

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator Corporation)	Docket No. ER04-835-007
)	
Pacific Gas and Electric Company)	
)	
v.)	Docket No. EL04-103-002
)	(consolidated)
California Independent System Operator Corporation)	
)	
)	

MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

I. INTRODUCTION AND SUMMARY

In accordance with Opinion No. 492,¹ the Commission’s Opinion and Order on Initial Decision, dated December 27, 2006, the California Independent System Operator Corporation (“CAISO”) submitted a compliance filing to the Commission on February 26, 2007 in the above-captioned dockets (“Compliance Filing”). These consolidated dockets concern revisions to the allocation of Minimum Load Cost Compensation (“MLCC”) costs associated with the Must-Offer obligation, as proposed in Amendment No. 60 to the ISO Tariff.

Protests of the Compliance Filing were filed by the California Department of Water Resources State Water Project (“SWP”), the Cities of Anaheim, Azusa, Banning,

¹ *California Indep. Sys. Operator Corp.*, 117 FERC ¶ 61, 348 (2006) (“Opinion No. 492” or “the Order”).

Colton, and Riverside, California (“Southern Cities”), and Southern California Edison Company (“SCE”).

II. MOTION FOR LEAVE TO ANSWER PROTESTS

Although answers to protests are not usually permitted under Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2) (2006), the CAISO hereby requests waiver of the rule to permit it to file this Answer. Good cause for a waiver exists because this Answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case. *See, e.g., Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002); *Duke Energy Corporation*, 100 FERC ¶ 61,251 at 61,886 (2002); and *Delmarva Power & Light Company*, 93 FERC ¶ 61,098 at 61,259 (2000). The Commission accordingly should accept this Answer.

III. ANSWER

A. The CAISO Has Not Exceeded the Directives of the Order

In the Order, the Commission directed the CAISO, *inter alia*, to incorporate the allocation criteria the CAISO had included in Attachment E to the May 11, 2004 filing of Amendment No. 60, as modified by the Order, into the CAISO Tariff. Order at P 25. To accomplish this, the CAISO included in the filing revisions of and additions to Section 40.8.6 *et seq.* of the currently-effective ISO Tariff to be effective May 31, 2006 forward, and to the parallel sections of the previous versions of the tariff encompassed by the filing: § 5.11.6.1.4 *et seq.* of the pre-simplified and reorganized tariff (effective July 17, 2004 through February 28, 2006), and § 40.1.6.1.4 *et seq.* of the original Simplified and Reorganized Tariff (effective March 1, 2006 through May 30, 2006).

SWP protests the change in the wording of §§ 5.11.6.1.4, 40.1.6.1.4, and 40.6B.5 of the respective versions of the ISO Tariff included in the Compliance Filing from “operating due to Inter-Zonal Congestion” to “operating to meet zonal reliability requirements.” They claim this constitutes a “proposed retroactive tariff revision” not directed in Opinion No. 492 or described in the filing’s transmittal letter.² They appear to fear that the CAISO plans to allocate costs for unapproved reasons using this language change (SWP Protest at 6), and that it will undermine their position on appeal of the Order. SWP Protest at pp. 3-4.

In fact, the change was merely designed to apply the language of Attachment E to the ISO Tariff, as directed by the Commission. This is explained in the Compliance Filing transmittal letter at p. 4.³ The original Attachment E, entitled “Proposal for classifying units for local/Zonal/system requirements,” was filed with Amendment No. 60 on May 11, 2004. In this proposal, which has been ordered into the tariff by Opinion No. 492, the three bases for denying Must Offer Waivers were to meet “Local Reliability Requirements” (Attachment E at p. 1),⁴ “Zonal Requirements” (Attachment E at p. 2), and “System Requirements” (Attachment E at p. 3). The section of Attachment E dealing with “Zonal Requirements” reads in its entirety:

² In fact, SWP alludes to “a number of tariff revisions that are not in compliance with Opinion 492” (SWP Protest at 2), and claims that in the Compliance Filing the CAISO “made numerous other amendments that are neither described in the transmittal letter nor ordered in Opinion 492.” SWP Protest at 3. Apart for the one described herein regarding the Zonal Reliability Requirement category, SWP does not describe, or even mention, these alleged “numerous other amendments.”

³ Therefore SWP’s claim that the change was not described in the filing, in ostensible violation of 18 C.F.R. 35.13(b)(4-5), must fail. See SWP protest at pp. 5-6.

⁴ With a sub-category of “Incremental Cost of Local Reliability,” Attachment E at 2.

A unit will be classified as committed or operated for **Zonal requirements** when it is committed or operated to:

1. maintain operations within the requirements of any nomogram that governs the operations of [an] inter-zonal transmission path(s);
2. maintain power flows on a transmission line that is part of a transmission path between Congestion Zones;
3. maintain acceptable voltage levels at a location that is part of a transmission path between Congestion Zones;
4. accommodate the forced or scheduled outage of a network component that is part of a transmission path between Congestion Zones;
5. provide Ancillary Services within a particular Zone, if the ISO is procuring Ancillary Services on a Zone-by-Zone basis.

