

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

**California Independent System) Docket No. ER11-2760-000
Operator Corporation)**

**ANSWER TO MOTIONS TO INTERVENE AND COMMENTS, AND
MOTION TO FILE ANSWER AND ANSWER TO PROTEST, OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

On January 26, 2011, the California Independent System Operator Corporation (“ISO” or “CAISO”) submitted a filing in this proceeding to modify the provisions of the ISO tariff to allow scheduling coordinators to make independent elections for start-up and minimum load cost compensation and to submit daily bids for start-up and minimum load costs for resources subject to the proxy cost option.¹ Several parties filed non-substantive interventions.² The ISO received two filings raising substantive issues: comments filed by Southern California Edison Company (“comments”) and a joint protest (“protest”) filed by Calpine Corporation, the Dynegy Companies and the NRG Companies (“joint parties”). As explained in more detail below, the Commission should accept the ISO’s tariff amendments without modification or condition as both the comments and the protest merely express the

¹ The ISO submits this answer pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213 (2010). The ISO requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to make an answer to the protests. Good cause for this waiver exists here 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. 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).

² The following entities filed non-substantive interventions: Pacific Gas and Electric Company, Northern California Power Agency, City of Santa Clara, California, J.P. Morgan Ventures Corporation, Modesto Irrigation District and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside California.

desire for the ISO to add enhancements beyond those being proposed and neither SCE nor joint parties actually oppose any of the proposed amendments. In fact, both SCE and joint parties support the proposed tariff amendments and urge the Commission to accept them.

I. Answer

In its comments, Southern California Edison Company (“SCE”) clearly states its support of the ISO’s proposed tariff amendments.³ However, SCE states that it finds the registered cost option for start-up inadequate to represent its “actual start-up costs” and advocates for a separate fixed cost component of start-up costs that would include such costs as “verifiable maintenance costs between a resource owner and its maintenance provider.”⁴ SCE urges the Commission to order the ISO to develop the details of a fixed component of start-up costs in a stakeholder process.⁵

Joint parties’ protest also conveys support for the ISO’s proposal, but similarly calls for changes beyond the scope of the modifications in the proposed tariff amendments. Joint parties advocate for the transition to daily bidding of minimum load and start-up costs stating that⁶ they support the currently proposed modifications and request that the Commission accept the “modest improvements proposed by the

³ Comments at 2.

⁴ *Id.* at 2-3. In the stakeholder process, SCE argued that the fixed cost component should include per-start charges specified in tolling agreements.

⁵ *Id.* at 3.

⁶ Protest 1-2.

CAISO in this filing to allow generators to place minimum load and start-up bids.”⁷

Like SCE’s comments, however, joint parties urge the Commission to direct the ISO to go further and compel the ISO to: (1) offer daily bidding of registered cost option (or increase the proxy cost daily bidding cap)⁸ and; (2) include additional fixed costs in the proxy cost calculation.⁹

The fact that the ISO has not gone as far as some parties would like does not render the ISO’s filing unjust or unreasonable. The ISO’s amendments *increase* the options available to scheduling coordinators and improve upon the existing just and reasonable approach. The fact that other approaches might also be just and reasonable or even superior is irrelevant.¹⁰

A. The tariff amendments should be accepted as filed

Joint parties’ “protest” is not a protest; but rather a collection of arguments and justifications of why the ISO should have implemented numerous additional enhancements.¹¹ The plainest statement of what appears to be joint parties’ main concern is that the ISO proposes “to implement daily bidding of minimum load and

⁷ *Id.* at 5.

⁸ Protest at 7-9, 13-15.

⁹ *Id.* at 9-13, 15-16.

¹⁰ *Calpine Corp. v. California Independent System Operator Corp.*, 128 FERC ¶ 61,271, at P 41 (2009) (citations omitted). *See also New England Power Co.*, 52 FERC ¶ 61,090, at 61,336 (1990), *aff’d*, *Town of Norwood v. FERC*, 962 F.2d 20 (D.C. Cir. 1992) (rate design proposed need not be perfect, it merely needs to be just and reasonable), *citing Cities of Bethany, et al. v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir.), *cert. denied*, 469 U.S. 917 (1984) (utility needs to establish that its proposed rate design is reasonable, not that it is superior to all alternatives).

