

138 FERC ¶ 61,154
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator
Corporation

Docket No. ER12-423-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued March 1, 2012)

1. On November 16, 2011 the California Independent System Operator Corporation (CAISO) filed revisions to its open access transmission tariff regarding the local market power mitigation process used in the operation of its day-ahead and real-time markets. In this order we accept CAISO's proposed tariff revisions to become effective April 11, 2012, as requested by CAISO.¹

I. Background

2. In an order issued in September 2006, the Commission conditionally accepted CAISO's proposal to base its local market power mitigation process on forecasted demand for Release 1 of CAISO's Market Redesign and Technology Upgrade (MRTU).² Notwithstanding, the Commission directed CAISO to modify this process to institute bid-in demand as the basis for applying market power mitigation in the day-ahead market no later than MRTU Release 2, which CAISO expected to implement within three years of the Release 1 implementation date.³ The Commission also expressed concern that CAISO's three-pivotal-supplier test might be too conservative and directed CAISO's

¹ We find good cause to grant waiver of the 120 day advance notice requirement to allow the proposed tariff revisions to become effective April 11, 2012, as requested.

² *California Independent System Operator Corp.*, 116 FERC ¶ 61,274 (2006) (MRTU Order), *order on reh'g*, 119 FERC ¶ 61,076 (2007).

³ *Id.* PP 1373, 1089. MRTU was implemented in April 2009.

market surveillance committee to consider whether an alternative competitive screen should be considered.⁴

3. CAISO performs local market power mitigation in both the day-ahead and hour-ahead markets. The current mitigation process analyzes supply bids in two pre-market runs. In the day-ahead market, the runs are currently performed using CAISO's forecast demand as a proxy for bid-in demand. The first run clears supply bids against demand, enforcing only competitive constraints. The second run clears the same supply bids against demand, but enforces all transmission constraints. Those resources dispatched at a higher output level in the second run are deemed to have the potential to exercise local market power. Those resources' bids are mitigated to the lower of the resource's default energy bid or its market bid, but in no case lower than the resource's highest bid price that clears in the competitive constraints run.⁵

4. CAISO currently makes its determination of which transmission constraints are competitive or non-competitive on at least a seasonal basis using a three-pivotal-supplier test. Under this test, a transmission constraint is considered competitive if no three unaffiliated suppliers are jointly pivotal in relieving congestion on that constraint. CAISO performs this analysis under a number of different market conditions, and if the constraint fails the test under any of the conditions then the constraint is identified as non-competitive.⁶

II. CAISO Proposal

5. CAISO states that it is proposing modifications to its local market power mitigation process to meet four main objectives: (1) comply with the Commission's directive to utilize bid-in demand rather than forecast demand; (2) account for virtual bidding and new demand response resources participating in the CAISO markets;⁷ (3) improve the accuracy and efficiency of mitigation; and (4) increase the frequency of determining the competitiveness of transmission constraints.⁸

⁴ *Id.* P 1032.

⁵ CAISO November 16, 2011 Filing at 2 (CAISO Proposal).

⁶ *Id.* at 3.

⁷ CAISO does not propose to mitigate virtual supply bids or demand response resource bids because it has no means to develop a default energy bid for virtual supply bids or demand response resource bids. Direct Testimony of Jeffrey D. McDonald at 14.

⁸ *Id.* at 5.

6. In order to meet these objectives, CAISO proposes several revisions to its market power mitigation process. First, as discussed above, CAISO proposes to use bid-in demand in its market power mitigation process in the day-ahead market. In addition, rather than using a comparison between two pre-market runs to determine which resources should be subject to market power mitigation, CAISO proposes to use a single pre-market run that separates each resource's locational marginal price (LMP) into components relating to energy, losses, and competitive and non-competitive congestion components.⁹ Finally, as discussed in greater detail below, CAISO proposes to implement a dynamic competitive path assessment in two stages. During the first stage, the dynamic competitive path assessment will be implemented only in the day-ahead market. During stage two, CAISO will implement the dynamic assessment for the hour-ahead scheduling process and real-time market.¹⁰

