136 FERC ¶ 61,120
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

California Independent System Operator Corporation Docket No. ER11-3873-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued August 22, 2011)

1. On June 23, 2011, pursuant to section 205 of the Federal Power Act,[1] the California Independent System Operator Corporation (CAISO) filed proposed revisions to its tariff[2] to clarify and enhance its congestion revenue rights (CRR) processes, including a provision that would enable CAISO to model transmission outages and derates,[3] which are unscheduled but expected based on historical data, in its annual CRR release processes. As discussed below, we accept CAISO's proposed tariff revisions to become effective August 23, 2011.[4]

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[1] 16 U.S.C. § 825d (2006).

[2] California Independent System Operator Corporation, FERC Electric Tariff, Fifth Replacement (CAISO Tariff).

[3] A derate is a reduction in the rated capacity of a transmission line.

[4] CAISO requests that the proposed tariff revisions be made effective on August 22, 2011, which is the 60th day after filing, but does not request waiver of the 60-day prior notice requirement. Absent waiver, August 23, 2011 is the earliest date that CAISO's proposed revisions can be made effective (i.e., on the 61st day after filing, after 60 days' notice). *See Utah Power & Light Co.*, 30 FERC ¶ 61,015, at 61,024 n.9 (1985) (stating that proposed changes in rates, terms, and conditions cannot become effective (absent waiver) earlier than 60 days' notice to the Commission and that the 60-day notice period required by the Commission's regulations starts to run the first day after the date of the filing); *Central Hudson Gas & Electric Co.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992); *Prior Notice Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139 (1993), *clarified*, 65 FERC ¶ 61,081 (1993).

I. Background

2. CRRs are financial instruments issued by CAISO, which allow CAISO market participants to manage their exposure to transmission usage congestion costs in the day-ahead market. CRRs are structured as a pair of points: a "source," where the power is injected into the system, and a "sink," where the power is taken off the system. A CRR also has a designated megawatt (MW) quantity and a term, consisting of either a season or a month.

3. CRRs are released to market participants on an annual basis for seasonal CRRs and on a monthly basis for monthly CRRs. The quantity of CRRs available for release is based on a transmission network model of CAISO's system. The CRRs released through the annual and monthly processes are the CRRs requested through nominations or bids, subject to a feasibility test. The feasibility test determines which CRRs are feasible for release based on assumptions made about the operational conditions of CAISO's system. CRRs are released to market participants in two ways: (1) they are allocated through a multi-tiered process in which load serving entities (LSE) are able to nominate CRRs based on their load serving obligations; or (2) they are sold in an auction open to any registered party wishing to obtain CRRs, irrespective of their load serving obligations.

4. CRRs are settled on an hourly basis in the day-ahead market based on the difference in the marginal cost of congestion, a component of the locational marginal price, between the source and sink points. These settlements are paid through the CRR balancing account, which is funded by a combination of day-ahead market congestion revenues and the proceeds from the sale of CRRs at auction. Any revenue shortfall in this account, which may occur if the payments owed to CRR holders based on their entitlements exceed the market revenue generated by congestion costs, is funded through an allocation of the shortfall to the LSEs in proportion to their metered demand.

II. The Instant Filing

5. In the instant filing, CAISO proposes several tariff revisions resulting from its recent stakeholder process on CRR issues. The major revision proposed by CAISO is to include unscheduled transmission outages and derates in the modeling of its system for the purpose of distributing CRRs, so that the amount of CRRs distributed in the annual process is reduced to account for those incidents. CAISO explains that when it determines the amount of CRR capacity available for allocation, it currently assumes that transmission lines will be fully in service, except for planned outages that are known at the time of the allocation. However, unscheduled outages and derates generally arise over the course of a year, and their level can be anticipated based on historical data, even if the specific outages and derates are not known about at the time of the allocation process. CAISO states that because its annual process does not account for these unscheduled outages and derates, more CRRs than can be funded by congestion revenue are distributed, leading to revenue inadequacy.

6. CAISO proposes to account for these anticipated but unscheduled outages and derates by performing a “break-even point” analysis. In performing this analysis, CAISO would use historical data to determine, for each transmission element, a “break-even” line rating where the congestion revenues generated by the market and payments to CRR holders would be equal over the historical period. CRRs distributed based on this line rating over that period would, therefore, have been fully funded by congestion revenue. CAISO proposes to use this break-even line rating for the purpose of distributing CRRs in the annual allocation process for the following year. CAISO also states that it would adjust the break-even line rating to account for changes in system conditions that may not be adequately reflected in the historical data.[5] CAISO proposes to further define the methodology in the Business Practice Manual (BPM).

