

UNITED STATES OF AMERICA 95 FERC ¶ 61,195
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;
William L. Massey, and Linda Breathitt.

California Independent System Operator Corporation Docket No. ER01-836-002

ORDER DENYING REHEARING OR CLARIFICATION

(Issued May 14, 2001)

In this order, we deny requests for rehearing or clarification of the Commission's March 14, 2001 order which were filed by Turlock Irrigation District (Turlock) and the City of Vernon, California (Vernon) in this proceeding, as set forth below.¹

Background

On December 29, 2000, as modified on January 13, 2001, the California Independent System Operator Corporation (ISO) filed Amendment No. 35, containing numerous amendments to the ISO Tariff and related protocols. Among other things, these revisions included (1) the addition of a mechanism to recover FERC annual charges from entities receiving transmission service on the ISO controlled grid, and (2) a change to the ISO Tariff provision for a neutrality adjustment charge to incorporate an annual rather than an hourly limitation. In its March 14 Order, the Commission conditionally accepted the proposed modifications and directed the ISO to file a compliance filing within thirty days.

Requests for Rehearing

1. Annual Charges

On April 12, 2001, Turlock filed a timely request for rehearing or clarification of the March 14 Order. Turlock contends that, as a result of this order, the Commission has

¹California Independent System Operator Corp., 94 FERC ¶ 61,266 (2001) (March 14 Order).

created an apparent conflict between ISO Tariff sections 7.5.1.1 and 7.5.3.1. Turlock notes that the Commission found that transmission customers that do not use the ISO grid for transmission service should not be charged a pass-through for FERC's annual charges under ISO Tariff section 7.5.1.1. However, Turlock points out that under ISO Tariff section 7.5.3.1, the ISO intends to include the loads of all transmission owners in the calculation of the FERC Annual Charge Recovery Rate. Turlock seeks clarification that only loads that use the ISO grid are subject to this pass-through charge.

Turlock also urges the Commission to require the ISO to assess the annual charge based on energy scheduled over the ISO grid, rather than on the difference between gross metered demand and the load that is met with behind-the-meter generation that does not use the ISO grid. Turlock is concerned that the latter approach would be complicated, entails collection of information that the ISO does not currently have, and could be costly, due to the potential requirement to install new meters. Furthermore, Turlock states that the ISO should be required to file with the Commission the procedures to ensure that the pass-through charge is not assessed against load that does not use the ISO grid. Turlock states that the Commission should not have allowed the ISO to simply post these procedures on its website, where they are not subject to Commission and intervenor review.

2. Neutrality Adjustment Charge Cap

In Docket No. EL00-111-00, the Commission found that the ISO had misapplied the then current hourly neutrality adjustment charge limitation, as set forth in ISO Tariff section 11.2.9.1, and found that this hourly limitation must be applied until the ISO changed the tariff methodology.² The ISO proposed to change the neutrality adjustment charge cap from an hourly limitation to an annual limit in this proceeding. In the March 14 Order, the Commission accepted the amendment.

²Cities of Anaheim, et al., v. California Independent System Operator Corp., 94 FERC ¶ 61,268 (2000).

On April 13, 2001, Vernon filed a timely request for rehearing of the March 14 Order accepting the proposed amendment to ISO Tariff section 11.2.9.1. This provision changes the limitation on the neutrality adjustment charge so that it is calculated on an annual rather than an hourly basis. Vernon contends that the change should not be allowed where the ISO presented no explanation of how the neutrality adjustment charge limitation would be applied under the amendment, especially where, Vernon alleges, the ISO has already breached that limitation. Vernon also claims that the Commission improperly denied it leave to file its February 21, 2001 response to the ISO's February 5, 2001 Answer to Vernon's protest in this proceeding. Vernon claims that its Response should have been allowed because the ISO provided support for the proposed amendment for the first time in its February 5, 2001 Answer.

Discussion

1. Annual Charges

In the March 14 Order, the Commission agreed with Turlock that transmission customers that do not use the ISO grid for transmission service should not be charged a pass-through for FERC's annual charges. The Commission accepted the ISO's commitment to develop procedures allowing a customer to submit the MWh volume of transactions that do not use the ISO grid such that these volumes can be subtracted from its gross metered demand prior to the ISO's issuance of the monthly invoice. The Commission directed the ISO to post these procedures on its website and, if necessary, to file conforming Tariff language with the Commission.