7. CAISO requests that the Commission accept the tariff revisions to become effective as of the April 11, 2012 trading day. To the extent necessary, CAISO requests waiver of section 35.3 the Commission's regulations, 18. C.F.R. § 35.3 (2011) to permit this effective date. CAISO requests that the Commission issue an order on or before March 1, 2012 to provide CAISO sufficient time to incorporate the new market power mitigation provisions into its systems and perform the necessary testing in time for the April 11, 2012 trading day.¹¹

III. Notice and Responsive Pleadings

8. Notice of CAISO's filing was published in the *Federal Register*, 76 Fed. Reg. 72,694 (2011), with interventions and comments due on or before December 7, 2011. Timely motions to intervene were filed by Modesto Irrigation District; the Cities of Anaheim, Azusa, Benning, Colton, Pasadena, and Riverside, California; NRG Companies; the Northern California Power Agency; Pacific Gas and Electric Company; and the City of Santa Clara, California. Timely motions to intervene and comments were filed by the California Department of Water Resources State Water Project (SWP); the Western Power Trading Forum (WPTF); and Southern California Edison Company (SoCal Edison). CAISO filed an answer.

⁹ *Id.* at 5-6.

¹⁰ *Id.* at 14.

¹¹ *Id.* at 18-19.

IV. Discussion

A. Procedural Issues

9. 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. 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. Separate Component Method

10. As discussed above, CAISO proposes to streamline its market power mitigation method by condensing the existing two pre-market runs into a single pre-market run that enforces all modeled transmission constraints. CAISO states that this single run will produce results that indicate whether dispatches and prices are potentially impacted by market power. CAISO explains that it will separate the LMP for each location into four components: (1) energy; (2) losses; (3) competitive congestion; and (4) non-competitive congestion. To determine whether bids will be subject to mitigation, CAISO will calculate the non-competitive congestion component of each LMP; a positive non-competitive congestion component will indicate the potential for local market power. CAISO states that any such bids will be mitigated to the higher of the resource's default energy bid or the competitive LMP at the resource's location, which is the LMP established in the revised market power mitigation process minus the non-competitive congestion component thereof.¹²

11. CAISO states that it considered adopting a mitigation threshold for non-competitive congestion, below which a unit would not be flagged for mitigation, to avoid unnecessary mitigation. However, CAISO asserts that it decided against doing so because it lacks sufficient data to determine whether such a threshold would improve mitigation accuracy. CAISO states that it plans to revisit this issue after evaluating market data under the revised process and anticipates that it needs six months of operation data, including a summer period, and an additional two months to conduct the analysis to prepare a report.¹³ Accordingly, CAISO states that it would be able to produce this analysis by December 2012.

¹² *Id.* at 7.

¹³ *Id.* at 18.

12. CAISO asserts that the new methodology has several major advantages over the current market power mitigation process. First, CAISO states that the new methodology solves several problems associated with the interaction of demand response resources and virtual bidding with the market power mitigation process. CAISO's current use of a physical demand forecast as the input against which supply bids are cleared in the market power mitigation process causes certain supply bids, which may be cleared in the actual forward market, to escape mitigation. According to CAISO, the use of only physical demand may underestimate the actual demand that must be met in the forward market, since that market includes both physical and virtual demand. In addition, under the current market power mitigation process, unmitigated virtual supply and demand response bids prevent the mitigation of physical supply by crowding out those resources from dispatch in the all constraints run. CAISO states that its new methodology avoids this problem by considering virtual bids and demand response resources in the mitigation process without actually mitigating those resources.

13. In addition, CAISO asserts that the proposed methodology provides greater accuracy in identifying units that have the potential to exercise market power. CAISO also contends that the separate component method is better able to capture economic withholding, because the separate component method considers bids for mitigation regardless of their dispatch level. Finally, CAISO states that reducing the market power mitigation process to a single run will reduce the amount of resources and processing time required to perform market power mitigation, thereby providing CAISO more time to include the dynamic competitive path assessment and execute other market processes.¹⁴

1. Comments

14. WPTF asserts that CAISO's proposed separate component method will result in unnecessary mitigation because, under the proposal, the market energy bids of any unit whose LMP includes a positive non-competitive congestion component, no matter how small, will be mitigated. WPTF contends that CAISO, itself, has acknowledged that allowing for a small positive value may produce more "robust and reasonable results."¹⁵ WPTF argues that CAISO has not adequately justified why it cannot use historic data to evaluate various threshold levels and propose a positive threshold value, and why it needs a six-month prospective analysis to initially establish a threshold value.¹⁶

¹⁴ *Id.* at 8-9.