7. In the monthly process, CAISO explains that it currently uses a global derate factor to account for outages and that it plans to use a more targeted local derate factor on interties and other significant paths that would be subject to the proposed annual break-even point analysis.[6]

8. CAISO also explains that stakeholders initially agreed to exclude unscheduled outages and derates in its annual modeling assumptions because of a lack of experience with locational marginal prices. However, CAISO now argues that by including these outages and derates in its annual modeling, it can decrease shortfalls in funding for CRRs by not releasing more CRRs than can be funded by congestion revenues. In addition, CAISO states that, by releasing a more appropriate amount of CRRs in its annual process, more CRRs will be available in monthly processes, which will allow participants to better account for variations in congestion needs on a monthly basis.

9. CAISO also proposes the following revisions to the CAISO Tariff that, according to CAISO, do not change existing policy or practice but only provide minor, procedural clarifications: (1) a revised section 35.8.3.5.1 to reflect that only incremental long-term CRRs allocated in the immediately preceding CRR allocation process will be included in a criterion for determining the upper bound for the priority nomination process; (2) a new section 36.8.7.2 to specify that CAISO will reconfigure outstanding seasonal CRRs in the event that there are changes to the grid that take effect during the year; (3) a revision to

[5] The CAISO notes an example where a transmission line is permanently uprated from 500 MW to 700 MW during the three prior year period. In such a condition, the CAISO states that it needs the authority to examine such topology changes and mathematically adjust its initial calculation so that the revenue break even point reflects expected system conditions. CAISO states that, in the interest of transparency, it would publish the unaltered historical values in addition to the final break-even values to entities entitled to receive such information. Transmittal Letter at 6-7.

[6] *See* Transmittal Letter at 5, n. 6.

Appendix A to reflect that any system or process can be used as a secondary registration system for CRR holdings; (4) a revised section 36.13.6 to state that the CRR Market Clearing price in most cases will equal the nodal price at the source minus the nodal price at the sink but that, in certain anomalous cases, it will be based on the MWs cleared and the shadow price for each binding constraint at the specified location; (5) revisions to sections 36.8.5.4 and 12.6.3.1, to address discrepancies between credit requirements for load migration and bilateral trades, respectively; (6) a revised section 12.6.2 to clarify that, when bids are rejected because credit requirements are not met the entire bid portfolio exceeding the credit limit will be rejected;[7] and (7) revisions to sections 36.13, 36.13.1, and 36.13.4 to permit market participants to sell CRRs in an auction by submitting counterflow bids and that, if the bids clear, the CRR holder will be able to liquidate its CRR holdings.

III. Notice of Filing and Responsive Pleadings

10. Notice of CAISO's filing was published in the *Federal Register*, 76 Fed. Reg. 39,086 (2011), with interventions and protests due on or before July 14, 2011. Timely motions to intervene were filed by: Northern California Power Agency; Alliance for Retail Energy Markets; Pacific Gas and Electric Company; California Department of Water Resources State Water Project; NRG Companies; Modesto Irrigation District; and M-S-R Public Power Agency and the City of Santa Clara, California. Golden State Water Company filed a motion to intervene out-of-time. Powerex Corp. (Powerex) and Southern California Edison Company (SoCal Edison) filed timely motions to intervene and comments. CAISO filed an answer.

11. Powerex generally supports CAISO's proposed tariff revisions, stating that these changes will ensure use of more accurate assumptions about the CAISO system and enable CAISO to release an appropriate number of CRRs on each intertie with a reasonable assurance of CRR revenue adequacy by intertie.

12. SoCal Edison requests a detailed methodology pertaining to the calculation of the local derate factor and the revenue adequacy break-even point, as well as some analysis to show the potential impact on SoCal Edison as a LSE. SoCal Edison believes that it will face a greater impact from CAISO's proposal than most market participants because the methodology for calculating the local derate factor is mostly applicable to areas or interfaces where SoCal Edison is heavily dependent on imports and where significant CRR shortfalls have historically been observed. For that reason, SoCal Edison claims that it is uncertain as to the potential impact of CAISO's proposed revision on its terms, rates, and conditions. Therefore, SoCal Edison asks that the Commission require CAISO

[7] CAISO states that it made this adjustment to reflect the fact that market participants generally submit portfolios of bids and rarely submit a single bid. Transmittal Letter at 11.

to amend its current filing to include the above mentioned methodologies, rather than leave the methodologies for later development in the BPM, before the requested August 22, 2011 effective date in this proceeding.

13. In its answer, CAISO states that it has provided significant detail about the nature and the impact of its revenue adequacy break-even point methodology both in the transmittal letter and in various reports to stakeholders. CAISO notes that it has provided both mathematical formula underlying its break-even point methodology and its potential impact on the capacity released on several major interties.

14. CAISO argues that the implementation of the local derate factor is already within existing tariff authority. CAISO notes that section 36.4 of the CAISO Tariff provides that the model used in the monthly CRR process should include "adjustments to compensate for the expected impact of Outages that are not required to be scheduled thirty (30) days in advance, including unplanned transmission Outages." CAISO states that this provision has justified the use of a global derate factor in the past and would justify the implementation of a local derate factor. CAISO argues that it is not proposing any change to this construction of section 36.4, and, therefore, SoCal Edison's concern is beyond the scope of the proposed tariff revisions in this filing.

