

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

San Diego Gas & Electric Company,
Complainant,

Docket No. EL00-95-034

v.

Sellers of Energy and Ancillary Services
Into Markets Operated by the California
Independent System Operator and the
California Power Exchange,
Respondents.

Investigation of Practices of the California
Independent System Operator and the
California Power Exchange

Docket No. EL00-98-033

ORDER ACCEPTING IN PART AND REJECTING
IN PART PORTION OF COMPLIANCE FILING
RELATED TO OUTAGE COORDINATION

(Issued October 23, 2001)

On May 11, 2001, the California Independent System Operator Corporation (ISO) submitted a compliance filing (May 11 Compliance Filing) as directed by the Commission in an order issued on April 26, 2001 in the captioned proceedings.¹ On September 27, 2001, the ISO filed a motion to expedite consideration of one aspect of the pending compliance filing. Specifically, the ISO requests that the Commission act immediately to accept the ISO's tariff revisions related to outage coordination. In response to the ISO's request, this order, which addresses only the ISO's proposed tariff revisions related to outage coordination,² accepts in part and rejects in part, the ISO's proposed tariff revisions. This action by the Commission will allow the ISO and

¹San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary Service Into Markets Operated by the California Independent System Operator and the California Power Exchange, *et al.*, 95 FERC ¶ 61,115 (April 26 Order), order on reh'g, 95 FERC ¶ 61,418 (2001), reh'g pending.

²A further order will be issued regarding the ISO's other proposed tariff revisions filed on May 11, 2001 in compliance with the Commission's April 26 Order.

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generators to schedule maintenance outages in a manner that ensures system reliability while also allowing the necessary maintenance of generating units, and thus provides a more efficient operation of the wholesale electricity markets in California to the benefit of all customers.

Background

The April 26 Order established a prospective mitigation and monitoring plan for wholesale spot markets operated by the ISO and instituted an investigation into whether a price mitigation plan should be implemented in the Western Systems Coordinating Council (WSCC). An element of the April 26 Order's mitigation plan included increased coordination, control and reporting of generating unit outages by the ISO. The Commission gave the ISO a broad directive to propose a mechanism for the coordination and control of outages and found that the ISO must be provided with the authority to achieve greater systematic control over all generating units that the ISO must dispatch, i.e., those units that have signed Participating Generator Agreements.

The ISO submitted its May 11 Compliance Filing and proposed tariff revisions, as directed in the April 26 Order. The proposed tariff revisions include, among other things, provision for the ISO's implementation of the Commission's general directive for it to propose a mechanism for the coordination and control and reporting of generating outages. The tariff amendment related to outage coordination is proposed to be made effective May 29, 2001, consistent with the findings in the Commission's April 26 Order.

Notice of the May 11 Compliance Filing was published in the Federal Register, 66 Fed. Reg. 27,954 (2001), with motions to intervene and protests due on or before May 22, 2001. Numerous parties filed motions to intervene, requests for clarification, comments and protests, some of which were filed out-of-time. On June 6, 2001, the ISO filed an answer (June 6 Answer) to the protests which included comments on the proposed tariff revisions related to outage coordination.

The Commission acted on requests for rehearing and clarification of the April 26 Order on June 19, 2001 (June 19 Order), substantially modifying and expanding the

mitigation plan.³ The June 19 Order did not significantly change requirements for coordination and control of outages.

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 of Sunrise Power Company, LLC and Harbor Cogeneration Company serve to make them parties to this proceeding. Additional parties sought intervention to the extent they were not already parties to any underlying proceeding(s).⁴ For good cause shown, we will accept the late-filed comments submitted by the Western Power Trading Forum (WPTF), the Sacramento Municipal Utility District (SMUD), and AES Southland.

Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) (2001) prohibits answers to protests unless otherwise permitted by the decisional authority. We find that good cause exists to allow the ISO's answer because it provides additional information that assists us in the decision-making process.

B. Explanation and Reporting of Forced Outages

The ISO proposes to revise its tariff provisions related to Forced Outages⁵ to include a requirement that within seven (7) days of the commencement of a Forced

³San Diego Gas & Electric Co. v. Sellers of Energy and Ancillary Service Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange, *et al.*, 95 FERC ¶ 61,418 (2001), *reh'g pending* (June 19 Order).

⁴Numerous other parties filed motions to intervene in Docket No. EL00-95-034 who were already intervenors by virtue of their timely, unopposed motions to intervene filed at earlier stages in this proceeding. We need not address those pleadings.