¹⁵ WPTF December 7, 2011 Protest at 13 (citing Attachment F to the CAISO Proposal at 7-8) (WPTF Protest).

¹⁶ *Id.* at 10-14.

15. WPTF requests that the Commission direct CAISO to implement a \$1/MWh threshold value upon initial implementation of the new market power mitigation method.¹⁷ WPTF asserts that a \$1/MWh threshold is small enough to be conservative but still large enough to ensure that mitigation is not applied unnecessarily. Alternatively, WPTF requests that the Commission direct CAISO to evaluate and propose a positive threshold value using historic data and report its findings to the Commission and market participants prior to the implementation of the new market power mitigation methodology in April 2012.¹⁸ Also, WPTF requests that the threshold selected for the day-ahead market implementation of the dynamic competitive path assessment be applied to real-time market implementation unless the CAISO explains why a different threshold is just and reasonable for the second stage of implementation.¹⁹

16. WPTF contends that the threshold value should be codified in the CAISO tariff, but notes that it is amenable to allowing the CAISO to codify the threshold value in the appropriate business practice manual to reduce the burden of modifying the value going forward. However, WPTF states that it would expect CAISO to develop and present detailed analysis and support prior to making any change to the threshold value.²⁰

2. CAISO Answer

17. CAISO maintains that its use of a zero dollar price threshold is reasonable. CAISO notes that it currently uses a zero threshold for mitigation, and that by continuing to use a zero threshold for mitigation, it is merely extending a current practice that has been found to be just and reasonable. CAISO argues that WPTF offers no support for its assertion that a \$1/MWh threshold would eliminate unnecessary mitigation. CAISO argues that WPTF's concern about unnecessary mitigation has no basis, because the impact of mitigation on resources with a small positive non-competitive LMP component would not be significant. CAISO further asserts that adopting a small positive threshold could decrease the frequency of mitigation for certain resources, thereby preventing them from receiving an adder to their default energy bids based on their status as frequently mitigated units. CAISO also reiterates that it plans to evaluate this issue, but argues that

¹⁷ *Id.* at 14.

¹⁸ *Id.* at 15.

¹⁹ *Id.* at 14-15.

²⁰ *Id.* at 15.

it is not possible to make this determination based on historic transactions. Thus, CAISO argues that any modification of the current threshold value of zero would be premature.²¹

18. In addition, CAISO urges the Commission to reject WPTF's suggestion that the same threshold value should be used for both the day-ahead and real-time markets. CAISO states that the day-ahead and real-time are separate markets and, therefore, any analysis of the appropriate threshold in the day-ahead market would not be applicable to the real-time market.²²

3. Commission Determination

19. The Commission accepts CAISO's proposal to use bid-in demand, and the proposed separate component method, as just and reasonable improvements over the existing process. We agree with CAISO's analysis that the proposal will provide for greater efficiency and target units for mitigation in a more efficient and effective manner. The proposal appropriately accounts for the existence of virtual bids, demand response resources, and economic withholding. Thus, a unit is less likely to escape mitigation based on differences between the conditions evaluated in the mitigation process and actual market conditions. Also, the proposed separate component method produces a non-competitive congestion component that identifies the price impact of the potential exercise of market power on non-competitive transmission lines in a more accurate way than CAISO's current methodology. Therefore, we find that these revisions will improve the accuracy and efficiency of CAISO's local market power mitigation.

20. We reject WPTF's request to require CAISO to implement a \$1/MWh mitigation threshold value upon initial implementation of the new market power mitigation method. While CAISO states that it suspects a small positive mitigation threshold could improve the accuracy of this method even further, we find that the reasonableness of alternatives to the zero dollar threshold is not the focus of our inquiry. Pursuant to section 205 of the FPA, the Commission limits its evaluation of a utility's proposed tariff revisions to an inquiry into "whether the rates proposed by a utility are reasonable – and does not extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs."²³ The proposed revisions "need not be the only reasonable methodology."²⁴ As a result, even if an intervenor develops an alternative proposal, the

²¹ CAISO December 22, 2011 Answer at 3-5 (CAISO Answer).