Minimum load costs for Zonal requirements will be allocated to metered Demand and exports within the affected Zone.

Attachment E at pp. 2-3 (emphasis in original). Thus, nowhere in the “Zonal Requirements” description in Attachment E was the phrase “Inter-Zonal Congestion” used.

Moreover, in the original tariff language proposed with Amendment No. 60, Section 5.11.6.1.4 states: “For each Settlement Interval, the ISO shall determine that the Minimum Load Costs for each unit operating during a Waiver Denial Period are due to (1) local reliability requirements, (2) zonal requirements, or (3) Control Area-wide requirements.” Therefore the phrase “zonal requirements” is not an innovation of the Compliance Filing.

Interestingly, SWP does not protest the removal of the phrase “Inter Zonal Congestion” from the relevant section of the tariff effective May 31, 2006 forward related to the allocation of minimum load costs – namely § 40.8.6. SWP cannot protest the absence of this phrase in this version of the tariff because it was not removed in this

proceeding, but rather in a filing of March 13, 2006, made effective May 31, 2006.⁵ In the Resource Adequacy proceeding, Docket No. ER06-723, the CAISO requested that the phrase be changed in what was previously § 40.1.6.1.4 from “operating due to Inter-Zonal Congestion” to “operating due to Zonal requirements” in § 40.8.6. SWP did not protest the change in that proceeding.⁶

There is one word - “reliability” - that is not found in the relevant portion of Attachment E. The CAISO added this word in the instant proceeding to the phrase “zonal requirements” in each of these sections - § 5.11.6.1.4, § 40.1.6.1.4, § 40.6B.5, and § 40.8.6 - in order to bring them into conformity with the parallel language in these sections for the “Local Reliability Requirements” category. It was never intended, however, to change the cost allocation impact of the category as it is described in Attachment E.

Most importantly, no new allocation reasons were proposed in the Compliance Filing. The language in these sections of the Compliance Filing was designed to implement the directives of the Order in the simplest and clearest manner possible, and this change was not an attempt to create “new or different reasons for incurring zonal must-offer costs” beyond what was approved by the Commission. SWP Protest at 6.

Finally, SWP’s claim that the “retroactive” nature of the change constitutes “retroactive ratemaking,” SWP Protest at 11, has no merit. The effective date of Amendment No. 60, including Attachment E to the original filing as now included in the

⁵ The sheet was later refiled to correct page numeration without any substantive change. The version against which blacklines were created for this proceeding was filed on July 13, 2006 and retained the effective date of May 31, 2006.

⁶ See Motion to Intervene, Clarify, Support Comments and Limited Protest of the California Department of Water Resources State Water Project, Docket No. ER06-723, April 3, 2006.

ISO Tariff, is July 17, 2004. *See* Order at P 114.⁷ The CAISO’s Compliance Filing seeks no other result. Moreover, SWP’s claim that “[f]or nearly three years, the CAISO tariff authorized the CAISO must-offer generation costs ‘due to Inter-Zonal Congestion,’” SWP Protest at 11, is simply incorrect. As noted above, the “Inter-Zonal Congestion” language was removed from § 40.8.6 effective May 31, 2006, in a filing made March 13, 2006 in a different proceeding. Therefore, even if SWP’s “retroactive ratemaking” claim had merit, which it does not, any inappropriate retroactivity would apply only to the time period from July 17, 2004 through May 30, 2006.

B. There is No Error in Section 40.6B.5

In the Order, the Commission noted that “the CAISO’s Reliability Capacity Services Tariff in Docket No. EL05-146-000 and the Interim Reliability Requirements Program in Docket No. ER06-723-000, *et al.*, which both will terminate with MRTU implementation, will also follow this cost allocation methodology.” Order at P 6, note 10. To accomplish this, the CAISO included in the Compliance Filing revisions of and additions to § 40.6B.5 *et seq.* of the currently effective ISO Tariff to be effective May 31, 2006 forward.⁸

SWP expresses incredulity that “an individual Metered Subsystem Operator would be empowered to procure capacity whose costs the [CAISO] will allocate to CAISO customers,” SWP Protest at 13-24, referencing language from § 40.6B.5 of the ISO Tariff regarding the costs of generation “ ‘for which the MSS Operator has

⁷ The “Incremental Cost of Local” mechanism, not at issue here, was made effective October 1, 2004. Order at P 123.

⁸ The resource adequacy tariff language included in the Compliance Filing was a product of the Interim Reliability Requirements filing in Docket Nos. ER06-723, *et al.* There were no relevant tariff sections dealing with resource adequacy as it now exists in previous versions of the ISO Tariff. For this reason, only one set of revised tariff language pertaining to resource adequacy was included in the filing.

contracted to supply Resource Adequacy Capacity to another entity.’ ” SWP Protest at 13, quoting ISO Tariff § 40.6B.5. SWP speculates that the language was “in error.” *Id.* at 14.

In fact, the language quoted by SWP has not been changed by the Compliance Filing, as demonstrated by the blacklines included with the Compliance Filing as Attachment G. Rather, the language was inserted in the ISO Tariff effective May 31, 2006 in the Resource Adequacy proceeding, Docket No. ER06-723, referenced above. SWP did not protest the language at that time.⁹ There are no grounds to “correct” the language now.