⁵Forced Outages are defined in the ISO tariff as an outage for which sufficient notice cannot be given to allow the outage to be factored into the Day-Ahead Market or Hour-Ahead Market scheduling processes.

Outage, the Operator⁶ is required to provide the ISO with a detailed explanation of the Forced Outage. Additionally, upon request by the ISO, Scheduling Coordinators, Utility Distribution Companies or Metered Subsystems shall provide information to allow the ISO to prepare reports regarding the Forced Outage. The provisions provide that, if the ISO determines that any Forced Outage may have been the result of gaming or other questionable behavior by the Operator, the ISO shall submit a report describing the basis for its determination to the Commission.

The Commission's April 26 Order required the ISO to closely monitor unplanned outages and immediately report questionable outages to the Commission. To fulfill this obligation the ISO should be prepared to report questionable outages to the Commission promptly and with sufficient information to enable the Commission to evaluate or further investigate the outage. This goal cannot be satisfactorily met if generators have a week to make a detailed report of their forced outages and the reports are not specific and comprehensive as to the types of information that should be obtained. We direct the ISO to report questionable outages to the Commission within seven days of the occurrence of the outage. To accomplish this, the ISO must amend its tariff to require generators to provide the explanation for a forced outage to the ISO sooner after the occurrence.

The ISO's proposed tariff section 2.3.3.9.5 only states that the explanation for the forced outage should include "a description of the equipment failure or other cause and a description of all remedial action taken by the Operator." While these are important pieces of information, they do not address other points that are important in analyzing whether an outage is "questionable." Overall, the explanation should provide sufficient data for the ISO to determine if the outage is questionable. Accordingly, we direct the ISO to amend section 2.3.3.9.5 to list all of the specific factors the ISO considers relevant to determine if a forced outage was intended to manipulate the market and to require that those factors be addressed in the detailed explanation for the forced outage.

C. Maintenance Outage Cancellation Requests by the ISO

The ISO has proposed to expand the applicability of its current tariff provisions related to its requests for maintenance outage cancellation of transmission facilities to also include participating generators. Under the ISO's current tariff provision, the ISO may direct the cancellation of an approved maintenance outage when necessary to

⁶Operator is defined in the ISO tariff as the operator of facilities that comprise the ISO Controlled Grid or a Participating Generator.

preserve or maintain system reliability or to avoid unduly significant market impacts that would arise if the outage were to proceed as scheduled.

Protestors to the May 11 compliance filing argue, among other things, that the ISO inappropriately includes "market impacts" as a criterion to determine whether a scheduled maintenance outage will be canceled. They maintain that if the Commission accepts such a criterion, the ISO will be able to exercise undue discretion to manage market outcomes and thereby, market prices, through its coordination of maintenance outage schedules. They assert that system reliability should be the only permissible factor in evaluating a scheduled maintenance outage request from a participating generator. They request that the Commission direct the ISO to modify its tariff language to eliminate any reference of "market impacts" as a criterion.

Reliant Energy Power Generation, Inc. and Reliant Energy Services, Inc. (Reliant), Duke Energy North America, LLC and Duke Energy Trading & Marketing, LLC (Duke), and others contend that generators will be inadequately compensated for direct costs as a result of any ISO-required changes to previously approved maintenance outage schedules. Specifically, these parties assert that, in addition to the operation and maintenance costs, they incur costs associated with deferred maintenance, and environmental and regulatory restrictions. These parties request that the Commission require the ISO to expand its compensation provisions to include all costs related to the ISO-required changes in maintenance outage plans, including opportunity costs.

In its June 6 Answer, the ISO argues that the generation owners should be entitled to less compensation for canceled maintenance outages than that afforded transmission owners because their ability to earn market-based rates allows them to mitigate the risks of canceled maintenance outages to a far greater extent than participating transmission owners, who are limited to cost-based recovery for transmission costs. Nonetheless, the ISO proposes to afford comparable treatment to generation and transmission owners related to the cancellation of an approved maintenance outage. However, the ISO believes that its proposed compensation for only direct and verifiable costs is appropriate and that reimbursement of indirect costs is susceptible to abuse and difficult to police.