²² *Id.* at 5-6.

²³ *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984).

²⁴ *Oxy USA v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995).

Commission must accept a section 205 filing if it is just and reasonable, regardless of the merits of the alternate proposal.²⁵

21. We also agree with CAISO that replacing the existing zero value with some other threshold, without the benefit of actual market data under the new methodology, may be premature and unwarranted. As CAISO states in its answer, it cannot determine precisely the results of applying the revised methodology to historic transactions and, therefore, must have on actual market data to complete its analysis on this issue. In addition, we find that CAISO must also have the opportunity to evaluate the impact that a non-zero threshold would have on the frequently mitigated unit provisions of its tariff.

22. Because we find that the separate component method, including the zero dollar threshold, is just and reasonable as proposed, and because using historic data does not appear sufficient for a thorough evaluation of a threshold other than zero, we will not require CAISO to perform an analysis based on historic data and propose a non-zero threshold prior to implementation of these revisions. Nonetheless, the Commission will permit, and expects CAISO to, revisit this issue after it has operational data to evaluate, as it has committed to do in its pleadings.

23. We also reject WPTF's request to require CAISO to apply the stage one mitigation threshold value in stage two unless CAISO justifies a different stage two value. The day-ahead and real-time markets are separate and operate under different rules and procedures. Therefore, we find that a threshold that is reasonable for the day-ahead market may not necessarily be reasonable for the real-time market. CAISO will not be able to analyze the issue of the real-time market threshold until it implements the dynamic competitive path analysis and collects market data under that process. Therefore, we will not prejudge the issue of the appropriate mitigation threshold for the real-time market.

24. Regarding WPTF's assertion that the mitigation threshold should be codified in the tariff, we note that proposed tariff section 31.2.3 already specifies that mitigation will be applied if the non-congestion component is greater than zero. Thus, if CAISO determines that a positive threshold is appropriate, it will need to incorporate this

²⁵ *Southern California Edison Co., et al*, 73 FERC ¶ 61,219, at 61,608 n.73 (1995) (“Having found the Plan to be just and reasonable, there is no need to consider in any detail the alternative plans proposed by the Joint Protestors.” (citing *City of Bethany*, 727 F.2d at 1136)).

principle in the tariff and not the business practice manual since the threshold may significantly affect rates, terms and conditions.²⁶

C. Dynamic Competitive Path Assessment

25. CAISO proposes to transition to more frequent competitive path assessments that are performed in the same time frame as the relevant markets, rather than the current static, seasonal assessments. CAISO asserts that this enhancement will result in more accurate assessments of whether transmission constraints are competitive or non-competitive and improve the overall accuracy of the mitigation process. CAISO states that it plans to make this transition in two stages. In stage one, CAISO will implement dynamic competitive path assessments in the day-ahead market; implementation for the hour-ahead and real-time markets will occur in stage two, projected for the fourth quarter of 2012. CAISO asserts that it will not be able to implement this functionality beyond the day-ahead market at this time, because doing so will require numerous and complex software changes and major database structure redesigns to ensure that resources are appropriately mitigated in real-time.²⁷

26. CAISO explains that under the new dynamic competitive path assessment for the day-ahead market, all transmission constraints will be deemed competitive by default.²⁸ CAISO states that it will designate a transmission constraint as non-competitive when there is insufficient supply of counter-flow, beyond the three largest suppliers of counter-flow that are designated as net sellers, to satisfy the demand for counter-flow at that particular constraint.²⁹

27. To assess whether an entity will be considered a net seller, CAISO proposes to conduct a quarterly test on the portfolios of market participants. Under CAISO's proposal, an entity would be considered a net seller if its portfolio is not that of a net buyer. A portfolio of a net buyer is one for which the average daily net value of measured demand minus supply over a 12-month period is positive. To determine the average daily net value of a portfolio, CAISO will subtract supply from measured

²⁶ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,271, at P 16 (2008) (explaining that provisions significantly affecting rates, terms and conditions of service must be filed for Commission approval).

²⁷ CAISO Proposal at 14-15.

²⁸ For the hour-ahead and real-time markets, constraints will continue to be deemed non-competitive as the default. *Id.* at 16.