E. Definition of Inter-Zonal Interface

The Commission directed the CAISO “to modify the tariff definition of inter-zonal interface in order to more accurately describe the function of” the Miguel constraint. Order at P 31. In its Compliance filing, the CAISO therefore included a modified definition of Inter-Zonal Interface in the Master Definitions Supplement, Appendix A to the ISO Tariff.

SCE and Southern Cities protest this element of the Compliance Filing, arguing that the definition of Inter-Zonal Interface is too vague and potentially overly-inclusive. Southern Cities at 2-4; SCE at 3. Southern Cities contend that the language is not specific enough to distinguish between costs allocated on a local basis and costs allocated on a zonal basis. Southern Cities Protest at 1, 2-3. SCE argues that the revised definition provides no basis for distinguishing between the Miguel constraint and the South of Lugo constraint. SCE claims that “both South of Lugo and Miguel are transmission paths that

⁹ See Motion to Intervene, Clarify, Support Comments and Limited Protest of the California Department of Water Resources State Water Project, Docket No. ER06-723, April 3, 2006.

have capacity ratings and may be congested due to either flow from external Scheduling Points or generation within the Zone, and therefore may require Congestion Management.” SCE Protest at 3.

Southern Cities suggest that one way to improve the definition is simply to refer to the Miguel Constraint specifically in the definition. Southern Cities Protest at 3. Southern Cities request that, should the definition not be clarified, the Commission direct the CAISO “to report in greater detail on the classification of constraints that give rise to MOWDs and on the reasons for MOWDs on a constraint-specific basis.” Southern Cities Protest at 3.

The CAISO proposes the following revisions to the definition (blacklined against the version from the Compliance Filing), which it is prepared to make in a further compliance filing if ordered to do so by the Commission:

The (i) group of transmission paths between two adjacent Zones of the ISO Controlled Grid, for which a physical, non-simultaneous transmission capacity rating (the rating of the interface) has been established or will be established prior to the use of the interface for Congestion Management; (ii) the group of transmission paths between an ISO Zone and an adjacent Scheduling Point, for which a physical, non-simultaneous transmission capacity rating (the rating of the interface) has been established or will be established prior to the use of the interface for Congestion Management; (iii) the group of transmission paths between two adjacent Scheduling Points, where the group of paths has an established transfer capability and established transmission rights; or (iv) ~~a transmission path, for which a physical, non-simultaneous transmission capacity rating (the rating of the interface) has been established that may require~~ the Miguel Constraint, whenever Congestion Management is necessary to mitigate Miguel Congestion due to flow ~~scheduled~~ from one or more Scheduling Points from adjacent Zones and/or due to generation within that Zone.

F. Posting Of Data For Calculating Incremental Cost Of Local

The Order affirmed the Presiding Judge's finding that the "net incremental cost of local" calculation was just and reasonable. It also supported his conclusion that

the CAISO should be required ...to post on its website adequate information to provide market participants with the ability to confirm the appropriateness/accuracy of its net incremental cost of local allocations.

Order at PP 42, 49.

In the Compliance Filing, the CAISO explained that no tariff language was necessary to implement this directive, and that it has been posting the required data since trade date October 1, 2004.¹⁰

SCE protests that the data posted on the website for calculating the Incremental Cost of Local is insufficient. SCE acknowledges that the website provides information on what actually happened on a given day, but argues that the "calculation requires a comparison of what actually happened in terms of what units were must-offered and the associated costs that were actually incurred for System and Local purposes, with what would have happened and the associated costs if there were no local reliability requirements." SCE Protest at 2.

The CAISO is investigating this issue in light of the difficulties raised by SCE. The CAISO will work with interested parties to identify additional information needed to permit Market Participants to confirm the accuracy of the incremental cost allocation for local without disclosing confidential or market sensitive information.

¹⁰ As indicated in the Compliance Filing, the data is available at: <http://oasis.caiso.com/>, under the Real-Time tab. The data is contained in two different reports since the implementation of Resource Adequacy on June 1, 2006. For trade dates October 1, 2004 through May 31, 2006, the data is located in the Must Offer Obligation – MLC report. For trade dates June 1, 2006 to the present, the data is located in the Commitment Results report. The data contained in both reports include the following information: (1) number of units committed; (2) total minimum Load in megawatts; (3) total capacity ordered online; (4) total MLCC in dollars; and (5) total startup cost in dollars.

G. Timing of Order on Compliance Filing

SCE requests that no order be issued on the Compliance Filing until after “a final decision on rehearing has been rendered.” SCE Protest at 4. The CAISO does not oppose this request and believes it would be in the interest of all parties for all pending issues to be addressed at the same time.

IV. CONCLUSION

Wherefore, for the foregoing reasons, the CAISO respectfully requests that the Commission accept the Compliance Filing as submitted, with the exceptions noted above.

Respectfully submitted,

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Dated: April 3, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California, on this 3rd day of April, 2007.

/s/ **Charity Wilson**
Charity Wilson