

UNITED STATES OF AMERICA 117 FERC ¶61,356
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. ER07-142-000

ORDER ACCEPTING TARIFF REVISIONS, SUBJECT TO MODIFICATION

(Issued December 29, 2006)

1. On November 1, 2006, the California Independent System Operator Corporation (CAISO) filed proposed amendments to its tariff pursuant to section 205 of the Federal Power Act (FPA).¹ For resources in the CAISO Participating Intermittent Resource Program (PIRP), the proposed amendments would modify how costs associated with energy exported from the CAISO Control Area are assigned. In this order, the Commission accepts the proposed amendments for filing, subject to modification, to be effective November 1, 2006.

Background and Proposed Filing

2. In 2002, the Commission approved the CAISO's PIRP, which reduces the barriers that intermittent renewable energy resources (e.g., wind and solar) face in participating in the CAISO energy market.² For resources participating in the PIRP, the program provides a process for forecasting and scheduling energy, and also provides special settlement treatment of two kinds. First, participating resources are allowed to settle deviations between scheduled and metered energy on a monthly basis rather than an hourly basis. Second, participating resources are not subject to certain CAISO settlement

¹ 16 U.S.C. § 824d (2000).

² *California Independent System Operator Corp.*, 98 FERC ¶ 61,327 (2002), *Order on Compliance*, 99 FERC ¶ 61,309 (2002).

charges, including Above Cap Charges (Charge Type 4487)³ and Transmission Losses (Charge Type 4450). The exemption from paying these settlement costs helps renewable resources locate and participate in the CAISO market. The benefit of the exemption ultimately helps load-serving entities meet the California renewable portfolio standard requirements.

3. The CAISO states that currently, several PIRP resources export energy to customers outside the CAISO control area. According to the CAISO, its scheduling coordinators with net negative deviators end up paying for the majority of the exempted PIRP settlement costs, regardless of whether the PIRP participant is serving customers inside or outside the CAISO control area. Meanwhile, PIRP resources are delivering their renewable energy to customers outside the CAISO control area without paying the full cost of delivering it. As a result, CAISO customers are essentially subsidizing PIRP facilities that send renewable energy resources to external customers.

4. In its filing, the CAISO proposes to amend its tariff to mitigate the cost shifting (*i.e.*, subsidizing of exports) by applying an “export fee” to PIRP facilities that export energy outside of the CAISO control area. According to the CAISO, the proposed amendments are intended to assign a proportionate share of the PIRP-exempted costs to those who benefit from the exported energy.

5. The CAISO proposes to assess the export fee based upon the ratio of exported energy from PIRP resources to all PIRP resource energy. Specifically, the CAISO proposes that the export fee will be invoiced quarterly, and will be determined based upon the following formula: amount of exported energy from the PIRP resource multiplied by the percentage of that resource being exported, multiplied by the total PIRP settlement costs⁴ for the quarter, divided by the total actual megawatt hours of PIRP resource energy. All PIRP resources will retain the benefit of settling deviations between scheduled and metered energy on a monthly basis, but PIRP exporters will no longer be exempt from certain PIRP settlement costs as they are under the current tariff protocols.

6. In the CAISO proposal, export fees received each quarter will be credited to a future invoice for scheduling coordinators with net negative deviations, and allocated in

³ Above Cap Charges result from the difference between the maximum clearing price, *i.e.*, the current soft cap of \$400/MWh, and bids accepted above the cap.

⁴ According to the CAISO, PIRP settlement costs are those from which PIRP resources are exempt under the current tariff, *e.g.*, the Above Cap Charges (Charge Type 4487)⁴ and Transmission Losses (Charge Type 4450).

proportion to the net negative deviations each scheduling coordinator was assessed in PIRP settlement costs. The CAISO also proposes to assess, on a quarterly basis, an annual fee of \$10,000 to manually process the quarterly invoices and allocate quarterly payments to scheduling coordinators. This processing fee will be paid equally by each exporting PIRP resource.

7. The CAISO states that it will determine applicability of the export fee by requiring each PIRP resource to provide: (1) an executed certification disclosing the contractual arrangement for its facility; (2) a periodic report including an affirmative statement that the operations of the facility are consistent with the original certification; and, (3) copies of the executed contract supporting the certification.