²⁹ *Id.* at 14-16.

demand for each trading day of the twelve month period prior to the test, and then average those values for the entire twelve month period. CAISO proposes to conduct this test in the third month of each calendar quarter, and to use data from the previous twelve month period.³⁰

1. Comments

28. SoCal Edison argues that CAISO's proposed approach of assessing whether an entity is a net buyer or seller based on a full year of data is flawed. SoCal Edison states that such an assessment does not capture seasonal variations or other changes over a shorter time period. SoCal Edison argues that "annual net suppliers" may behave as net buyers in some months, and vice versa.³¹ Accordingly, SoCal Edison opposes annual treatment and requests that the Commission direct CAISO to use a monthly determination of net seller behavior. SoCal Edison states that using a monthly rather than annual procedure would provide more current, relevant information on market behavior, and would enable CAISO's market power mitigation process to produce more accurate results.³²

29. WPTF contends that implementing the separate component methodology while retaining the static competitive path assessment for the hour-ahead scheduling process and real-time markets, with no specific commitment to a timeline for stage two enhancements, is unreasonable. Although WPTF agrees that the stage one revisions will be an improvement over the current market power mitigation process, it argues that CAISO's proposed schedule for implementing the dynamic competitive path assessment in the hour-ahead scheduling process and real-time markets for the fourth quarter of 2012 is too imprecise. WPTF requests that the Commission require a date certain of October 9, 2012 for stage two implementation in order to avoid unnecessary uncertainty and minimize the time period during which the CAISO utilizes a static competitive path assessment as a substitute for not having a sub-hourly market power mitigation process.³³

30. WPTF also requests that the Commission direct CAISO to perform a retrospective analysis of the appropriateness of the three-pivotal-supplier test prior to implementing the instant tariff revisions to determine whether the three-pivotal supplier test is unnecessarily conservative. WPTF requests that at a minimum, the Commission direct

³⁰ CAISO Proposed Tariff § 39.7.2.2(a)(vi).

³¹ SoCal Edison December 7, 2011 Comments at 4 (SoCal Edison Comments).

³² *Id.* at 5.

³³ WPTF Protest at 10-12.

CAISO to file its analysis, no later than one year after stage one implementation, conveying the results of the three-pivotal-supplier test. WPTF requests that CAISO include in its analysis a proposal for an alternative test or a demonstration that continued use of the three-pivotal-supplier test is just and reasonable.³⁴

2. CAISO Answer

31. CAISO asserts that SoCal Edison's characterization of CAISO's net seller determination as an annual determination is inaccurate. CAISO argues that its quarterly determination, based on 12 months of data, allows for a sufficiently large sample of the market to determine whether a market participant is a net buyer or seller, and allows outlier amounts to be balanced out.³⁵ CAISO contends that a short-term assessment creates the risk that a market participant that is, on average, a net buyer or seller could be treated as the opposite because of an anomalous position. As a result, CAISO asserts that a very large proportion of generation could be removed from the pivotal supplier test, which could cause otherwise competitive lines to be deemed non-competitive, thereby increasing the probability of mitigation. CAISO argues that this would be a misapplication of mitigation and would result in inaccurate pricing.³⁶

32. Moreover, CAISO notes that the proper legal standard is whether CAISO's proposal is just and reasonable under section 205 of the Federal Power Act. CAISO argues that its proposal falls within the zone of reasonableness because it will produce accurate results of net seller behavior. Thus, CAISO maintains that the Commission should not require modifications to its three-pivotal-supplier test.³⁷

33. CAISO also contends that WPTF fails to provide any support for its claim that the three-pivotal-supplier test is overly conservative and that alternatives should be examined. CAISO observes that the Commission found the three-pivotal-supplier test reasonable in the MRTU Order, and notes that the Commission also directed the market surveillance committee to consider whether an alternative competitive screen should be considered. CAISO states that the required report, which was filed with the Commission in June 2010, concluded that an alternative screen was unnecessary. Therefore, CAISO

³⁴ *Id.* at 16.

³⁵ CAISO Answer at 7.

³⁶ *Id.* at 8.

