

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator Corporation)	Docket No. ER08-760-000
)	ER08-1124-000
)	
)	

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

On June 17, 2008, the California Independent System Operator Corporation (“CAISO”) filed a Motion for Clarification, or in the Alternative, Petition for Waiver, and Request to Shorten Comment Period in this proceeding (“June 17 Motion”). In its June 17 Motion, the CAISO requested that the Federal Energy Regulatory Commission (“Commission”) find that the CAISO’s erroneous revocation of a Must Offer Waiver (“MOW”) to El Segundo Unit #3 on June 8, 2008, contrary to the terms of the ISO Tariff, does not result in a 30-day designation of capacity under the Transitional Capacity Procurement Mechanism (“TCPM”).¹

Several parties filed answers and comments in response to the June 17 Motion.² Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213 (2008), the CAISO

¹ Capitalized terms not otherwise defined herein have the meaning set forth in the Master Definition Supplement, Appendix A to the ISO Tariff.

² Pacific Gas and Electric Company (“PG&E”) and NRG Energy, Inc. (“NRG”) filed answers to the June 17 Motion. The California Department of Water Resources (“CDWR”) and Southern California Edison Company (“SCE”) filed comments in response to the June 17 Motion.

respectfully requests leave to file an Answer to the comments and answers filed in this proceeding and, pursuant to Rule 213, hereby files its Answer.

I. MOTION FOR LEAVE TO FILE ANSWER

The CAISO recognizes that, unless authorized by the Commission, the Commission's Rules of Practice and Procedure preclude an answer to an answer. The CAISO hereby respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to respond to the answers and comments filed in this proceeding. Good cause for this waiver exists because the Answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case.³

II. Background

As CAISO explained in its June 17 Motion, revocation of El Segundo Unit #3's MOW was the result of operator error because El Segundo Unit #4 -- which is a Resource Adequacy ("RA") Resource -- was available for commitment, but the CAISO operator mistakenly revoked El Segundo Unit #3's MOW rather than El Segundo Unit #4's MOW. The CAISO noted in its June 17 Motion that, at the time the decision to revoke the MOW was made, the CAISO operator directly responsible for final MOW decisions had a list of Resource Adequacy Resources that were available for commitment during the month of June (the "RA Designation Tool"). El Segundo Unit # 4 was listed on the RA Designation Tool as an available Resource Adequacy Resource; El Segundo Unit #3 was not

³ See, e.g., *Entergy Services, Inc.*, 116 FERC ¶ 61,286 at P 6 (2006); *Midwest Independent Transmission System Operator, Inc.*, 116 FERC ¶ 61,124 at P 11 (2006); *High Island Offshore System, L.L.C.*, 113 FERC ¶ 61,202 at P 8 (2005).

listed as a Resource Adequacy Resource. However, the CAISO operator mistakenly revoked the MOW of El Segundo Unit #3 instead of El Segundo Unit #4.

Under the ISO Tariff, the CAISO is required to revoke the MOWs of Resource Adequacy Resources before revoking the MOWs of Generating Units that are not Resource Adequacy Resources, *i.e.*, FERC Must Offer Generators.⁴ Thus, in its June 17 Motion, the CAISO requested that the Commission clarify that the mistaken MOW revocation should not result in a TCPM designation, or alternatively, grant a waiver of the requirement in the May 30 Order that the MOW revocation would result in a 30-day TCPM designation. The CAISO also proposed to enter into a Good Faith Negotiation (“GFN”) with the owner of El Segundo Unit # 3 to mutually agree upon an appropriate level of compensation for the service that El Segundo Unit # 3 provided in connection with the revocation of its MOW.⁵

In proposing the GFN solution to address the mistaken commitment of a unit, the CAISO was attempting to balance the factors raised in the intervenors’ comments -- namely, how should a generator be compensated after responding to a mistaken dispatch order, where the tariff requires a 30-day capacity payment upon a single must offer waiver revocation, but where the CAISO promptly corrected the mistake. The GFN solution provides a mechanism to provide reasonable compensation for the time the unit was committed and available to

⁴ See Sections 40.6A.6 and 40.7.6.

