

130 FERC ¶ 61,034
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
and John R. Norris.

California Independent System
Operator Corporation

Docket Nos. ER09-1247-002
ER09-1247-003
ER09-1247-004

ORDER ON REHEARING AND COMPLIANCE

(Issued January 21, 2010)

1. On September 17, 2009, the Commission issued an order¹ conditionally accepting, subject to modification, tariff provisions implementing the California Independent System Operator Corporation's (CAISO's) payment acceleration program. On October 19, 2009, the CAISO submitted a compliance filing in Docket No. ER09-1247-003 and on October 28, 2009, submitted an errata filing in Docket No. ER09-1247-004 correcting inadvertent errors in the compliance tariff sheets.² In this order, we deny a request for rehearing of the September 17 Order and accept the compliance filing, as discussed below.

I. Background

2. On June 1, 2009, as amended June 4, 2009, the CAISO filed proposed modifications to the CAISO Tariff to implement a payment acceleration program effective November 1, 2009. According to the CAISO, the payment acceleration program will shorten the time period in which the CAISO invoices and settles market transactions, which in turn will lower the overall market's credit exposure and reduce the amount of the credit requirements market participants must meet.

¹ *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,265 (2009) (September 17 Order).

² Subsequent references in this order to the "compliance filing" should be understood to mean the October 19, 2009, compliance filing as corrected by the October 28, 2009, errata filing.

3. In the September 17 Order, the Commission accepted for filing, subject to modification, revised tariff sheets implementing the payment acceleration program effective November 1, 2009. The Commission required modifications as follows: revise the tariff language that describes the estimation methodology for scheduled demand; clarify the timeline for submitting actual settlement quality meter data; include a process for determining metered demand if a scheduling coordinator does not timely replace estimated meter data with actual data; add tariff language that sets forth the length of time within which the CAISO must respond to a settlement dispute; modify the interest provision to allow interest to accrue on incremental changes in settlement statements throughout the entire settlements process; revise the tariff as necessary to require that a market notice be published at least five business days in advance of a non-routine invoice or payment advice; and clarify the effectiveness of the current metering and settlement tariff provisions during the transition to the new payment acceleration timelines. The Commission directed the CAISO to submit, within 30 days, a compliance filing consistent with these directives.

II. Requests for Rehearing

4. The Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California (Six Cities) requested rehearing of the September 17 Order.

III. Notice of the Compliance Filing and Responsive Pleadings

5. Notices of the CAISO's October 19, 2009 and October 28, 2009 filings were published in the *Federal Register*, 74 Fed. Reg. 55832 (2009) and 74 Fed. Reg. 58275 (2009), with interventions, comments, and protests due on or before November 9, 2009, and November 18, 2009, respectively.

6. The Northern California Power Agency (NCPA) submitted comments on the compliance filing, expressing its support of the filing, and committing to work with CAISO on expanding accelerated data submission as necessary.

IV. Substantive Matters

A. Rehearing

1. Six Cities' Request for Rehearing

7. Six Cities requests rehearing with respect to the Commission's acceptance of tariff section 11.29.8.4.5, which allows a scheduling coordinator seven calendar days to raise a dispute regarding any incremental change appearing in the payment acceleration program's fourth recalculation settlement statement. The fourth recalculation statement is issued 35 months after the trading day. Six Cities argues that seven calendar days is unreasonably short.

8. Specifically, Six Cities requests rehearing with respect to paragraph 40 of the September 17 Order where the Commission states that “[w]e find that seven calendar days should provide market participants with sufficient time to identify any disputes that may arise regarding the fourth recalculation settlement statement, given that the market participants and the CAISO have had, at that point in the settlement process, 35 months to achieve an accurate settlement of market transactions.”³ Six Cities argues that the Commission’s conclusion rests upon an unsupported assumption that all market participants affected by an incremental change in a fourth recalculation settlement statement will have received prior notice of the circumstances giving rise to the change.⁴ Six Cities contends that it is entirely possible that the fourth recalculation settlement statement will provide market participants with the first notification of an incremental change, and the fact that 35 months will have elapsed since the relevant trading day will make it more difficult, not less, for market participants to review and validate such changes within the allotted seven calendar days.⁵

9. Six Cities asserts that the period allowed for review of a fourth recalculation settlement statement should be at least ten business days. Six Cities argues that, if allowing additional time for review requires extending the time for the final recalculation settlement statement, which now is set to occur at 36 months after the trading day, by two weeks or one month, this would be preferable to truncating the time allowed for review. Six Cities asserts that this would not materially affect market expectations regarding finality.⁶

2. Commission Determination

10. We deny Six Cities’ request for rehearing. Section 11.29.8.4.3 of the tariff limits disputes regarding a fourth recalculation settlement statement to disputes that are based on (i) incremental changes between the third and the fourth recalculation settlement statements, (ii) meter data issues identified through the audit process, or (iii) any good faith negotiation or dispute resolution settlement. Thus, given this limited scope of any possible dispute, Six Cities has not provided nor does the Commission see any reason why a scheduling coordinator, even assuming it lacks prior knowledge of the

³ Six Cities October 16, 2009, Request for Rehearing at 4-5, citing September 17 Order, 128 FERC ¶ 61,265 at P 40.

⁴ *Id.* at 5.