Commission Determination

The ISO's authority to cancel previously scheduled maintenance outages on the grounds of "market impacts" is vague and not fully justified as applied to generators. The tariff does not clearly define "unduly significant market impacts," nor does it apply that term consistently with respect to cancellation of generator maintenance outages. In

addition, it is unclear what market impacts, unrelated to system reliability, are sufficient to warrant the cancellation of a previously scheduled generator maintenance outage. Accordingly, we reject at this time the ISO's use of "unduly significant market impacts" as a criterion for canceling scheduled generator maintenance outages without prejudice to its refiling the proposal with further justification that addresses these concerns.

With regard to the issue of proper compensation to generators for the cancellation of planned maintenance outages, we find that the ISO's proposed tariff revisions are reasonable. We previously approved the ISO's definition of direct costs⁷ and the ISO has not proposed any revision to that definition in the instant compliance filing. Additionally, we deny the request for compensation for opportunity costs and other indirect costs. No protestor has provided any method for determining how these costs would be recovered nor suggested adequate procedures for review of these costs by the ISO and the Commission. Accordingly, the ISO's proposed tariff provisions concerning payment to generators for the cancellation of planned maintenance outages, as modified above, are accepted for filing.

D. Notice Requirement for a Maintenance Outage or a Change to a Planned Maintenance Outage

The California Department of Water Resources (DWR), Pacific Gas & Electric Company (PG&E), Modesto Irrigation District (Modesto), Reliant, and Dynegy Power Marketing, Inc. (Dynegy)⁸ argue that the ISO has not justified its proposed enlargement of the notice period for generators (and transmission providers) to request either changes to a planned maintenance outage or a new maintenance outage. They state that the ISO's existing tariff provides for 72-hours advance notice while the proposed tariff revision provides for an advance notice period of 120 hours. They argue that the Commission did not direct the ISO to change the notice period and, therefore, it should not be modified.

In its June 6 Answer, the ISO asserts that the modification is reasonable when considered in the context of its expanded scope of responsibilities for the coordination of outages. The ISO also notes that the tariff provides that an outage will be approved with less than 120-hours notice if the outage could not have been foreseen, does not compromise reliability, or cause unduly significant market impacts.

⁷ Id. at 62,154.

⁸ Dynegy also files its comments on behalf of El Segundo Power LLC, Long Beach Generation LLC, Cabrillo Power I LLC, and Cabrillo Power II LLC.

Commission Determination

The Commission's April 26 Order gave the ISO a general directive to propose a mechanism to implement coordination and control of outages. As such, we disagree with the arguments that the ISO's proposed enlargement of the notice period should be rejected because the ISO was not specifically directed to make this change. However, we find that the ISO has not provided sufficient justification for the use of a longer notice requirement for requests for changes to planned maintenance outages or new outages. Although the ISO's responsibilities for scheduling maintenance outages were expanded in the April 26 Order to include all units owned by Participating Generators, we note that the current tariff provisions apply to transmission facilities and Reliability Must-Run (RMR) units. The RMR units at times have made up a large portion of the generating units in the ISO's control area, and the ISO has not demonstrated that it is unable to operate effectively with the 72-hours notice provision. Accordingly, we will reject the proposed change to the notice provision and will require the ISO to retain the 72-hour notice period in its tariff. We will direct the ISO to submit revised tariff sheets making this change within fifteen days of the date of this order.

E. Remaining Issues Related to Outage Coordination

1. Sunset Date

Reliant requests that the Commission require the ISO to include a "sunset date" or date certain for revisiting the ISO's outage coordination procedures and that such date could be established concurrent with the termination of the Commission's market monitoring and price mitigation measures.

We will decline to address Reliant's request for a sunset date at this time. Parties have requested rehearing of our June 19 Order regarding the termination date of our mitigation plan. The order on rehearing of our June 19 Order will address this issue.

2. Types of Generating Units Subject to ISO Outage Coordination and Scheduling

A number of protestors oppose the scope of the ISO's outage coordination proposal, which covers all generating units operated by entities with a Participating Generator Agreement (PGA). Specifically, they request that certain units such as QF's, and hydroelectric facilities be exempted from the ISO's outage coordination.

This issue was raised in the requests for rehearing of our April 26 Order, and was addressed in the June 19 Order.⁹ We note that the ISO's proposed tariff revisions are consistent with our holding in the June 19 Order that the ISO has authority over resources with PGAs.¹⁰ Accordingly, we will dismiss these arguments.