⁵ June 17 Motion at 7.

the market without extending the compensation to the full 30 days required by the Tariff.

PG&E, CDWR and SCE argued that the erroneous MOW revocation should not trigger a 30-day designation of capacity under the TCPM. These parties also raised other issues that are discussed below. NRG filed an answer in support of use of the GFN solution, but reserved its right to seek compensation commensurate with a 30-day TCPM designation in the event that the Commission determined that the GFN solution was not appropriate.

III. ANSWER

As NRG notes in its answer, the CAISO and NRG have engaged in a GFN in accordance with the CAISO Tariff, and have reached a settlement in principle regarding the appropriate compensation for the service provided by El Segundo Unit #3 following the mistaken revocation of its MOW. That settlement is contingent on the Commission confirming that it is appropriate for the CAISO to utilize the GFN provisions of the ISO Tariff to resolve this dispute. Thus, the GFN process has concluded, and there is no outstanding dispute between the CAISO and NRG. Accordingly, if the Commission grants the CAISO's request to resolve this dispute through GFN, that will close this matter and moot the remaining issues raised in the June 17 Motion.

PG&E argues that the issue of compensation for El Segundo Unit # 3 should not be left to a dispute resolution process.⁶ This argument ignores the express provisions of the ISO Tariff. Section 13.1.1 provides for the ISO ADR

⁶ PG&E Answer at 4.

Procedures to apply to all disputes between parties which arise under ISO Documents, except in limited circumstances which do apply here. Further, Section 13.2.1 of the ISO Tariff provides that the CAISO and the Market Participant “. . . shall make good-faith efforts to resolve any dispute between them arising under ISO documents prior to invoking the ISO ADR Procedures. .”⁷ NRG and the CAISO have followed the process contemplated by these tariff provisions and have reached a mutually acceptable resolution of the issue of the amount of compensation that should be paid as a result of the mistaken revocation of the MOW for El Segundo #3. Accordingly, the Commission should confirm that it is appropriate for the CAISO to resolve the instant matter using the GFN provisions of its tariff.

PG&E states that it “expects that the CAISO will develop an ‘action plan’ to ensure that this type of error is extremely unlikely to occur in the future and to distinguish, and if necessary highlight, units available by type, including units subject to Resource Adequacy availability.”⁸ SCE requests that the Commission direct the CAISO to develop and implement a safeguard to prevent this type of error from occurring again and to allow stakeholders the opportunity to comment on the proposed modifications.⁹

The CAISO has an effective MOWD process in place that includes safeguards designed to prevent this type of event from occurring. In particular, MOWD decisions are made by supervisory level personnel. Further, the tools

⁷ California Independent System Operator Corp., FERC Electric Tariff, Third Replacement Volume No. 1, Section No. 13.2.1.

⁸ PG&E Answer at 3.

⁹ SCE Comments at 3.

used by grid operators already highlight available units by type. The revocation of the MOW for El Segundo #3 did not result from a gap or defect in the current process. It occurred due to human error. This incident has triggered appropriate actions to reinforce the Tariff requirements and ensure proper training and awareness of the tools and the importance of ensuring that no RA units are available before making a MOWD decision. Under these circumstances, there is no need to revise the CAISO's MOWD processes or convene a stakeholder process to review internal CAISO procedures pertaining to the MOWD process.

IV. CONCLUSION

For the reasons discussed above, the CAISO requests that the Commission accept this Answer and issue an order permitting CAISO to resolve the dispute involving the MOW revocation of El Segundo Unit # 3 through the CAISO's GFN procedures.

Respectfully submitted,

/s/ David B. Rubin

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Dated: July 23, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the California Public Utilities Commission, California Energy Commission, all Scheduling Coordinators, all of the parties listed on the official service list for the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom. this 23rd day of July, 2008.

/s/ Anna Pascuzzo

Anna Pascuzzo