8. The CAISO clarifies that the amendments to the tariff will preserve the pre-existing rights and arrangements that are currently operating under PIRP protocols. Existing export contracts will be exempt from the export fee until they expire or are amended.⁵ The CAISO also proposes that existing resources developed under the PIRP to serve an entity's own native load outside of the CAISO control area will also be exempt.

9. The CAISO requests that the Commission waive its 60-day notice requirement and approve the proposed amendments, to be effective November 1, 2006. The CAISO submits that waiver of the 60-day notice period is appropriate to immediately address stakeholders' cost allocation concerns with respect to exports, and to ensure an appropriate cut-off date for the grandfathering provisions in the amendments. Finally, CAISO states that waiver of the 60-day notice period will not prejudice any stakeholders as the amendments have near-universal support.

Notice of Filing, Interventions and Comments

10. Notice of the CAISO's filing was published in the *Federal Register*, 71 Fed. Reg. 66,324 (2006), with interventions and protests due on or before November 22, 2006. Motions to intervene were filed by Modesto Irrigation District,⁶ Williams Power

⁵ The CAISO notes where a PIRP resource under an existing agreement has increased its maximum production capability, as listed on file with the CAISO, the existing contract exemption will not apply to the amount of the increased capability.

⁶ Modesto Irrigation District also filed errata to its motion to intervene, or in the alternative, a motion to intervene out of time, if the Commission does not accept the corrections to its original motion.

Company, Inc., CAISO, the Transmission Agency of Northern California, and California Department of Water Resources State Water Project. Southern California Edison (Edison) and Sacramento Municipal Utility District (SMUD) filed motions to intervene and comments. Pacific Gas and Electric Company (PG&E) filed a motion to intervene out of time. The CAISO filed an answer responding to SMUD's and Edison's comments.

11. SMUD supports Commission approval of the amendment, but requests a limited clarification. SMUD states that the undefined term "Participating Intermittent Resource Program settlement costs" in Schedule 4 of CAISO Tariff Appendix F⁷ is vague and potentially overbroad. SMUD proposes that the CAISO amend its tariff sheets to further specify the intended nature of the PIRP "settlement costs" by adding a narrative explanation that these costs refer to all the CAISO costs that PIRP participants will avoid as a result of being in the PIRP.⁸

12. Edison also states that the Commission should approve the CAISO's filing, but with corrections to certain minor errors. First, Edison points out that the CAISO seems to have erred in its definition of "Export Percentage" in Tariff Appendix A and would like the definition to read as listed below:

. . . as the ratio of Participating Intermittent Resource's Pmax is the ISO Master File **minus the MW**⁹ subject to an exemption under EIRP 5.3.2 on a MW basis to the Participating Intermittent Resource's Pmax in the ISO Master File.¹⁰

Edison states that the language should be changed in both the definition listed above and in Eligible Intermittent Resources Protocol (EIRP) section 5.3.2.¹¹

⁷ The term is located under the heading "Participating Intermittent Resources Export Fee."

⁸ SMUD clarifies that, in line with the mutual understanding reached in the stakeholder process, the narrative explanation of the settlement costs should not require a listing of specific charge types.

⁹ Edison proposes adding the bolded words.

¹⁰ CAISO November 1, 2006 Filing Attachment A, at Second Revised Sheet No. 494.

¹¹ *Id.* at Original Sheet No. 987A. EIRP is included in the CAISO tariff as Appendix Q.

13. Second, Edison requests that the CAISO correct the example given in EIRP section 5.3.2. As submitted by the CAISO, it reads:

“For example, a Participating Intermittent Resource with a PMax of 100MW and a contract with an ISO Control Area load serving entity for 60 MW would have an export percentage of $(100-60)/100 = 60\%$.”

Edison requests that the number 40 replace 60 in the appropriate places so that the example reads, “. . . for 40 MW would have an export percentage of $(100-40)/100 = 60\%$.”

