' concerns. Accordingly, we will accept this proposed amendment subject to the revisions the ISO agrees to make in a compliance filing.

Recovery of Costs for Communications Services

The ISO Tariff includes a schedule of charges for connection to the ISO's communication network provided by the ISO's vendor. These charges were developed with the intent of collecting \$6 million annually based on 2,000 connections, with approximately 70 percent of them assumed to be the highest speed, highest cost option. The ISO advises that after one-year experience it has only 300 connections, and 70 percent of those connections are the lowest speed option. The ISO expects to collect only 10 percent of its \$6 million of communication costs under current charges in 1999; the balance would be collected through the GMC. In Amendment No. 17, the ISO proposes to eliminate the separate, customer-based telecommunications charges so that all communications costs would be collected through the GMC from all customers based on load.

Intervenors assert that the proposal changes the collection of communication costs away from cost causation, and they claim that customers with slower connections will end up subsidizing customers with high speed connections. Also, Metropolitan states

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that the proposal is not clear whether the ISO's recently approved GMC rate of \$0.7781/Mwh would be affected. 5/

In its answer, the ISO explains that \$6 million is paid annually to a vendor for its system, and any portion of the costs not recovered through the telecommunication charges are already recovered as an operating expense in the GMC. Thus, the ISO concludes that the separate charges are having the effect of discouraging market participants from using the communication network, for which the ISO is already paying, and believes that eliminating the charge will encourage market participants to use faster, more efficient connections. ISO advises that, in 1998, only 2 percent of these charges were collected. Since most of the costs are already included in the GMC, the ISO asserts that the amendment will have a de minimis impact on the GMC rate. Further, the ISO clarifies that the current GMC rate for 1999 will not be impacted; the change will only be included in the GMC rate for 2000.

We agree with the ISO that the proposal does not raise significant concerns and may encourage more efficient use of the communication network, and we will accept it.

REPA Allocation

The REPA increases energy payments to suppliers of regulation services when there is an insufficient number of supplier bids for regulation services and is currently billed based on control area loads plus exports. This allocation method is inconsistent with the method used to allocate capacity costs associated with regulation service, which is based on load only within the control area. Therefore, the ISO proposes to revise how REPA is allocated so that capacity and energy costs for regulation service are allocated on the same basis.

PG&E protests the amendment, arguing that there is no basis to treat regulation service costs any different than spinning and non-spinning reserve costs, which are billed on the basis of control area load plus exports. In addition, PG&E contends that an additional tariff provision must be revised to make it consistent with the change proposed in this amendment. The ISO agrees that this latter comment is correct and commits to make conforming changes in a compliance filing.

We conclude that allocating energy and capacity costs for regulation service on an inconsistent basis makes no sense. Moreover, regulation service is a control area service and, therefore, billing on control area load is appropriate. As the

- 5/ See California Independent System Operator Corporation, 87 FERC - 61,304 (1999), reh'g pending.

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ISO notes in its answer, we have stated that "[r]egulation service 'must be offered only for transmission within or into the transmission provider's control area to serve load in the area.'" 6/ While the same analysis perhaps could apply to spinning and non-spinning reserves, no one has proposed to change the billing for these reserves in this proceeding. We will accept the ISO's proposal, as modified by the conforming changes noted above.

Dispatch Instructions

In real-time operation, if a generator's output is 100 MW and the dispatcher wants an additional 5 MW, the dispatcher directs the generator to ramp up 5 MW, but does not also confirm that the resulting total output is 105 MW. A recent operational audit of ISO control room operations revealed that this practice differs from tariff provisions. The ISO proposes to amend the tariff to reflect actual practice, by deleting the requirement that the dispatcher confirm a total output level when requesting a change in a generator's output.

ECI argues that information on resulting total output helps ensure that a generator and the ISO are operating under the same

assumptions, and requests that the change be rejected. In its response, the ISO explains that this change simply reflects existing operating practices and is responsive to the recommendation by a recent independent audit that market participants do not want confirmation of the total output level. We are not persuaded by ECI's protest, and we will accept this proposal.

Financial Criteria

The ISO proposes to broaden the financial instruments with which Scheduling Coordinators can establish their creditworthiness to include surety bonds and payment bonds from reputable institutions. No parties objected to this amendment, and we will approve it.

- 6/ ISO Answer at 40-41, quoting Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, 61 Fed. Reg. 21,540 at 31,717 (1996), FERC Stats. & Regs. - 31,036 (1996) (Order No. 888), order on reh'g, Order No. 888-A, 62 Fed. Reg. 12,274 (1997), FERC Stats. & Regs. - 31,048 (1997), order on reh'g, Order No. 888-B, 62 Fed. Reg. 64,688, 81 FERC - 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC - 61,046 (1998), appeal docketed, Transmission Access Policy Study Group, et al. v. FERC, Nos. 97-1715 et al. (D.C. Cir.).

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The Commission orders:

(A) The ISO is hereby directed to complete a study of its billing processes, as discussed in the body of this order.

(B) The ISO is hereby directed to submit a compliance filing as discussed in the body of this order within 30 days of the date of this order.

(C) The ISO's proposed Tariff changes, as conditioned in Ordering Paragraphs (A) and (B), are hereby accepted for filing, without suspension or hearing, to become effective as requested by the ISO.

(D) The ISO is hereby informed that the rate schedule designations will be supplied in a future order.

By the Commission.

(S E A L)

Linwood A. Watson, Jr.,

Acting Secretary.