3. General Concerns

A number of protestors argue that the ISO's tariff revisions relating to outage coordination are too vague and/or broad and, as such, could lead to discrimination, unreasonable results, or complaints. They request that the Commission require the ISO to provide more specificity regarding outage coordination.

In its June 6 Answer, the ISO argues that it has made very limited changes to its tariff, and these protests go to provisions that have been found to be acceptable for transmission outages. Additionally, the ISO notes that its outage coordination provisions are in far more detail than those of other ISOs, such as Pennsylvania-New Jersey-Maryland Interconnection (PJM).

We believe that the ISO's outage coordination provisions are sufficiently detailed to permit all parties to understand the outage coordination process to be utilized by the ISO. Therefore, we deny those requests seeking more detailed tariff provisions.

4. Separate Dispute Resolution Process

Certain protestors have argued that a special dispute resolution process, administered by the Commission, should be instituted for outage scheduling disputes. The ISO responds that a detailed dispute resolution process is in place to address any such disputes.

We agree with the ISO that the ISO's current tariff provisions regarding the dispute resolution process are sufficient to resolve disputes. Additionally, our April 26 Order did not require any change to the ISO's dispute resolution process, and therefore, these protests are beyond the scope of this proceeding.

⁹See June 19 Order at 62,550-51.

¹⁰*Id.* at 62,551.

5. Alternative Outage Procedures

Reliant and Western Power Trading Forum (WPTF) request that the ISO adopt new procedures to resolve incompatible outage requests. Reliant proposes a system by which the ISO would give generators a chance to submit alternative outage proposals, while WPTF suggests that outages be scheduled on a first-come, first-served basis to establish priorities in cancellation.

The ISO answers that its current outage coordination program embodies, to a large degree, both of these suggestions. The ISO believes that these proposals, however, would place it in a passive role which is inconsistent with the Commission's April 26 Order. Therefore, they argue that no further revisions to the tariff are necessary.

We find that the ISO's existing provisions which take into account operator's proposed and revised schedules, and the order in which requests are received, reasonably implement our directive in the April 26 Order. Further, it was our intention in the April 26 Order to require the ISO to be proactive in the coordination of outages, and reducing the ISO's discretion over outage coordination and control, as proposed by WPTF and Reliant, would not further that goal. As such, the protests are denied.

6. Reference to State Law

Dynegy and AES Southland have protested the ISO's inclusion of a reference to state law in its tariff revision of Section 2.3.3.1, which provides, in relevant part:

The ISO outage coordination office shall be established by the ISO and shall coordinate and approve maintenance outages of: (i) all facilities that comprise the ISO controlled grid and (ii) participating generators. The ISO shall coordinate outages of other resources within the ISO control area or the State of California in accordance with applicable law.

They argue that the language regarding the State of California is unnecessary since state law does not currently provide the ISO with outage coordination authority and could allow the ISO to incorporate state law that could be inconsistent with Commission guidance or approval.

The ISO argues that this reference to the law of the State of California is factual and confirms that the ISO will coordinate generator outages in accordance with applicable law.

Our review indicates that this reference to applicable state law is unnecessary and should be removed to prevent possible conflicts between our jurisdiction and that of the state. As the ISO noted in its June 6 Answer, it will file an amendment to its tariff at the time it seeks to implement any state law regarding its outage coordination program. At that time, the Commission will consider the merits of that amendment.

F. Additional Tariff Sheets

The ISO's portion of its May 11 compliance filing related to the tariff revisions to the Outage Coordination Protocol's reflect either minor changes so as to better coordinate outage control or definitional changes required by the ISO's proposed instant revisions regarding outage coordination. Our review indicates that these revisions are reasonable, and uncontested, and therefore, these proposed tariff revisions are accepted for filing.

G. Effective Date

Consistent with our directive in the April 26 Order, the ISO's tariff revisions discussed herein are accepted, to be effective May 29, 2001.

The Commission orders:

(A) The ISO's proposed tariff revisions related to outage coordination are hereby accepted in part and rejected in part, as discussed in the body of this order, to be effective May 29, 2001.

(B) The ISO is hereby directed to submit a compliance filing within fifteen (15) days of the date of this order to reflect the required tariff revisions as discussed in the body of this order.

(C) The ISO is hereby informed that rate schedule designations will be given in a future order. Consistent with our prior orders, the ISO is hereby directed to promptly post the tariff sheets as revised in this order on the Western Energy Network.

By the Commission.

(S E A L)


David P. Boergers,
Secretary.

