

UNITED STATES OF AMERICA 105 FERC ¶ 61,338  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
Nora Mead Brownell, Joseph T. Kelliher,  
and Suedeem G. Kelly.

California Independent System  
Operator Corporation

Docket No. ER03-1221-001

ORDER ON CLARIFICATION

(Issued December 23, 2003)

1. On November 12, 2003, the California Independent System Operator Corporation (ISO) sought clarification or, in the alternative, rehearing of the Commission's order issued on October 17, 2003.<sup>1</sup> In that order, the Commission rejected a tariff amendment filed by the ISO that would modify procedures for bidding, scheduling, and dispatching, Reliability Must-Run (RMR) energy. As discussed below, we grant the ISO's request for clarification, and dismiss its request for rehearing as moot.

**Background**

2. On August 18, 2003, the ISO filed tariff revisions proposing to modify its existing procedures for bidding, scheduling, and dispatching RMR energy. The ISO stated that such changes were necessary because RMR generation was being scheduled to dummy load, as a result of the demise of the California Power Exchange, and that such practice was a violation of the ISO's Market Monitoring and Information Protocol (MMIP).

3. While these changes represented the main part of the ISO's filing, the ISO also raised a related issue regarding the penalty for unscheduled and underdelivered RMR

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<sup>1</sup>California Independent System Operator Corp., 105 FERC ¶ 61,074 (2003) (October 17 Order).

Energy. In its filing, the ISO proposed to extend the penalty for failure to bid and schedule RMR Energy on RMR Owners that elect the contract option. In Tariff Amendment No. 35, the ISO proposed, and the Commission accepted, a penalty to eliminate an incentive that could exist when an RMR Owner fails to Schedule RMR Energy.<sup>2</sup> According to the pre-dispatch language of Amendment No. 26 approved by the Commission, an RMR Owner is not entitled to any payment for RMR Energy that it fails to bid and schedule with the pre-dispatch provisions of the Tariff.

4. An RMR Owner who fails to Schedule its RMR Energy therefore has an incentive to not deliver its RMR Energy if the savings it realizes by not generating the RMR are greater than the Availability Payment it would lose by not delivering the RMR Energy. Under Amendment No. 35, such penalties are already assessed for RMR Owners that choose the market option, however the language implementing this penalty was included only in the section setting the RMR Market Option and was inadvertently left out of the section setting forth the RMR Contract Option. Accordingly, to correct this oversight, the ISO proposed to include such tariff language in this filing

### **Request for Clarification**

5. In its request for clarification the ISO states that the Commission did not address the issue of its proposed tariff revisions to ensure the proper and uniform application of the penalty approved in Amendment No. 35. The ISO notes that because the incentives for failing to generate the requested RMR Energy are the same whether the RMR Energy is being paid for under the RMR Contract or through the market, there is no reason to apply the penalty only to RMR Market Energy and not to RMR Contract Energy. Accordingly, the ISO request that the Commission clarify whether its rejection of Amendment No. 56 was intended to apply only to the RMR scheduling process or to the ISO's request to uniformly implement the Amendment No. 35 penalty as well.

6. The ISO reminds the Commission that no party opposed the ISO's proposal to apply the penalty approved in Amendment No. 35 to both RMR Market Energy and RMR Contract Energy. Finally, the ISO states that if the Commission determines that the October 17 Order rejected this uniform penalty provision, the ISO respectfully submits that the Commission erred and requests rehearing of this particular issue.

### **Discussion**

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<sup>2</sup>California Independent System Operator Corp., 94 FERC ¶ 61,266 (2001).

7. The Commission will grant the ISO's request for clarification. The Commission did not intend that its rejection of Amendment No. 56 would apply to the ISO's corrective modification to the penalty that we accepted in Amendment No. 35. The Commission agrees that the incentives for failing to generate the requested RMR Energy are the same whether the RMR Energy is being paid for under the RMR Contract or through the market, and as such, we find no reason to apply the penalty only to RMR Market Energy and not to RMR Contract Energy. Accordingly, noting no objections to the ISO's proposal, the Commission will accept the ISO's conforming penalty revisions to Section 2.2.12.2.2 of its OATT, subject to the ISO filing revised tariff sheets indicating this revision.

The Commission orders:

(A) The ISO's request for clarification is hereby granted, its penalty proposal is accepted, and its request for rehearing is hereby dismissed as moot.

(B) The ISO is directed to file revised tariff sheets, consistent with the discussion in the body of this order, within 30 days of the date of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.