160 FERC ¶ 61,007
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, and Robert F. Powelson.

California Independent System Operator Corporation — Docket No. ER17-1337-000

ORDER ON TARIFF REVISIONS

(Issued August 17, 2017)

1. On March 29, 2017, the California Independent System Operator Corporation (CAISO) filed proposed tariff revisions pursuant to section 205 of the Federal Power Act[1] that would extend, for an additional year, protective measures for qualifying variable energy resources (VER) in its 5- and 15-minute energy markets. On May 23, 2017, pursuant to the Commission's February 3, 2017 Order Delegating Further Authority to Staff in Absence of Quorum,[2] CAISO's proposed tariff revisions were accepted for filing, suspended for a nominal period, to become effective May 1, 2017, as requested, subject to refund, and further Commission order.[3]

2. As discussed below, in this further order, we reject CAISO's proposed revisions.

I. <u>Background</u>

3. On November 26, 2013, CAISO filed proposed tariff revisions to implement several enhancements to its real-time energy market, including a new 15-minute market structure, largely in response to the Commission's directives in Order No. 764 regarding

[1] 16 U.S.C. § 824d (2012).

[2] *Agency Operations in the Absence of a Quorum*, 158 FERC ¶ 61,135 (2017).

[3] *Cal. Indep. Sys. Operator Corp.*, Docket No. ER17-1337-000 (May 23, 2017) (delegated letter order).

integration of VERs.[4] In addition to market enhancements, CAISO proposed, and the Commission accepted,[5] protective measures for qualifying VERs in CAISO's Participating Intermittent Resource Program (PIRP) that would allow PIRP resources, for a three-year period, to continue to receive monthly settlements of net uninstructed imbalance energy, consistent with the prior market structure. The protective measures were intended to provide a transition period for older VERs that had a limited technological ability to curtail output in response to dispatch instruction and for VERs that were subject to power purchase agreements that explicitly prohibited them from voluntarily responding to real-time price signals.

II. <u>Filing</u>

4. CAISO proposes to revise tariff section 4.8.3.3, by extending the transition period for the protective measures for qualifying VERs by one year. Specifically, CAISO proposes that the transition period expire on April 30, 2018 instead of on April 30, 2017.[6] CAISO also proposes revisions to several tariff sections in 4.8.3 to delete references to a three-year transition period. CAISO asserts that several resources subject to the protective measures require more time to make the necessary technology upgrades and/or to change their power purchase agreements. CAISO argues that its proposal represents a just and reasonable middle course between stakeholder proposals to either extend the protective measures for a longer period, or to allow them to expire on April 30, 2017, per the current CAISO tariff. CAISO asserts that the PIRP resources should have their technology and power purchase agreement issues resolved by May 1, 2018, and that extending the protective measures by one year should not impact their contract negotiations.[7]

5. CAISO states that 15 entities initially requested and were approved for the relevant protective measures, and that nine resources received the protective measures from May 2014 through December 2016.[8] According to CAISO, applying the protective measures during that time resulted in a net benefit of approximately $5.6 million for these

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[4] *See Integration of Variable Energy Resources*, Order No. 764, FERC Stats. & Regs. ¶ 31,331, *order on reh'g and clarification*, Order No. 764-A, 141 FERC ¶ 61,232 (2012), *order on clarification and reh'g*, Order No. 764-B, 144 FERC ¶ 61,222 (2013).

[5] *See Cal. Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,204 (2014) (2014 Order).

[6] Transmittal at 1.

[7] *Id.* at 7.

[8] *Id.* at 4.

resources which they would not have realized otherwise. CAISO adds that, pursuant to the allocation methodology approved in the 2014 Order, CAISO has allocated the costs associated with extending protective measures as uplift to all scheduling coordinators in proportion to their monthly aggregate net negative uninstructed deviations.[9] CAISO asserts that it has no reason to believe that the magnitude of such costs allocated to the market would significantly increase if the Commission grants a one-year extension of the protective measures.

