UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James J. Hoecker, Chairman;
Vicky A. Bailey, William L. Massey,
Linda Breathitt, and Curt Hebert, Jr.

California Independent System) Operator Corporation

Docket Nos. EC96-19-035 and ER96-1663-036

ORDER CONDITIONALLY ACCEPTING FOR FILING AND SUSPENDING PROPOSED TARIFF AMENDMENT, SUBJECT TO REFUND AND SUBJECT TO FURTHER ORDERS, AND ESTABLISHING PROCEDURES

(Issued July 31, 1998)

In this order, we conditionally accept the California Independent System Operator Corporation’s (ISO) proposed Amendment No. 10 to the ISO Operating Agreement and Tariff (ISO Tariff) for filing to become effective as discussed below, subject to refund, subject to further orders and future reporting requirements. We also extend the intervention and comment period on the ISO's filing through August 6, 1998.

Background

On July 27, 1998, as corrected on July 28, 1998, the ISO filed proposed Amendment No. 10 to the ISO Tariff pursuant to section 205 of the Federal Power Act (FPA), 16 U.S.C. 9824d (1994). 1/ The filing proposes revisions pertaining to two sections of the ISO tariff.

First, Amendment No. 10 revises various sections of the ISO Tariff to allow Scheduling Coordinators to bid and self-supply Spinning, Non-Spinning and Replacement Reserves from resources outside the ISO Control Area. The ISO states that it has been developing software modifications that will enable Scheduling Coordinators to bid or self-provide certain ancillary services and Replacement Reserves from out-of-area resources, According to the ISO, that software is now in the testing stage and expected to be available for production use imminently. The exact date on which the software will be loaded is not, however, certain at this time. Due to concerns relating to the operation

1/ Except as noted, capitalized terms are defined in the Master Definitions Supplement, Appendix A of the ISO Tariff. See also Pacific Gas and Electric Company, et al._ 81 FERC ¶ 61,122 at 61,573-90 (1997) (October 30, 1997 Order), reh’g pending.

of the markets for Spinning, Non-Spinning and Replacement Reserves, the ISO requests waiver of the 60-day notice requirement. Specifically, to allow for this functionality as soon as it is available, the ISO requests that Amendment No. 10 be made effective as of the date on which the ISO gives notice that it will begin to accept bids of external imports for the particular service. In addition, the ISO states that it will provide at least one day's advance notice of its acceptance of external import bids to the Commission and via posting on the ISO's Home Page to Market Participants.

Second, Amendment No. 10 further revises a penalty provision that had been revised in an earlier filing. Specifically, in Amendment No. 6 to the ISO Tariff, the ISO proposed to limit the applicability of certain penalties that apply to Scheduling Coordinators for non-performance with respect to the provision of Ancillary Services. 2/ In that proceeding, the ISO waived certain penalties so as not to dissuade Scheduling Coordinators from participating in the ISO's Ancillary Services markets. 3/

The ISO states that some Market Participants have interpreted that portion of Amendment No. 6 (ISO Tariff Section 26.2) as waiving all penalties associated with a resource's failure to pass an availability test under any circumstance, rather than solely when the failure resulted from the ISO's CONG/ASM software limitations. However, the ISO states that, as the transmittal letter to Amendment No. 6 made clear, this was not the ISO's intent. Therefore, the ISO states that it issued a statement on July 17, 1998, to all Market Participants, clarifying that the ISO intends to pursue any and all penalties

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2/ See ISO Tariff Section 2.5.26, California independent System Operator Corporation, 83 FERC ¶ 61,327 (1998).