We disagree with Turlock's contention that the Commission's findings in the March 14 Order created a conflict between ISO Tariff sections 7.5.1.1. and 7.5.3.1. ISO Tariff section 7.5.1.1 clearly states that the FERC Annual Charge Recovery Rate will be levied against all Scheduling Coordinators based upon each Scheduling Coordinator's metered Demand and exports. Based upon the ISO's commitment, the MWh volume of transactions that do not use the ISO's grid will be subtracted from the metered Demand and exports prior to the issuance of monthly invoices. Thus, Scheduling Coordinators will not be assessed FERC annual charges for transmission service that does not use the ISO's grid. No further clarification is required.

Turlock contends on rehearing that the procedures we accepted to ensure that annual charges are limited to transactions on the ISO grid would be both expensive and complicated. We disagree. Turlock misinterprets the ISO's use of the phrase "gross metered demand" to conclude that the ISO will be adding costly new meters to implement the assessment of FERC annual charges. Gross metered demand, in this instance, simply is the metered demand that includes the MWh volumes that the ISO commits to exclude

from the assessment of FERC annual charges. Moreover, the ISO's proposal is reasonable in that the ISO will assess FERC annual charges based upon actual use of the ISO's grid, rather than Turlock's proposal to assess FERC annual charges based upon a customer's energy schedules, which may be more or less than a customer's actual use of the ISO grid.

We also disagree with Turlock that the ISO should file its proposed procedures with the Commission (unless a modification to the tariff is necessary). The Commission has noted that it has "considerable flexibility in determining what rates and practices are 'for or in connection with,' 'affecting,' 'pertaining' or 'relating to' jurisdictional services and, accordingly, must be filed for Commission review."³ The Commission applies a rule of reason in making this determination. We believe that the ISO's procedures for determining the net load subject to billing are within this rule and need not be included in a tariff filing, unless the proposed procedures would require a change to the ISO tariff.⁴ Accordingly, we deny rehearing.

2. Neutrality Adjustment Charge Cap

On rehearing, Vernon asserts that for the period between December 1 through December 19, 2000, the ISO billed Vernon over \$1 million for neutrality adjustment charges, which results in a charge of approximately \$16 per MWh. However, Vernon contends that the limitation was \$0.35 per MWh as of the date of the ISO's tariff filing. Vernon further alleges that if the \$0.35 cap is applied to Vernon's total load for 2000, the maximum annual neutrality adjustment charge would be only \$423,356. Thus, Vernon argues that the charges Vernon has been assessed appear to exceed even the annual limitation. Noting that the Commission has found in Docket No. EL00-111-000 that a past application of the terms of this tariff section was unreasonable, Vernon contends that the ISO's unreasonable interpretation of this tariff section could continue under the tariff amendment. In these circumstances, Vernon argues that the Commission should not accept the amendment until it understands the meaning and effect of the change.

³Prior Notice and Filing Requirements Under Part II of the Federal Power Act, 64 FERC ¶ 61,139 at 61,987 (1993); see also Town of Easton, Maryland v. Delmarva Power & Light Company, 24 FERC ¶ 61,251 (1983).

⁴See, e.g., Pacific Gas and Electric Co., San Diego Gas & Electric Co. and Southern California Edison Co., 80 FERC ¶ 61,128 (1997); .

Vernon's concern that the ISO may be incorrectly interpreting its tariff and charging Vernon amounts exceeding the annual limitation should be raised in a complaint proceeding and will not be addressed here. As to Vernon's argument that the annual limitation itself may result in unjust and unreasonable charges, we disagree. As we found in our March 14 Order, as a non-profit entity, the ISO should not be forced to absorb neutrality costs that are attributable to a mismatch in debits and credits between Scheduling Coordinators. The annual limitation strikes a balance between the ISO's need to recover its revenue requirement on an annual basis and the customers' need for some limitation on total annual neutrality adjustment charges. Accordingly, we deny rehearing.

With respect to Vernon's request for rehearing of our rejection of its response to the ISO's answer, we have here considered the arguments raised in Vernon's response and find them unpersuasive. Therefore, we deny as moot Vernon's request for rehearing.⁵

The Commission orders:

- (1) Turlock's request for rehearing or reconsideration is hereby denied.
- (B) Vernon's request for rehearing is hereby denied.

By the Commission.

(S E A L)

David P. Boergers,
Secretary.

⁵National Fuel Gas Supply Corporation, 82 FERC ¶ 61,088 (1998); Boston Edison Company v. FERC, 885 F.2d 962, 966, 967 (1st Cir. 1989).