⁵ *Id.*

⁶ *Id.* at 6-7.

circumstances leading to the incremental change, cannot reasonably complete its review and, if necessary, submit a dispute within seven calendar days.

B. Compliance Filing

11. We find that the CAISO's revised tariff sheets fully comply with the directives of our September 17 Order. With respect to the matter concerning the length of time within which the CAISO must respond to a settlement dispute, we note that the revised tariff sheets do not specify a fixed number of days within which the CAISO must respond to a complex dispute. Nevertheless, we find that the CAISO's treatment of complex disputes meets our requirements, as discussed below.

1. Timeline for Responding to Disputes

12. In the September 17 Order, the Commission rejected the CAISO's proposal to remove from the tariff a requirement that the CAISO respond to settlement statement disputes within 25 business days⁷ and directed the CAISO to include in its compliance filing tariff revisions that specify the length of time within which the CAISO must respond to settlement disputes. The Commission noted that, although the existing tariff included a deadline of 25 business days, the Commission would allow the CAISO to propose and justify the same or a different time period for the payment acceleration program.

13. In its compliance filing, the CAISO has added tariff section 11.29.8.5 to set forth the timeline for the CAISO to reach a determination on settlement statement disputes. For a dispute based on an initial settlement statement, or on a first, second or third recalculation settlement statement, tariff section 11.29.8.5(a) requires the CAISO to reach a determination to approve or deny the dispute, and provide electronic notice to the scheduling coordinator of the outcome of the dispute, no later than 20 business days after the end of the dispute period for that settlement statement. However, tariff section 11.29.8.5(c) provides an exception to the 20 business day timeline for complex disputes that may require additional time to resolve and for matters where the disputing party agrees to an extension.

14. Tariff section 11.29.8.5(c) describes complex disputes as those that involve policy considerations, entail extensive research, require granular review of previous market runs, include complicated data or calculations, or depend on additional information to be provided by the disputing party or a third party. The CAISO expects that only a limited

⁷ The CAISO had proposed instead to include detailed process information and a timeline for the CAISO to respond to disputes in a business practice manual.

number of disputes will fall into this category.⁸ The CAISO will have the sole discretion to designate a dispute as complex and will advise the scheduling coordinator within 20 business days after the end of the dispute period if a dispute falls into this category.

15. The CAISO submits that this dispute resolution timeline is reasonable and satisfies the Commission's requirements. The CAISO claims that proposed timeline will result in a determination being made for the vast majority of disputes within 20 business days. The CAISO also claims that it provides a realistic period of time for the CAISO to research and evaluate highly complex disputes, and to handle together in a consistent manner similar issues arising from the same settlement statement. The CAISO notes that with the requirement to include an interest component throughout the settlement process, the scheduling coordinator submitting a complex dispute will be compensated for the time value of money on adjustments that result from the matter.⁹

2. Commission Determination

16. We find that the CAISO has met the requirements of the September 17 Order. In that order, the Commission determined that the maximum number of days that the CAISO has to respond to a dispute is a key parameter in the settlement process that significantly affects rates, terms and conditions of service under the Commission's rule of reason, and that should be included in the tariff itself. In its compliance filing, the CAISO has revised the tariff to require that the CAISO reach a determination to approve or deny the majority of disputes no later than 20 business days after the end of the dispute period. We find that this complies with the September 17 Order. In addition, although the tariff does not specify a fixed upper limit on the number of days that the CAISO has to respond to complex disputes, we find that the dispute response timeline that the CAISO proposes provides sufficient certainty and finality to satisfy our tariff requirements with respect to such disputes, as we explain below.

17. Under the CAISO's new proposed section 11.29.8.5(c), the CAISO is required to make reasonable efforts to reach a determination to approve or deny a complex dispute regarding the initial settlement statement or the first two recalculation settlement statements no later than 15 months after the trading day, and in the case of the third recalculation settlement statement no later than 33 months after the trading day. This will allow any resultant adjustment to be included on a subsequent recalculation settlement statement. Whether or not the CAISO is able to adhere to this timeline, it must reach a determination regarding all disputes no later than a sunset date, which occurs 36 months

⁸ CAISO October 19, 2009 Compliance Filing at 6.

⁹ *Id.* at 6-7.

after the trading date.¹⁰ This sunset provision thus provides certainty and finality to the dispute resolution process. Furthermore, although we recognize that 36 months is a considerable period of time to wait for a matter to be resolved, any harm that a scheduling coordinator may suffer is substantially mitigated by the requirement that interest be applied to any incremental changes in the amounts owed by scheduling coordinators throughout the full 36 month period.¹¹ We note also that the CAISO expects the number of complex disputes to be small and to decline further as the CAISO and market participants gain experience in the operation of the new markets.

The Commission orders:

(A) Six Cities' request for rehearing is hereby denied.

(B) The CAISO's revised tariff sheets are hereby accepted, effective November 1, 2009, consistent with the effective date previously established in the September 17 Order.

By the Commission. Commissioner Norris is voting present.

(S E A L)

Kimberly D. Bose,
Secretary.

¹⁰ Section 11.29.7.3 of the tariff permits no further adjustments for a trading day following the issuance of a recalculation settlement statement 36 months after the trading day, except as required by the CAISO Governing Board or by order of the Commission.

¹¹ Tariff section 11.29.10.2.

Document Content(s)

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