6. CAISO also seeks waiver of the Commission's 60-day notice requirement[10] to allow its proposed tariff revisions to take effect on May 1, 2017. CAISO argues that granting the waiver will prevent the protective measures from expiring on April 30, 2017 and that no market participant will be prejudiced by granting the waiver.[11]

III. Notice And Responsive Pleadings

7. Notice of CAISO's filing was published in the *Federal Register*, 82 Fed. Reg. 16,825 (2017), with interventions and protests due on or before April 19, 2017. Timely motions to intervene were filed by: Southern California Edison Company; Northern California Power Agency; and the City of Santa Clara, California. A timely motion to intervene and protest was filed by Pacific Gas and Electric Company (PG&E).

8. PG&E argues that continuing to insulate these resources from market signals is contrary to CAISO's operational need for flexibility, where conditions necessitating flexibility and not expected to occur until 2020 occurred in 2016.[12] PG&E asserts that the revisions continue to insulate select VERs from economic incentives to respond to CAISO dispatch signals and from paying imbalance charges, despite the need for flexibility.

9. PG&E further asserts that CAISO has failed to explain why the three-year transition period for the protective measures was inadequate. PG&E states that the original three-year transition period was intended to balance the desire to provide some protection to affected VERs from the immediate burden incurred as a result of implementing Order No. 764 against the need for VERs to fully participate in the revised market structure. PG&E argues that the proposed revisions would continue to subsidize a

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[9] Transmittal at 4-5 (citing 2014 Order, 146 FERC ¶ 61,204 at PP 76-77).

[10] *See* 18 C.F.R. § 35.3(a) (2017).

[11] Transmittal at 8.

[12] PG&E Comments at 3.

subset of VERs while imposing additional uplift on market participants and reducing market flexibility, when flexibility is increasingly important.[13]

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[14] the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

11. We reject CAISO's proposed revisions, as discussed below. The Commission originally accepted CAISO's protective measures as a three-year transition period to shield certain PIRP resources from the obligation to respond to CAISO's dispatch signals in the 5- and 15-minute market as a reasonable compromise for those resources with technological and contractual limitations. In accepting this provision, the Commission noted that the "group of VERs seeking to operate under the Protective Measures will likely be small…and the Protective Measures will only be in place for three years."[15] Thus, the Commission accepted the transition period, in part, because of its limited three-year duration.

12. CAISO has not argued that the three-year transition period was an unreasonable timeframe, or that circumstances have changed since the Commission originally accepted it. CAISO contends that the nine remaining VERs have benefitted from the protective measures by avoiding real-time market settlements in the amount of approximately $5.6 million.[16] As noted above, CAISO states that this amount is charged as uplift to market participants.[17] Extending the protective measures for an additional year will result in additional uplift charges to market participants if the relevant VERs continue to receive the protections for an additional year. While the Commission initially approved the protective measures, and the associated cost as a just and reasonable compromise for a three-year transition period, CAISO has not shown that its current proposal is just and reasonable. Specifically, CAISO has not made a persuasive showing that extending the

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[13] *Id.* at 4.

[14] 18 C.F.R. § 385.214 (2017).

[15] 2014 Order, 146 FERC ¶ 61,204 at P 78.

[16] Transmittal at 4.

[17] *See supra* P 5.

protective measures for an additional year would provide greater certainty that the relevant VERs would resolve their technological and/or contractual limitations, given that the three-year transition period that has already been afforded to these VERs was apparently insufficient. Further, CAISO does not assert and the record does not indicate that allowing the protective measures to expire on April 30, 2017 would pose a risk to reliability, or that the relevant VERs would suffer significant financial losses as a result of their expiration.

13. We also agree with PG&E that allowing the protective measures to remain in place for an additional year will not give the relevant VERs an economic incentive to respond to CAISO dispatch signals. CAISO itself has highlighted the need for resources to respond more quickly to CAISO dispatch instructions to curtail generation during oversupply conditions.[18] CAISO further notes that such oversupply conditions are not sustainable because they threaten reliability.[19] Therefore, we find that allowing the protective measures to expire on April 30, 2017 is just and reasonable, and consistent with the CAISO system's current need for flexibility.

The Commission orders:

CAISO's filing is hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

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[18] *See, e.g.*, CAISO, *Fast Facts: What the duck curve tells us about managing a green grid* (2016), https://www.caiso.com/Documents/FlexibleResourcesHelpRenewables_FastFacts.pdf.

[19] *Id.*