

Docket No. ER02-250-000 -1-

97 FERC - 61, 303
 UNITED STATES OF AMERICA
 FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
 William L. Massey, Linda Breathitt,
 and Nora Mead Brownell.

California Independent System Operator Corporation Docket No. ER02-250-000

ORDER ACCEPTING 2002 GRID MANAGEMENT
 CHARGE FOR FILING, SUSPENDING TARIFF REVISIONS,
 AND ESTABLISHING HEARING PROCEDURES

(Issued December 20, 2001)

On November 2, 2001, the California Independent System Operator Corporation (ISO) filed its 2002 Grid Management Charge (GMC) to recover its administrative and operating costs, including the costs incurred in establishing the ISO before operations began. The Commission will nominally suspend and accept for filing the 2002 GMC, to become effective January 1, 2002, subject to refund and to the outcome of the 2001 GMC, and set it for hearing. In addition, we will reject as premature the ISO's request for surcharge authority, which it seeks to the extent the Commission orders refunds in this proceeding.

I. Background

In 1998, the Commission approved a settlement establishing the GMC as a formula rate designed to recover the ISO's

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 operational costs. In California Independent System Operator Corporation, 93 FERC - 61,337 (Cal ISO), the Commission accepted for filing the ISO's 2001 GMC, to become effective January 1,

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 2001, and set it for hearing. The 2001 filing unbundled the GMC, formerly a single charge assessed on Market Participants, into three cost categories: 1) Control Area Services; 2) Inter-Zonal Scheduling; and 3) Market Operations.

II. Summary of Proposal

¹
 See California Independent System Operator Corp., et al., 83 FERC - 61,247 (1998).

²
 The ISO's 2001 GMC, Docket Nos. ER01-313-000 et al., is currently the subject of a hearing before a Commission Administrative Law Judge.

Docket No. ER02-250-000

-2-

In the ISO's 2002 GMC, the unbundled, three-category structure is retained, although two of the cost categories have been modified. The ISO proposes to change the name of the Inter-Zonal Scheduling category to "Congestion Management." The ISO also proposes to rename the Market Operations category "Ancillary Services and Real-Time Energy Operations" (ASREO). The ISO proposes to revise the billing determinant for ASREO, to be based on purchases and sales of Ancillary Services, Supplemental Energy, Imbalance Energy, plus 50 percent of effective self-provision volumes of Ancillary Services.

The ISO states that, despite its success in reducing costs, the revenue requirement and underlying rates for the GMC service categories will increase in 2002. For the ISO as a whole, the revenue requirement increased from \$225 million in 2001, to \$244.5 million in 2002, a nine percent increase. Specifically, the proposed rate changes from 2001 to 2002 are as follows: 1) the Control Area Services charge would increase by 42 percent from \$0.406/MWh to \$0.575; (2) the Congestion Management Charge would increase by 65 percent from \$0.223/MWh to \$0.368/MWh; and (3) the ASREO Charge would increase by 1 percent from \$0.951/MWh to \$0.957/MWh.

The ISO also proposes to add language to its Tariff to clarify certain existing operations. ASREO Section 8.3.3 states that all out-of-market transactions and energy acquired to make up for line losses or other transmission losses will be assessed the ASREO charge. Further, the ASREO Charge will be applied to non-Scheduling Coordinators who provide real time power through out of market purchases. Although the ISO proposes to add the term "Other Appropriate Party" to the Master Definitions Supplement of its Tariff, the ISO states that the term was introduced in its Tariff in the implementation of the 2001 GMC rates, to permit it to bill other Market Participants in addition

3

to Scheduling Coordinators. The ISO states that it intends to bill the Participating Transmission Owner directly, for behind-the-meter municipal load where the non-jurisdictional entity does not voluntarily provide billing information, and that this is not a change from the 2001 GMC collection procedure.

Finally, the ISO requests surcharge authority, in the event that refunds are awarded as a result of this proceeding. The ISO claims that, if refunds are awarded, it will suffer irreparable harm since it has no source from which to make such refunds apart from funds secured through a surcharge on Scheduling Coordinators and Other Appropriate Parties.

III. Notices of Filing and Pleadings

3

ISO Exhibit No. 1, p. 44, 45.

Docket No. ER02-250-000

-3-

Notice of the filing was published in the Federal Register, 66 Fed. Reg. 57,061 (2001), with motions to intervene and protests due on or before November 23, 2001. The following parties filed timely motions to intervene raising no substantive issues: California Department of Water Resources (CDWR); Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California; City and County of San Francisco; and Turlock Irrigation District.

The following parties filed timely motions to intervene and comments: California Electricity Oversight Board (CEOB); California Municipal Utilities Association (CMUA); California Public Utilities Commission (CPUC); Cities of Redding and Santa Clara, California (Redding/Santa Clara), and the M-S-R Public Power Agency; City of Vernon, California (Vernon); Cogeneration Association of California (CAC) and the Energy Producers and Users Coalition (EPUC); Metropolitan Water District of Southern California (Metropolitan); Modesto Irrigation District (MID); Northern California Power Agency (NCPA); Pacific Gas and Electric Company (PG&E); Sacramento Municipal Utility District (SMUD); San Diego Gas & Electric (SDG&E); Transmission Agency of Northern California; Trinity Public Utility District (Trinity PUD); and Western Area Power Administration (Western).