3/ The ISO's Congestion Management Software (CONG) and the Ancillary Services management (ASM) processes run sequentially in the ISO's scheduling system. In the event of congestion, some resources may be adjusted to the point at which their Revised Schedules conflict with their offered Ancillary Services. For example, a 100 MW Generator, with an initial Preferred Schedule of 75 MW, may also bid to supply 25 MW of Spinning Reserve. As a result of Congestion, the Generator may be adjusted to 80 MW. The ISO's Ancillary Services evaluation, as currently configured in the scheduling system, will not take the adjustment into account, but will instead assume that the whole of the 25 MW bid to supply Spinning Reserves is available. If this Generator is selected by the ISO to provide the full 25 MW of Spinning Reserve, the Scheduling Coordinator will not be in a position to respond fully and would be subject to penalties.

associated with the non-provision of Ancillary Services selected in the ISO's Ancillary Services auctions except where the non-provision is directly attributable to a unit whose output was adjusted by the ISO's CONG software to a level that conflicts with the unit's Ancillary Service commitments.

To eliminate any perceived ambiguity, the ISO proposes to modify Section 26.2 of the ISO Tariff to clarify what was originally expressed in the transmittal letter and in the ISO Board's approval - that the ISO will waive only those penalties incurred by a Scheduling Coordinator as a result of the limitations on the ISO's CONG and ASM software. The ISO requests that the proposed clarification to Section 26.2 become effective on the ISO Operations Date.

Motion to Intervene and Protests

As of the date of this order the Commission has received a Notice of Intervention from the Public Utilities Commission of the State of California in support of the filing, and motions to intervene, protests and comments from Bonneville Power Administration; Duke Energy Mass Landing LLC, Duke Energy Morro Bay LLC and Duke Energy Oakland LLC; El Segundo Power, LLC; Enron Power Marketing, Inc.; Modesto Irrigation District; the M-S-R Public Power Agency and the Cities of Redding and Santa Clara, California; Northern California Power Agency; Turlock Irrigation District; and Western Area Power Administration. Because we are in this order extending the due date for comments and interventions in this proceeding, additional filings will be reflected in a subsequent order.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 4/ the timely, unopposed Notice of Intervention and motions to intervene serve to make the above listed intervenor's parties to this proceeding. 5/

Proposed Tariff Chances to Allow Resources Outside the ISO Control Area to Provide Certain *Services*

Our preliminary review indicates that the proposed ISO Tariff revisions to allow Scheduling Coordinators to bid and self-supply Spinning, Non-Spinning and Replacement reserves from

4/ 18 C.F.R. § 385.214 (1997).

5/ Parties who have previously been granted intervenor status in Docket Nos. EC96-19 and ER96-1663 retain their intervenor status for all subsequent subdockets under those dockets.

resources outside the ISO Control Area are reasonable. We note that in recent filings with the Commission, the ISO has reported that during a significant number of hours, the demand for these services exceeds the supply bid into the ISO's auctions. 6/ The inclusion of external resources in these markets should increase the number of potential suppliers of these Services. The Commission notes that this modification has been anticipated and has had a high priority in the ISO Staging Plans. Under these circumstances, good cause exists to grant waiver of the notice requirement to allow this portion of the filing to become effective subject to the notification procedure proposed by the ISO. The Commission's July 17, 1998 order requires a market surveillance staff report which, inter alia, specified a review of how these markets respond to the inclusion of out-of-control area suppliers. 7/ We take this opportunity to emphasize to the ISO's market surveillance staff the importance of this information in its filed report.

While the Commission is acting expeditiously to allow the proposal to become effective as soon as possible, there are certain aspects of the proposed Tariff amendment that require Attachment A includes a list of questions that we will require the ISO to answer no later than the date that its market surveillance staff report is filed pursuant to the July 17, 1998 Order. In addition, the ISO is directed to address any other issues raised in the pleadings regarding this part of the amendment by that date. The Commission will address these pleadings in a subsequent order, 6/

I-S-O-Tariff Section 29-2 Modification

Section 26.2 of the ISO Tariff currently states that a Scheduling Coordinator shall not be liable for the penalties specified in the ISO Tariff. The tariff further provides that the waiver of penalties shall cease to apply not less than seven (7) days after the Chief Executive Officer (CEO) of the ISO issues a notice posted on the ISO Internet "Home Page." The ISO proposes to modify this section to state that the penalty provision will be waived only under certain circumstances. Specifically, the waiver will apply only when the scheduled output of a resource is adjusted by the ISO to a level that conflicts with the Ancillary Service capacity commitment.