¹¹ As noted above, SCE supports the ISO’s amendments.

start-up costs, but then to cap those bids significantly below levels previously approved by the Commission.”¹²

The ISO is proposing to allow daily bidding but only for scheduling coordinators electing the proxy cost option and only up to the calculated proxy cost amount. The 200% cap on start-up and minimum load costs applies today to the registered cost option and the ISO is not proposing to allow daily bidding for those who have elected the registered cost option due to the need for and complexities of developing dynamic local market power mitigation measures.¹³ Nonetheless, the registered cost option remains available for scheduling coordinators that find that the proxy cost option may not be sufficient to cover either their start-up or minimum load costs. In this tariff amendment proceeding, the ISO is simply taking an additional step forward – compared to the existing options – by proposing to allow scheduling coordinators to submit daily bids under the proxy cost option up to the calculated proxy costs.¹⁴ The fact that the ISO is not proposing to add additional cost categories to proxy costs or to allow scheduling coordinators to bid up to 200% of their proxy costs under the proxy cost election, or to add daily bidding to the registered cost option, does not render the simple step of permitting daily bidding for

¹² Protest at 1.

¹³ The ISO and its Department of Market Monitoring would support daily bidding of the registered cost option (or a higher cap on proxy cost option) with some dynamic mitigation of start-up and minimum load costs. The ISO is not able to implement dynamic mitigation of start-up and minimum load costs at this time given resource constraints and the high priority of other enhancements to the ISO market.

¹⁴ Joint parties do not appear to object to the independent election of start-up and minimum load costs.

scheduling coordinators electing the proxy cost option up to the existing cap applicable to the proxy cost option, unjust or unreasonable.

Joint parties suggest that the ISO is upsetting the current options which they assert reflect a “careful balance” of choosing either the registered or proxy or registered cost option a month in advance.¹⁵ This is incorrect. The careful balance remains intact: scheduling coordinators remain free to elect the registered cost option up to 200% of the project proxy costs if they believe the proxy cost option is not sufficiently compensatory and both elections remain in effect for 30-days.¹⁶ The static nature of the election of the proxy or registered cost options serves to militate against submitting higher costs thereby taking advantage of potential market power.

In response to contentions that scheduling coordinators cannot recover their costs, the record in the stakeholder process was completely devoid of any evidence that 200% of the project proxy cost was insufficient to cover costs. The joint protest does not even argue that the cap on registered costs of 200% of projected proxy cost is insufficient; rather, the protest simply contends that the proxy cost option should include more costs.¹⁷

The ISO has expressed that it is not opposed to including a fixed adder to start-up and minimum load costs—provided that it could be cost justified based on actual costs—opposed to bilaterally agreed-upon contractual costs. Despite requests

¹⁵ Protest at 2.

¹⁶ In addition, scheduling coordinators have the right to revert to the proxy cost option if the election under the registered cost option falls below the calculated proxy cost option.

¹⁷ Protest at 9-13. ISO data reveals that scheduling coordinators electing the registered cost option are registered costs far below the 200% cap. See pages 4.25-4.28 of the 2009 Annual Report on Market Issues & Performance issued by the ISO’s Department of Market Monitoring at the following link: <http://www.caiso.com/2777/27778a322d0f0.pdf>.

by the ISO for stakeholders to submit cost data,¹⁸ only one stakeholder submitted costs and the ISO concluded it did not have enough information to propose a fixed-cost adder. The ISO also considered the types of costs raised by joint parties—variable costs such as city gate gas taxes and intra-day gas dispatches, as inappropriate for inclusion in such a fixed adder.¹⁹ Accordingly, the ISO did not propose any changes to its management, but remains open to consider how additional costs might be appropriately considered in a future stakeholder process.

The joint parties' claim that the ISO's assertion of broad stakeholder support for the proposed changes is overstated²⁰ is incorrect. As evidenced by SCEs' and joint parties' support, the interventions that raise no substantive issues and the stakeholder materials submitted as part of this tariff amendment filing—the proposed changes are broadly supported, even though some stakeholders were disappointed that the ISO's proposal did not include additional enhancements as discussed below. Specifically, joint parties are each on the record as supporting both the independent election as well as daily bidding of the proxy cost option in the stakeholder process documentation and in their comments and protests filed in this proceeding, which are the subject of this tariff amendment filing.²¹

¹⁸ The ISO issued a market notice on August 14, 2009 requesting that stakeholders submit operations and maintenance cost information. The market notice is available at the following link: <http://www.caiso.com/240a/240ac48161f30.html>.

¹⁹ See summary of submitted comments, Attachment A to the July 16, 2010 board of governor's memorandum, Attachment C to the January 26, 2011 transmittal letter.

²⁰ *Id.* at 21.

