UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Pacific Gas and Electric Company	)	
	)	
v.	)	Docket No. EL12-5-000
	)	
California Independent System Operator Corporation	)	
	)	

ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO COMPLAINT OF PACIFIC GAS AND ELECTRIC COMPANY

The California Independent System Operator Corporation (CAISO) hereby submits this Answer to the Complaint of Pacific Gas and Electric Company (PG&E), which was filed in the above-referenced docket on October 24, 2011. PG&E's complaint requests a determination from the Commission that a specific application to PG&E of a previously existing penalty formula in the CAISO's FERC Electric Tariff yielded a result that is unjust and unreasonable. PG&E requests that the Commission instead approve a lower penalty.

As discussed below, in a recent tariff amendment filing with the Commission, the CAISO referred to the then-existing penalty formula mentioned in PG&E's complaint as "overly burdensome" and requested that the Commission approve the CAISO's amendment to the tariff provision. Accordingly, the CAISO supports PG&E's request insofar as there is a reasonable basis for the Commission to conclude that the larger penalty amount is excessive in the present circumstances and that a lower penalty could be justified.

I. Background

On October 11, 2011, the CAISO issued an invoice to PG&E that included a $5.77 million penalty for violating section 37.5.2.1 of the CAISO's tariff. Section 37.5.2.1 requires market participants to "provide complete and accurate Settlement Quality Meter Data for each Trading Hour." The penalty for violating section 37.5.2.1 is delineated in section 37.11. As it existed during the period of PG&E's violation and as applied to PG&E's violation, section 37.11 provides for a penalty of 30% of the value of the misreported meter data.[1] This penalty is in addition to a market adjustment that, according to section 37.11, "approximates the financial impact on the market" from the meter data error.

On August 1, 2011, the CAISO filed proposed tariff amendments necessary to implement changes to the market settlement process timeline, including changes to the timeline for submitting meter data.[2] Along with altering the meter data submission timeline, the CAISO also amended section 37.11. The CAISO explained that a penalty "based on the volume difference from the initial meter data submittal and the corrected submittal" was "overly burdensome for submitting correcting meter data and that an appropriate incentive for the market participants to submit accurate and timely settlement quality meter data would be a set sanction of $1,000 for each trade day

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[1] Under the then-effective version of section 37.11, the penalty varies depending on whether the scheduling coordinator or the CAISO identified the error and whether the misreported data was to the benefit or detriment of the scheduling coordinator. Because PG&E identified the error and because the error was to PG&E's benefit, the penalty is 30% of the value of the error.

[2] *Cal. Indep. Sys. Operator Corp.*, Settlements Process Timeline Changes, FERC Docket No. ER11-4171-000 (Aug. 1, 2011).

corrected."[3] On September 30, 2011, the Commission approved the proposed amendments to section 37.11.

On October 24, 2011, PG&E filed a complaint with the Commission, arguing that the $5.77 million penalty is unjust and unreasonable. PG&E does not dispute that it violated section 37.5.2.1 nor does it dispute that the CAISO correctly calculated the penalty pursuant to section 37.11 as it existed during the period of PG&E's violation (*i.e.,* prior to the effective date of the CAISO's tariff amendment filing). Instead, PG&E argues that the magnitude of the difference in the penalty between using the old and new penalty formulas, combined with the fact that the CAISO changed the old formula because it was "overly burdensome," indicates that application of the prior penalty formula is unjust and unreasonable. PG&E argues that the just and reasonable result is to calculate its penalty under the current formula.

II. Answer

The CAISO supports the notion that a penalty of $5.77 million could be viewed as excessive in PG&E's circumstances. The CAISO concluded that the prior penalty formula was burdensome because outside of the penalty, market participants committing errors already face the market adjustment, plus interest. As a result, the primary function of any penalty is to "incent market participants to put into place applicable controls to assure that settlement quality meter data is submitted by the required due date . . . ."[4] The CAISO concluded that a 30% penalty: (1) was higher than necessary to provide such an incentive; and (2) can sometimes impose a penalty that is

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3 *Id.* at 18.
4 *Id.* at 20.

disproportionate to the severity of the violation. In some instances, a single configuration error in how meter data gets reported from a particular resource can lead to flawed meter data reporting over many days. In such a circumstance, each additional trade date of meter data counts as a distinct violation subject to a 30% penalty even though the market participant committed only one substantive error. In such a scenario, a 30% penalty for each day can create an overall disproportionate penalty.[5]

The CAISO understands that this is the situation with PG&E's violation. PG&E made a configuration error in establishing how it reports meter data from a specific resource. Based on that error, PG&E reported inaccurate data over a period of time. Considering that PG&E has already been subject to a market adjustment, a penalty of $5.77 million could be viewed as disproportionate to the nature of PG&E's error and higher than necessary to provide adequate incentives for PG&E to establish applicable controls going forward.

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[5] Under the new penalty provision, each day will still count as a separate violation. The distinction, however, is that the penalty for each such day will be notably reduced, creating more proportionate penalties.

III. Conclusion

For the foregoing reasons, the CAISO believes a $5.77 million penalty for PG&E's violation of section 37.5.2.1 could be viewed as excessive and that the Commission would be justified in approving a reduced penalty amount.

Respectfully submitted,

By: /s/ David S. Zlotlow

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon each party listed on the official service list for the above-referenced proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, CA on this 14th day of November, 2011.

/s/ Charity N. Wilson
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