14. In its answer, the CAISO states that Edison is correct in both instances – the need to add “minus the MW” and change 60 to 40 in the appropriate places – and agrees to make these corrections in its compliance filing.¹²

15. With regard to SMUD’s concern, the CAISO states that it does not oppose providing a narrative explanation that “settlement costs” refer to all of the CAISO costs PIRP participants will avoid as a result of being in the PIRP. The CAISO proposes to add the following bolded language to Schedule 4 of CAISO Tariff Appendix F to clarify the definition of settlement costs and satisfy SMUD’s concern:

“The Participating Intermittent Resources Fee shall be calculated as the product of (1) the sum of all Participating Intermittent Resource Program settlement costs **(such settlement costs referring to all of the CAISO settlement costs which Participating Intermittent Resource Program participants will avoid as a result of being in the program)** for the preceding *calendar quarter*...”

The CAISO states that it is prepared to make this clarification in a compliance filing.

Discussion

A. Procedural Matters

16. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Pursuant to Rule 214(d) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2006), the Commission will grant PG&E’s late-filed motion to intervene given its interest in the

¹² CAISO December 6, 2006 Answer at 2.

proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

17. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits answers to protests unless otherwise ordered by the decisional authority. We will accept the CAISO's answer because it has provided information that assisted us in our decision-making process.

B. Analysis

18. As discussed below, the Commission accepts the CAISO's proposed tariff amendments, subject to modification. We find the proposed tariff amendments, including the export fee, to be just and reasonable. Application of an export fee is an appropriate way to ensure that customers outside the CAISO control area receiving PIRP renewable energy pay the full delivered cost of such energy.

19. We agree that Edison's proposed clarifications are necessary to avoid confusion. Accordingly, we will require the CAISO to submit a compliance filing within 30 days from the date of the issuance of this order, making the changes proffered by Edison.

20. We will also require the CAISO to make another modification to its proposed tariff sheets. We agree with SMUD that clarification is required to specify the costs to be used in determining the export fee. However, we find the language that the CAISO proposes in its response to SMUD lacks the specificity the Commission requires for newly instituted rates for services. Because the export fee is a new charge under the tariff, the cost inputs to the charge must be more specifically enumerated in order to provide adequate transparency to customers.¹³ In this instance, the CAISO has not provided sufficient specificity as to the charge types that will make up the export fee.¹⁴

¹³ See Section 35.12(b)(2)(ii), 18 C.F.R. §35.12 (2006).

¹⁴ To illustrate, the CAISO provided in its filing an informal calculation of the PIRP export fee that does not appear to account for the full basket of exempt charges. See CAISO November 1, 2006 Filing at Attachment C, *October 12, 2006 Memorandum to the CAISO Board of Governors*, Attachment 1, page 5 (Example of Settlement of Quarterly PIRP Export Fee). The informal calculation suggests that Charge Types 4487, 4450, and 1697 will be the basis for developing the export fee, but does not include new Charge Type 1797. According to the Market Notice the CAISO issued on August 24, 2006, PIRP resources will be exempt from new Charge Type 1797, with those costs being assigned to all scheduling coordinators. It is unclear whether this new charge type will be included in the calculation for the export fee.

Docket No. ER07-142-000

7

Therefore, we will require the CAISO to amend its filing to specify in detail the costs (*i.e.*, the charge types avoided by PIRP resources) that will be used to calculate the export fee, as required by Commission regulations. We direct the CAISO to include this clarification in its compliance filing.

21. Finally, we will grant the CAISO's request for waiver of the Commission's prior notice requirement. As the CAISO states, it has received near-full support for its proposal from stakeholders, including PIRP resources. No party has contested the request. Furthermore, the export fee will reduce the charges currently being paid by existing scheduling coordinators on behalf of PIRP resources.¹⁵ Accordingly, we will allow the tariff amendments to become effective November 1, 2006, as requested.

The Commission orders:

(A) The CAISO's proposed tariff amendments are accepted, subject to modification, to be effective November 1, 2006.

(B) The CAISO shall submit a compliance filing, as discussed in the body of this order, within 30 days of the issuance of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

¹⁵ *Central Hudson Gas & Electric Corporation*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992) (*Central Hudson*).