²¹ Attachment C to the January 26, 2011 transmittal letter (see summary of submitted comments, Attachment A to the July 16, 2010 board of governors memorandum). Although joint parties are on record as supporting independent election and daily bidding of proxy costs, joint parties are also on record as supporting more frequent bidding and additional costs to be included in the proxy costs. Again, the fact that the ISO did not go as far as joint parties would have liked, does not mean that the

B. The Commission should not condition acceptance on the development of any enhancements

The purpose of SCE's comments and joint parties' protest is not to argue that the proposed tariff amendments are not just and reasonable but that the Commission should direct the ISO to add daily bidding up to a higher cap and increase the costs to be reflected in the proxy cost option. As noted above, the fact that there may be other approaches that may even be superior does not render the ISO's proposal unjust or unreasonable.

Importantly, the ISO held a robust stakeholder process and considered adding a fixed cost component to the proxy cost option as well as how to handle variable costs. The draft final proposal concluded that there was insufficient factual basis to add a new fixed cost component or to increase the existing operations and maintenance adder.²² Scheduling coordinators also have existing options to recover their costs through the registered cost option and the ability to negotiate a resource-specific operations and maintenance cost—and to date, no one has negotiated a resource specific operations and maintenance cost.²³

joint parties opposed the ISO's enhancements or that the proposed enhancements are not just and reasonable.

²² As noted above, only one market participant submitted cost information, which was insufficient to justify a fixed cost adder and the ISO disagreed with SCE that contractually agreed upon costs should be the basis for a fixed cost adder.

²³ See pages 6 of the June 14, 2010, draft final proposal, *Changes to Bidding and Mitigation of Commitment Costs*, available at the following link: <http://www.caiso.com/23d9/23d9c75e22ab0.html>. Through the negotiated default energy bid process pursuant to tariff section 39.7.1.3, a scheduling coordinator can negotiate an operations and maintenance adder that would replace the default amounts set forth in tariff section 39.7.1.1.2 and maintained in the master file. This operations and maintenance value is used for both default energy bids and proxy cost option for minimum load cost compensation.

Although the ISO concluded that it did not have a sufficient factual basis to increase the fixed cost adder, it did agree to review on three-year cycle the default operations and maintenance adders. The current values of \$2 or \$4 per M/Wh are set forth in tariff section 39.7.1.2. The ISO has engaged a contractor to evaluate current costs which could result in a tariff amendment that would potentially increase these amounts and/or improve the granularity of these costs effective as of April 1, 2012.

As a result of this stakeholder process, the ISO has also made an additional change that was broadly supported by stakeholders—namely replacing the SoCal Boarder Gas price with the SoCal City Gate price. This change was made through a change in the Business Practice Manual for Market Instruments effective on March 1, 2011.

Finally, although the ISO supports a move towards greater flexibility in daily bidding, including the introduction of daily bidding in the registered cost option, the ISO is not able to implement a more flexible option than is currently proposed. Daily bidding with a higher cap would allow for recovery of unique variable costs that are not appropriate to be included in a fixed cost adder and could allow for recovery of any fixed costs that are not included in the proxy cost option. However, this would require dynamic bid mitigation of start-up and minimum load costs in both the integrated forward market and in the residual unit commitment process, which would be a significant redesign effort that needs to be prioritized along with other initiatives and which will require significant development lead time.²⁴

²⁴ *Id.* at 6.

The ISO urges the Commission to accept the tariff amendments without any conditions such as SCE or joint parties urge. Neither SCE nor joint parties' arguments are persuasive that the Commission's acceptance of the ISO's proposed tariff revisions should be conditioned on additional requirements. The ISO is not opposed to engaging in additional stakeholder processes to allow additional enhancements, such as greater flexibility for daily bidding, subject to need to prioritize any such effort with the other priorities as daily bidding along with dynamic mitigation.

At this time, however, the ISO is not able to identify when it will be able to devote resources to this effort in light of substantial resources devoted to other high priority initiatives of the ISO and the Commission. Given the numerous pressing initiatives facing the ISO, such as the need to integrate significant renewable resources, the ISO urges the Commission not to direct any specific issue as worthy of going to the head of the pack. In the nearer term, the ISO will be initiating a stakeholder process to consider how environmental costs should be recovered as a reflection of the ISO's continuing interest in looking at commitment costs on an ongoing basis. In the meantime, the current proposed changes provide valuable additional flexibility by allowing for independent elections of either the proxy or registered cost option for either start-up or minimum load cost compensation and daily bidding under the proxy option.

II. Conclusion

For the reasons discussed above, the ISO urges the Commission to accept the tariff amendments unconditionally as filed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced 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, California this 3rd day of March, 2011.

/s/ Susan L. Montana
Susan L. Montana