6/ See AES Redondo Beach, et al-, 83 FERC ¶ 61,046 (1998) (July 17, 1998 Order), request for-reconsideration pending.

7/ Id. at 7-8.

8/ The Commission will extend the intervention and comment period on the ISO's filing through August 6, 1998.

The ISO requests waiver of the 60-day notice requirement so that this proposed revision be made effective as of the date service under the ISO Tariff commenced. In support of this retroactive effective date, the ISO states that it issued a statement on July 17, 1998, notifying all market Participants that it is reinstating penalties, except in those instances attributable to an ISO action.

The request for a retroactive effective date is denied. The existing ISO Tariff clearly states that Scheduling Coordinators shall not be liable for the penalties specified in the Tariff. Interpreting this language as suspending penalties in all cases is a clear reading of the Tariff. The ISO argues that its transmittal letter in Docket Nos. EC96-19-021 and ER96-1663-022 makes clear that the ISO never intended such a broad waiver of its penalties. That contention is insufficient to support retroactively instituting such tariff revisions, where the Tariff language clearly states otherwise. Moreover, Market Participants cannot retroactively change their behavior in response to penalties that they now understand to apply. Accordingly, we will deny the ISO's request for a retroactive effective date.

Instead, we will grant waiver of the notice requirement and accept the proposed Tariff amendment for filing, to become effective prospectively, subject to the existing ISO Tariff Section 26 notification provision. 9/ Based on our review of the ISO's Internet Home Page, 10/ the July 17, 1998, notice posted on the ISO's Home Page complies with the ISO Tariff Section 26-1 notice requirement regarding the proposed tariff change. In addition, we will require that the ISO post the instant order on its Internet Home Page. The proposed revision to ISO Tariff Section 26 will become effective for bids submitted the day after the order is posted.

<u>The Commission orders</u>:

(A) The ISO's proposed Amendment No. 10 allowing certain services to be supplied by resources outside the ISO Control Area is hereby suspended for a nominal period and accepted for filing to become effective, subject to refund, and subject to further order, as of the date on which the ISO gives Notice that it will begin accepting bids of external imports for Spinning Reserve, Non-Spinning Reserve and Replacement Reserve services.

9/ ISO Tariff Section 26.1 provides that the waiver of penalties shall cease to apply not less than seven (7) days after the ISO's CEO issues a notice posted on the ISO Home Page.

10/ The ISO's Internet address is www.caiso.com.

(B) The ISO's proposed amendment to ISO Tariff Section 26.2 is hereby accepted for filing to become effective for bids submitted on the day following the date the ISO posts this order on its Internet Home Page.

(C) The ISO shall provide responses to the questions contained in the Attachment to this order no later than the date that the ISO's market surveillance staff files its report regarding ancillary services in compliance with the Commission's July 17, 1998 Order in Docket No. ER98-2843-001, et al.

(D) The due date for interventions and comments on the ISO's filing in this proceeding is hereby extended through August 6, 1998.

By the Commission.

(S E A L)

David P. Boergers
Acting Secretary

ATTACHMENT-A

1) Please explain and justify the different treatment of Spinning Reserve, Non-Spinning Reserve, and Replacement Reserve services provided by System Units versus System Resources, or explain your plans to standardize these procedures and requirements. One example of such a difference in treatment: System Units are not listed as potential resources for Spinning and Non-Spinning Reserves but are listed for Replacement Reserves *(see §* § 2.5.15 - 2.5.17).

2) The Tariff and Protocol sheets contain numerous differences in the testing procedures and bid requirements for these services provided from System Resources versus from Generating Units. Please explain and Justify these differences, or explain your plans to standardize these procedures and requirements.

3) Several terms are used interchangeably within the tariffs and protocols. These terms do not appear to have interchangeable meanings. For example, "Interconnection schedules" and "external imports from System Resources" are used interchangeably (see DP 8.7.2). Please clarify.

4) How will Transmission Usage Charges for importing external resources into the ISO Controlled Grid be considered vis a vis bids from Generating units interconnected with the ISO Controlled Grid?

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