123 FERC ¶ 61,189
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

California Independent System Operator Corporation — Docket Nos. ER07-805-003, ER07-1304-001

ORDER ON REQUESTED CLARIFICATION AND COMPLIANCE FILING

(Issued May 20, 2008)

1. In this order we address a request for clarification of our October 22, 2007 order in these dockets. We also accept for filing California Independent System Operator Corporation's (CAISO) proposed compliance filing which amends its tariff and its billing services agreement with the Western Electric Coordinating Council (WECC).

Background

2. The North American Electric Reliability Corporation (NERC), WECC and the Western Interconnection Regional Advisory Body (WIRAB) each perform reliability functions under section 215 of the Federal Power Act (FPA).[1] In doing so, they incur a variety of administrative and related costs. WECC, acting on behalf of itself, NERC, and WIRAB, bills a portion of those costs to CAISO (CAISO/WECC Billing Service Agreement).[2] The associated charges are referred to herein as NERC/WECC Charges.

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[1] Energy Policy Act of 2005, Pub. L. No. 109-58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), to be codified at 16 U.S.C. § 824o.

[2] The WECC acts on NERC's behalf with respect to collection of NERC/WECC Charges under a delegation agreement between WECC and NERC. *See North American Electric Reliability Corp.*, 119 FERC ¶ 61,060 at P 529, *order on reh'g,* 120 FERC ¶ 61,239 (2007).

3. Initially in this proceeding, CAISO proposed to allocate NERC/WECC Charges to Scheduling Coordinators in its control area.[3] CAISO's proposal included measures for allocating NERC/WECC Charges among Scheduling Coordinators as well as the details of the billing process. As part of the billing process, CAISO proposed to issue quarterly preliminary invoices of NERC/WECC Charges to the Scheduling Coordinators beginning a year and a half before the final NERC/WECC Charges would be due to WECC.[4] These charges were to be allocated among the Scheduling Coordinators, and eventually among the LSEs, based on their share of CAISO's metered demand.

4. In the Commission's initial order in this proceeding, issued June 25, 2007,[5] the Commission accepted the CAISO's proposal with conditions. Among other things, the Commission ordered that the schedule for invoicing NERC/WECC Charges be moved up, so that CAISO was not holding NERC/WECC Charges for an inordinate period of time.[6] The Commission also noted, in response to a protest from Alliance for Retail Energy Markets (AReM), that entities had the ability to revise their metered demand, the basis for allocating NERC/WECC Charges, through WECC.[7]

5. In an order on rehearing and compliance issued on October 22, 2007,[8] the Commission accepted with modifications CAISO's compliance filing in response to the June 25 Order and answered several requests for clarification. The Commission accepted the CAISO's proposal to dispense with quarterly preliminary invoices in favor of a single final invoice, but required CAISO to send a preliminary invoice in August of the year in which the final invoices are sent out to Scheduling Coordinators.[9] The Commission also clarified the ability of entities to receive an adjustment from WECC. The Commission stated that it would allow LSEs to obtain an adjustment in their metered demand if it met

[3] The Scheduling Coordinators would separately collect the charges from load-serving entities (LSEs).

[4] For example, charges needed in 2010 would begin to be collected via preliminary invoices in 2008.

[5] *California Independent System Operator* 119 FERC ¶ 61,316 (2007) (June 25 Order).

[6] *Id.* at P 38.

[7] *Id.* at P 12.

[8] *California Independent System Operator* 121 FERC ¶ 61,074 (2007) (October 22 Order).

[9] *Id.* at P 26.

three conditions: "(1) the change in load is attributable to the transfer of load to another LSE after the data year; (2) the transfer is significant and easily identifiable; and (3) the update would not impair efficient administration of or finality in the billing process."[10] The Commission also clarified that the authority to grant updates to metered demand rested with WECC, and emphasized that WECC had not delegated that authority to CAISO in the Billing Services agreement.[11]

6. The City of Santa Clara, California, doing business as Silcon Valley Power (SVP), filed the sole request for clarification of the October 22 Order. According to SVP:

> [T]he October 22 Order was clear that the Preliminary NERC/WECC Charge Invoice concept was to be reinstated for August of each year, it is not clear if CAISO is directed to provide Scheduling Coordinators with 30 Calendar Days for payment of a Preliminary NERC/WECC Charge Invoice as was proposed in the Original Filing. To resolve any ambiguity and avoid additional commentary when CAISO submits its compliance filing, SVP respectfully requests that the Commission clarify that Scheduling Coordinators shall have 30 Calendar Days from the issuance of a Preliminary NERC/WECC Charge Invoice to make timely payment to CAISO as CAISO originally proposed in section 11.2.19.5 (now section 11.2.19.4), and direct CAISO to revise its Tariff to reflect this 30 Calendar Day timeline for payments pursuant to Preliminary NERC/WECC Charges.[12]

The SVP clarification request will be addressed in this order.

7. On December 14, 2007, CAISO submitted a compliance filing designed to comply with the October 22 Order (December 14 Compliance Filing). In that filing, CAISO modifies both its tariff and the CAISO/WECC Billing Services Agreement to revise the billing schedule to address the requirements of the October 22 Order. The tariff and CAISO/WECC Billing Services Agreement were also modified to incorporate adjustments to an LSE's metered demand.

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[10] *Id.* at P 22.

[11] *Id.* at P 23.

[12] SVP's Clarification Request at 10.

Notice of Filing and Responsive Pleadings

8. Notice of CAISO's December 14, 2007 compliance filing was published in the *Federal Register*, 72 Fed. Reg. 74,279 (2007), with interventions and protests due on or before January 4, 2008.