³⁷ *Id.* at 8-9.

argues that there is no basis for questioning the continued justness and reasonableness of the three-pivotal-supplier test.³⁸

34. Regarding the time frame for stage two implementation, CAISO states that it will implement the second stage of its revised market power mitigation process, including the dynamic competitive path assessment in the real-time market, as soon as practicable. CAISO maintains that it needs the flexibility to determine the timing of the implementation in light of all other current-planned enhancements. CAISO argues that WPTF's proposed deadline is arbitrary and fails to take into account the time that may be needed to address the software complexities inherent in the second stage of implementation. CAISO argues that it, not WPTF, is in the best position to evaluate how long it will take to make the necessary changes to CAISO's market software. Moreover, CAISO asserts that its proposed market power mitigation process is just and reasonable on its own merit and, therefore, the Commission's acceptance should not be conditioned on any further action. Thus, CAISO argues that the Commission should reject WPTF's request for a specific effective date for stage two implementation.³⁹

3. Commission Determination

35. We find CAISO's proposed revisions for implementing dynamic competitive path assessments for the day-ahead market to be just and reasonable and, therefore, accept them. We find that these revisions will improve the accuracy and efficiency of CAISO's local market power mitigation process. CAISO's use of a dynamic, rather than a quarterly, assessment of the competitiveness of certain transmission paths should produce results that more accurately reflect market conditions associated with individual transmission constraints.

36. We reject WPTF's request to set a date certain for stage two implementation. WPTF has not persuaded us that implementing the stage one revisions, which represent an improvement over the existing market power mitigation process, is somehow unreasonable without setting a date certain for the second stage of revisions. We also find that CAISO's proposal to implement this process in two stages reasonable because the performance risk and software enhancements in the day-ahead market are not as substantial as the real-time market.

37. Regarding WPTF's request regarding the three-pivotal-supplier test, we find that the implementation of new market power mitigation measures warrants revisiting this issue. Although the Commission found the three-pivotal-supplier test to be reasonable in

³⁸ *Id.* at 9-10.

³⁹ *Id.* at 14-15.

the MRTU Order, the Commission also stated that “a three-pivotal-supplier test may be overly stringent,” and therefore directed CAISO’s market surveillance Committee to examine and report on this issue.⁴⁰ At the time the market surveillance committee submitted its report in June 2010, CAISO was using its existing market power mitigation measures, which have numerous differences from the process proposed here. We find that a market screen that was necessary and appropriate under the existing system may turn out to be overly restrictive in the context of the enhanced, more accurate mitigation provisions. Therefore, consistent with the Commission’s determination in the MRTU Order, we direct the market surveillance committee, during the first year of implementation of the stage one revisions, to examine the appropriateness of the three-pivotal-supplier test and whether an alternative competitive screen to identify market power opportunities for generation in load pockets should be considered. We direct the market surveillance committee to include its findings in a report to be submitted to the Commission by May 1, 2013.

38. The Commission rejects SoCal Edison’s request to require CAISO to use a monthly determination of net seller behavior. We agree with CAISO’s analysis that evaluating an entity’s overall position in the market is a just and reasonable approach for determining whether an entity should be considered a net seller for the purpose of market power mitigation. While using a full year of data may fail to capture some seasonal variation, there may be greater potential for inaccuracy in having a shallow pool of data that is more vulnerable to outlier days or months. Moreover, as CAISO correctly notes, the proper legal standard is whether CAISO’s proposal is just and reasonable under section 205 of the FPA. Although SoCal Edison argues that its proposed monthly determination would produce more accurate results, it does not claim that CAISO’s quarterly assessment, based on 12 months of data, is unjust or unreasonable.

D. Miscellaneous Issues

1. Resource Control Agreements

39. CAISO proposes to require a scheduling coordinator applicant to register any resource it controls through a resource control agreement to which it or its affiliates are a party, and to inform CAISO of any changes regarding those resources. CAISO proposes to define a resource control agreement as an agreement that gives an entity bidding, scheduling, and/or operational control over a physical resource owned by or under contract to another entity.⁴¹

⁴⁰ MRTU Order, 116 FERC ¶ 61,274 at P 1032.

⁴¹ CAISO Proposal at 17.

