

UNITED STATES OF AMERICA 94 FERC ¶ 61,210
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System
Operator Corporation

Docket Nos. EC96-19-043 and
ER96-1663-044

ORDER GRANTING REHEARING IN PART
AND DENYING REHEARING IN PART

(Issued February 26, 2001)

On October 19, 1998, San Diego Gas & Electric Company (SDG&E) filed a request for rehearing of the Commission's September 17, 1998 order approving Amendment No. 11 to the California Independent System Operator Corporation Operating Agreement and Tariff (ISO Tariff).¹ In this order, we grant SDG&E's request in part and deny the request in part.

Background

The ISO Tariff requires the ISO to acquire four Ancillary Services, "Regulation," "Spinning Reserve," "Non-Spinning Reserve," and "Replacement Reserve."² The ISO acquires these four services in sequential auctions beginning with Regulation.

¹ California Indep. Sys. Operator Corp., 84 FERC ¶ 61,234 (1998) (September 1998 Order).

² ISO Tariff § SBP 5.1. The four services are defined in the ISO Tariff's Master Definitions Supplement, Appendix A, filed with the Commission on August 15, 1997.

A generator may offer the same capacity for all four of the generation-related Ancillary Services.³ However, capacity that is accepted for one of these services is no longer available for the subsequent auctions.⁴ Thus, for example, if the ISO accepts a generator's offer of capacity for Regulation, the ISO cannot accept the same capacity in a later Spinning Reserve auction.

A generator willing to provide Regulation may offer to sell varying amounts of power to the ISO over a fixed period. The generator generally offers to sell up to a specified maximum amount, while asking the ISO to assume a minimum purchase obligation.

Regulation services are classified into two categories, depending on whether the generator is offering to follow moment-to-moment load increases by increasing the output of its unit (Regulation Up) or offering to follow moment-to-moment load decreases by reducing the output of its unit (Regulation Down). Prior to the implementation of Amendment No. 11, the ISO treated the capacity accepted for either type of Regulation service as unavailable to provide service in the remaining Ancillary Service markets.⁵ Treating Regulation Down in this manner resulted in an undercounting of the generator capacity that remained available for the other three generation-related Ancillary Services.

As amended, ISO Tariff §§ 2.5.13 and SP 9.2(b) expressly permit the ISO to include generator capacity accepted for Regulation Down as capacity that remains available for other Ancillary Services. The amendment inserts identical language in those two provisions which states that "capacity accepted in the Regulation market that represents the downward range of movement accepted by the ISO may be passed on to another market."⁶

On August 28, 1998, SDG&E filed comments and a conditional protest. SDG&E stated its view that the pre-Amendment No. 11 tariff already required the ISO to count capacity accepted for Regulation Down as available for other Ancillary Services, and

³ ISO Tariff § SBP 5.1. The ISO Tariff identifies two additional Ancillary Services not relevant here.

⁴ Id. §§ 2.5.13 and SBP 9.2(b).

⁵ See September 1998 Order, 84 FERC at p. 62,195.

⁶ See ISO Tariff §§ 2.5.13 and SBP 9.2(b).

asked the Commission to approve Amendment No. 11 without pre-judging whether it effectuated a substantive change in the tariff.⁷ The September 1998 Order denied

⁷ SDG&E comments and conditional protest at p. 2.

SDG&E's request, stating: "We find the changes are necessary and are not simply clarifications of the existing provisions in the tariff." ⁸

Request for Rehearing

In its request for rehearing, SDG&E reiterates its belief that the amendments to §§ 2.5.13 and SP 9.2(b) simply clarify what the tariff previously provided, and asserts that the Commission "erred in stating that Amendment No. 11 to the ISO Tariff did anything more than clarify the pre-existing requirement that the ISO disregard accepted bids for 'Down Regulation' when calculating capacity that was unavailable for purchase to provide other Ancillary Services." ⁹ SDG&E alleges that the ISO's past calculations of available capacity cost SDG&E approximately \$8 million, and that the Commission's comments on the meaning of the pre-Amendment No. 11 tariff will prejudice SDG&E's ability to pursue remedies. ¹⁰ Accordingly, SDG&E asks the Commission to either (1) rule that Amendment No. 11 "did not effect a substantive change to the ISO's obligations" or (2) state that it is withholding judgment as to whether the amendment did effectuate such a change. ¹¹

Discussion

On reflection, whether amended ISO Tariff §§ 2.5.13 and SP 9.2(b) clarify or substantively change their predecessors is immaterial to the issue before us, which is whether to approve Amendment No. 11 (an action that SDG&E does not oppose). Thus,

⁸ September 1998 Order, 84 FERC at p. 62,197.

⁹ SDG&E rehearing request at p. 2.

¹⁰ Id. at pp. 12-13.

¹¹ Id. at pp. 13-14.

our statement in the September 1998 Order that Amendment No. 11 made a substantive change in §§ 2.5.13 and SP 9.2(b) is unnecessary dicta.

Accordingly, we will grant SDG&E's rehearing request to the extent necessary to strike that language.¹² We take no position regarding any dispute about the ISO's interpretation of ISO Tariff §§ 2.5.13 and SP 9.2(b) prior to the effective date of Amendment No. 11. We deny SDG&E's rehearing request in all other respects.

The Commission orders:

SDG&E's request for rehearing is granted in part and denied in part, as discussed in the body of this order.

By the Commission.

(S E A L)

David P. Boergers,
Secretary.

¹² The September 1998 Order language we are striking, located at 84 FERC p. 62,197, reads as follows:

We will deny SDG&E's requested clarification. We find the changes proposed in Amendment No. 11 are necessary and are not simply clarifications of the existing provisions in the tariff.