15. CAISO also states that, beyond the information it has already provided, it is not possible to provide stakeholders with precise data on how the local derate factor would impact specific transmission elements. CAISO states that the local derate factor would be applied in the monthly process using an annual baseline generated by the proposed revenue adequacy break-even point methodology, which is not yet implemented. CAISO states that it believes it has provided as much information about the local derate factor as it possibly can.

16. Finally, CAISO states that it is also concerned about the scheduling of SoCal Edison's requests. CAISO states that drafting and filing additional tariff language would effectively delay the implementation of these proposed tariff provisions until the 2012 annual process for the 2013 calendar year. CAISO states that SoCal Edison has not provided any factual basis that would justify continuing the inefficiencies in the current system for another year.

IV. Discussion

A. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

18. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R § 385.214(d) (2011), the Commission will grant Golden State Water

Company's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept CAISO's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

20. The Commission accepts the tariff revisions proposed here in CAISO's filing. Our review of CAISO's proposed methodology indicates that it will produce a just and reasonable rate. Also, CAISO's proposed tariff revisions are narrowly designed to correct a flaw in its CRR auction and allocation processes that has caused a revenue deficiency in the funding of CRRs. With these revisions in place, CAISO should be able to better project the correct amount of CRRs to be made available, such that revenue produced from congestions costs will align more closely to financial obligations to CRR holders. In addition, CAISO's minor tariff revisions help clarify the CRR provisions of the CAISO Tariff.

21. SoCal Edison requests that the Commission require CAISO to amend the CAISO Tariff to include a detailed description of the methodologies used to calculate the revenue adequacy break-even point and the local derate factor as a condition of accepting the proposed tariff revisions contained in the instant filing. However, we find that the detailed calculations associated with formulating a revenue adequacy break-even point and calculating the local derate factor appropriately belong in the BPM.

22. Decisions on whether to place an item in the CAISO Tariff or the BPM are shaped by the Commission's "rule of reason" policy,[8] which dictates that provisions which "significantly affect rates, terms, and conditions" must be included in the tariff.[9] The Commission has elaborated that it is appropriate for business practice manuals to contain

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[8] *See Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,271, at P 16 (2008) (citing *City of Cleveland v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985) (finding that utilities must file "only those practices that affect rates and service significantly, that are reasonably susceptible of specification, and that are not so generally understood in any contractual arrangement as to render recitation superfluous"); *Public Serv. Comm'n of N.Y. v. FERC*, 813 F.2d 448, 454 (D.C. Cir. 1987); *Midwest Independent Transmission System Operator, Inc.*, 98 FERC ¶ 61,137, at 61,401, *clarification granted,* 100 FERC ¶ 61,262 (2002)).

[9] *Cal. Indep. Sys. Operator Corp*., 119 FERC ¶ 61,076, at P 656 (2007) (citing *ANP Funding I, LLC v. ISO-NE*, 110 FERC ¶ 61,040, at P 22 (2005); *Prior Notice and Filing Requirements under Part II of the FPA*, 64 FERC ¶ 61,986, at 61,986-89 (1993),

(continued)

"implementation details, such as instructions, guidelines, examples and charts, which guide internal operations and inform market participants of how the CAISO conducts its operations under the…tariff."[10] The Commission has also found that the "rule of reason" test requires evaluation on a case-by-case analysis, comparing what is in the CAISO Tariff against what is in the BPM.[11]

23. The proposed tariff revisions in the instant filing and the currently effective CAISO Tariff already contain the important factors through which CAISO will determine the amount of CRRs allocated in its annual and monthly processes. CAISO's proposal here to improve revenue adequacy in its annual allocation will require CAISO to consider unplanned outages and derates in its CRR allocation process. Further, the proposed revision states that CAISO will do this by calculating a revenue adequacy break-even point based on historical outages. As CAISO notes, the CAISO Tariff already provides that CAISO will account for unplanned outages in its monthly processes. The Commission finds that the CAISO Tariff sufficiently lays out the process and that the implementation specifics can be classified as implementation details that may be placed in the BPM. Accordingly we will not require CAISO to describe these methodologies in the CAISO Tariff.

The Commission orders:

CAISO's proposed tariff revisions are hereby accepted for filing, to become effective August 23, 2011, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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order on reh'g, 65 FERC ¶ 61,081 (1993)).

[10] *Cal. Indep. Sys. Operator Corp*., 122 FERC ¶ 61,271 at P 16.

[11] *Cal. Indep. Sys. Operator Corp*., 116 FERC ¶ 61,274, at P 1370 (2006), *order on reh'g*, 119 FERC ¶ 61,076, *order on reh'g*, 120 FERC ¶ 61,271 (2007).