9. AReM filed a motion to intervene out of time and untimely protest of the December 14 Compliance Filing. AReM's protest challenges CAISO's inclusion of language that, it argues, makes CAISO's acceptance of WECC-approved adjustments to metered demand by LSEs optional.[13]

10. CAISO filed an answer to AReM's protest stating that the language in the tariff and the CAISO/WECC Billing Services Agreement challenged by AReM do not give CAISO the option to refuse timely, WECC-approved adjustments to metered demand. Rather, CAISO states that the language gives it the option to exclude load adjustments from reports and market notices to WECC if time does not permit their inclusion.[14] CAISO states that these provisions are necessary to prevent it being saddled with an undue administrative burden and to prevent unnecessary delays in deliveries of the reports to WECC.[15] CAISO assures the Commission that these provisions will have no effect on the inclusion of adjustments in either preliminary or final billing.[16] CAISO emphasizes that WECC has the final authority as to the allowable load adjustments.[17]

Discussion

Procedural Issues

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding in which they intervened. We will accept AReM's untimely protest because it raises issues that are in the public interest to address and because it does not pose any undue burden or prejudice to the parties.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007), prohibits an answer to a protest unless otherwise ordered by the

[13] AReM's Protest at 2-4.

[14] CAISO's Answer at 3-4.

[15] *Id.* at 4.

[16] *Id.* at 7.

[17] *Id.* at 6.

decisional authority. We will accept CAISO's answer because it has provided information that assisted us in our decision-making process.

Substantive Issues

13. AReM objects to the highlighted language below in the CAISO Tariff, section 11.2.19.4 (b):

> The report will also include any adjustments to the calculation of NERC/WECC Metered Demand, based on decisions by the WECC to permit such adjustments, that **the ISO has time to reflect in the report and that** the WECC provides to the ISO in a written statement in accordance with the ISO-WECC Billing Services Agreement. (emphasis added)

Billing Services Agreement, section 2.d

> The CAISO will reflect the WECC-approved adjustments described in section 2(c) in the allocation and invoicing of NERC/WECC Charges **as time permits**, except that the CAISO will not reflect, with regard to the allocation and invoicing of NERC/WECC Charges for the upcoming calendar year, WECC-approved adjustments that are provided to the CAISO after July 1 of the year preceding the upcoming calendar year. (emphasis added)

14. AReM asserts that the proposed language in CAISO's tariff makes optional the CAISO's adjustments to metered demand when CAISO receives notification of an LSE adjustment from the WECC. AReM asserts that the highlighted proposed language in the CAISO/WECC Billing Agreement gives CAISO the option to incorporate the load adjustments.[18]

15. We will deny AReM's request that CAISO be directed to delete the tariff language in question. A close reading of the tariff language indicates that the provision was meant to give CAISO administrative flexibility in drafting reports for WECC. This flexibility is appropriate because it will prevent CAISO from incurring an unreasonable administrative burden in collecting NERC/WECC Charges on behalf of WECC. Moreover, this flexibility will not affect the charges to be paid by Scheduling Coordinators in preliminary or final invoices. We agree with CAISO that the proposed language only pertains to WECC-approved load adjustments that it has received in time to include in the report that CAISO will provide WECC. The language is not determinative of what load

[18] AReM's Protest at 3-4.

will actually be reflected in the invoices issued to the Scheduling Coordinators.[19] Final decisional authority concerning which load adjustments are to be allowed rests with WECC, and the modifications to CAISO's tariff are consistent with this principle. Therefore we find that the proposed modifications to CAISO's tariff comply with the directives set out in the October 22, 2007 Order.

16. Similarly, we deny AReM's request to change the highlighted proposed language in the CAISO/WECC Billing Services Agreement. As CAISO explains in its answer, the billing services agreement states that CAISO will allocate and invoice NERC/WECC Charges consistent with the tariff.[20] Proposed sections 11.2.19.4(e) and 11.2.19.4(f) of CAISO's tariff detail the process by which the preliminary and final invoices will be issued to the scheduling coordinators. Section 11.2.19.4(e) states that the preliminary invoices will include all WECC-approved adjustments, including those in the report issued to the WECC by CAISO and "any additional" adjustments approved by WECC.[21] Section 11.2.19.4(f) states that final invoices will follow the adjustment provisions of section 11.2.19.4(e) and will include further "additional adjustments" about which WECC notifies CAISO.[22] The tariff states that CAISO must include WECC-approved adjustments to metered demand in preliminary and final invoices; the tariff gives CAISO no discretion in the matter.

17. Accordingly, we agree with CAISO's explanation in its answer that the highlighted language in the billing services agreement does not make the inclusion of adjustments to metered demand in invoices optional, but simply gives CAISO justified flexibility with regard to administrative processes, including market notices and reports to WECC.

18. Finally, we find that the instant compliance filing also addresses SVP's concerns about timing. CAISO states in its transmittal letter that it agrees that Scheduling Coordinators should have 30 calendar days from the issuance of preliminary invoices to make timely payments.[23] CAISO has also modified its tariff accordingly.[24]

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[19] CAISO Answer at 3-4.

[20] CAISO/WECC Billing Services Agreement, section 2.d.

[21] CAISO Tariff, section 11.2.19.4 (e)

[22] CAISO Tariff, section 11.2.19.4 (f)

[23] CAISO Transmittal Letter at 8.

[24] CAISO Tariff § 11.2.19.5.

The Commission orders:

(A) AReM's protest is denied, as discussed in the body of this order.

(B) SVP's clarification request is granted to the extent discussed in the body of this order.

(C) CAISO's December 14, 2007 compliance filing is hereby accepted.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Document Content(s)