Among the comments are requests for suspension, hearing, and rejection of portions of the ISO filing. Several intervenors question the justness and reasonableness of the proposed revenue requirement, including specific aspects of the GMC rates such as the lack of detail and explanation in allocation of certain costs and assessment of charges.

For example, Metropolitan and SMUD contend that the ISO's proposed methodology for future cost allocations of each GMC charge component is based on incomplete data, and that the ISO should be required to revise its accounting system within the next calendar year to track the costs for each GMC category. Western, Redding/Santa Clara and M-S-R believe that the projected 2002 billing determinants for the Control Area ASREO service categories are too low. Western contends that the ISO provides no data to support its assumption of 5.2 percent as the basis for estimating the self-provided Ancillary Service volumes. Redding/Santa Clara and M-S-R argue that the ISO offers no factual basis to support its assumption that the State of California will experience a more significant economic downturn in 2002.

CMUA, Metropolitan, MID, Trinity PUD and TANC oppose the lack of specificity in the "Other Appropriate Party" definition, including identification of which entities may be subject to these charges or the resulting impact of the provision, and contend that the ISO failed to establish the justness and reasonableness of these charges.

Docket No. ER02-250-000

-4-

PG&E, SDG&E, TANC, MID and Metropolitan oppose the ISO's proposal to bill the transmission customers directly for behind-the-meter load. PG&E argues that the ISO has failed to explain why it would be appropriate for the Participating Transmission Owner to assign costs to those customers without a corresponding Commission order approving the pass-through of the ISO charges to the customer(s) at issue.

Western wants to evaluate the derivation of the redefined ASREO boundaries and services and their relation to the cost-causation principle. CAC, EPUC, SMUD, MID and TANC contend that the ISO failed to adequately demonstrate cost-causation, including quantification of resource utilization, by a Market Participant who self-provides ancillary services, those costs that the ISO is unable to recover. Moreover, Western claims that the ISO has not demonstrated that it performs services related to the entities' self-provision of ancillary services. CPUC, CEGB, and SMUD assert that, to the extent the ISO's market operations somehow impart a grid reliability benefit to those Market Participants who self-provide, such benefits should be identified, and costs should be allocated to the Control Area Services category, if appropriate.

MID asserts that the fundamental problems existing in the California electric market, as well as the expedited process the Commission has undertaken to remedy those problems, calls into question the reasonableness of relying on the ISO's current budgetary process as a factual predicate for a finding that rates charged under the proposed formula will be just and reasonable.

Finally, on December 7, 2001, the ISO filed an answer to the protests.

IV. Discussion

A. Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.214 (2001), the timely, unopposed motions to intervene serve to make them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits the filing of an answer to a protest unless otherwise

4

permitted by the decisional authority. The Commission will reject the ISO's answer as a prohibited answer to a protest.

B. Commission Determination

We find that the issues of material fact the Intervenors raise are best examined in a hearing. Our preliminary analysis of the 2002 GMC indicates that rates proposed therein have not been shown to be just and reasonable and may be unjust, unreasonable, unduly

4

18 C.F.R. 385.213(a)(2) (2001).

will accept the proposed 2002 GMC for filing, suspend it for a nominal period to become effective on January 1, 2002, subject to refund and to the outcome of Cal ISO, and establish a hearing proceeding concerning the ISO's proposed rate recovery, revised cost allocation methodologies, and assessment of charges for Other Appropriate Parties and self-provision of ancillary services.

Intervenors continue to protest certain ISO tariff provisions that were raised in and are pending before the Commission in the 2001 GMC proceeding. For example, intervenors reiterate their objection to the use of gross load as the billing determinant for Control Area Services, and to Mobile-Sierra contract issues relating to their Existing Transmission Contracts. These issues will be subject to the outcome of the administrative hearing in Docket Nos. ER01-313-000, et al.

We inform the ISO of the rate schedule designations, which are also subject to the outcome and decision to be issued in Cal ISO. These rate schedule designations are as follows: California Independent System Operator Corporation FERC Electric Tariff, First Revised Volume No. 1, Original Sheet Nos. 217A, 217B, 303A, 307A, 337A, 375A, and 656; First Revised Sheet Nos. 217, 218, 303, 307, 319, 324, 333, 337, 373, 374, 641-643, 646, 647, and 649; (Supersede the corresponding original sheets).

With respect to the ISO's request for surcharge authority, we will deny that request as premature. Until a determination is made in the hearing proceeding regarding the material issues raised by intervenors, it is premature to address whether the Commission will, in fact, order such refunds to certain customers, and thus, cause the ISO to seek to recover additional amounts from other customers.

The Commission orders:

(A) The 2002 GMC is hereby accepted for filing, and suspended for a nominal period, to become effective on January 1, 2002, subject to refund and to the outcome of Cal ISO, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly Sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedures and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the ISO's proposed rate recovery, revised cost allocation methodologies, and assessment of charges for Other Appropriate Parties and self-provision of ancillary services.

Docket No. ER02-250-000

-6-

(C) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding, to be held within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426. Such conference shall be held for the purpose of establishing a procedural

schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practices and Procedure.

(D) The ISO is hereby informed of the rate schedule designations as discussed in the body of this order, which are also subject to the outcome and decision to be issued in Cal ISO. Consistent with our prior orders, the ISO is hereby directed to promptly post the proposed tariff sheets as revised in this order on the Western Energy Network.

By the Commission.

(S E A L)

Linwood A. Watson, Jr.,
Acting Secretary.