40. SoCal Edison argues that the proposed resource control agreement provisions require a violation of affiliate rules,⁴² and are unnecessary and burdensome. SoCal Edison suggests that each scheduling coordinator should be responsible for reporting only its own resources, not those of its affiliates. SoCal Edison requests that the Commission order CAISO to strike entirely the proposed revision that would create an ongoing obligation to report changes and to remove references to affiliates from the registration requirement.⁴³

41. In its answer, CAISO contends that SoCal Edison misunderstands how the relevant tariff provisions will operate. CAISO explains that scheduling coordinators will be required to register and provide updated information on resources that they, themselves, control through resource control agreements, not resources that affiliates control. CAISO argues that a scheduling coordinator will know it exercises control over a resource without passing on confidential information to an affiliate. CAISO emphasizes that these provisions do not require a scheduling coordinator to provide any information to an affiliate in violation of the CPUC affiliate transaction rules. CAISO asserts that the information required by these provisions is critically important for determining whether a market participant is a net buyer or net seller.⁴⁴

2. Monitoring and Reporting Requirements

42. SWP and SoCal Edison request that, given concerns over the complexity and untested nature of the new methodology, the Commission require on-going monitoring and monthly reporting regarding the effectiveness of the new market power mitigation provisions.⁴⁵ In particular, SoCal Edison expresses concern over the material change of assuming all paths are now competitive by default. SoCal Edison notes that the market surveillance committee pointed out a potential risk of non-competitive paths avoiding mitigation. Thus, SoCal Edison proposes that the Commission direct CAISO to perform specific monitoring and analysis of the effectiveness of the dynamic competitive path assessment and the all constraints run.⁴⁶

⁴² Affiliate transaction rules issued by the California Public Utilities Commission (CPUC) prohibit utilities from providing non-public information to their affiliates. SoCal Edison December 8, 2011 Protest at 9 (SoCal Edison Protest).

⁴³ *Id.*

⁴⁴ CAISO Answer at 11.

⁴⁵ SWP December 8, 2011 Protest at 1-2; SoCal Edison Protest at 5-6.

⁴⁶ SoCal Edison Protest at 6-9.

43. CAISO argues that it should not be subject to a monthly reporting requirement. CAISO asserts that the proposed revisions are the result of extensive analysis and discussions with stakeholders over the course of approximately a year. Thus, CAISO insists that there is every reason to expect the new market power mitigation process will work properly. CAISO further notes that both the market surveillance committee and the department of market monitoring will be evaluating the operation and effectiveness of the new market power mitigation process after it has been implemented. CAISO states that if either entity observes problems with the revised approach it will report any such issues to the Commission. Moreover, CAISO states that it has plans to analyze the mitigation data under its new process to determine whether a mitigation threshold may be appropriate and providing reports of this analysis to stakeholders. Thus, CAISO contends that there is no need to create a new reporting requirement.⁴⁷

3. Commission Determination

44. We find that CAISO's proposed requirement for scheduling coordinators to register and provide updated information regarding resources they control through resource control agreement is a just and reasonable method for CAISO to collect information it needs for making its net seller determination. SoCal Edison alleges that this reporting requirement will require scheduling coordinators to pass confidential information to an affiliate in violation of CPUC affiliate rules, but this is not the case. The tariff provision merely requires the scheduling coordinator to register resources that it controls with CAISO. We further agree with CAISO that the scheduling coordinators are in the best position to provide this information to CAISO. Thus, we will not require the modifications requested by SoCal Edison.

45. We do not find a need to create a monthly reporting requirement regarding the effectiveness of the new market power mitigation provisions. As CAISO points out, its market surveillance committee and department of market monitoring will be monitoring the operation and effectiveness of the revised process and will provide a report to the Commission if any issues are observed. In addition, as discussed above, CAISO is expected to separately evaluate the day-ahead mitigation threshold, and the market surveillance committee is required to report on the continued appropriateness of the three-pivotal-supplier test. In light of these measures, we do not find that an additional, monthly reporting requirement is warranted.

The Commission orders:

(A) CAISO's proposed tariff revisions are hereby accepted effective April 11, 2012, as discussed in the body of this order.

⁴⁷ CAISO Answer at 13-14.

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(B) CAISO's market surveillance committee is hereby directed to report its findings regarding the appropriateness of the three-pivotal-supplier test and whether an alternative competitive screen to identify market power opportunities for generation in load pockets is necessary by May 1, 2013, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Document Content(s)

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