

157 FERC ¶ 61,252  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, and Colette D. Honorable.

California Independent System Operator Corporation

Docket No. ER17-218-000

ORDER ON PROPOSED TARIFF REVISIONS

(Issued December 30, 2016)

1. On October 28, 2016, the California Independent System Operator Corporation (CAISO) submitted, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> proposed revisions to its tariff definition of a Load Serving Entity. In this order, we accept CAISO's filing, effective January 1, 2017.

**I. Background**

2. On September 21, 2006, the Commission accepted CAISO's initial proposed definition of "Load Serving Entity," but determined that the proposed tariff language as it related to the State Water Resources Development System, commonly known as the State Water Project of the California Department of Water Resources (State Water Project), was ambiguous.<sup>2</sup> The Commission found that the State Water Project was a Load Serving Entity, and it required CAISO to revise its definition of a Load Serving Entity to ensure that it covered the State Water Project and similarly situated entities.<sup>3</sup> Subsequently, the Commission accepted CAISO's proposal to include in its tariff the State Water Project as a subcategory within the definition of a Load Serving Entity.<sup>4</sup>

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<sup>1</sup> 16 U.S.C. § 824d (2012).

<sup>2</sup> *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 (2006).

<sup>3</sup> *Id.* P 1138.

<sup>4</sup> *Cal. Indep. Sys. Operator Corp.*, Docket No. ER06-615-000 (Nov. 20, 2006) (delegated letter order).

## II. CAISO's Filing

3. In this filing, CAISO states that the primary purpose of its proposed tariff revisions is to recognize that an end user that has the right under state or local law to service its load through the direct purchase of wholesale energy and exercises that right is a Load Serving Entity.<sup>5</sup> According to CAISO, its primary revision is the addition of part (b) to the definition of Load Serving Entity, which is comprised of three sub-parts.<sup>6</sup> In general, proposed part (b) creates the concept of an end user Load Serving Entity, based on the premise that an end user is essentially a Load Serving Entity if it lawfully serves its own load.<sup>7</sup> CAISO states that creating this new class of end user Load Serving Entity will ensure that all load in the CAISO Balancing Authority will correspond to a Load Serving Entity that holds Resource Adequacy obligations for its load and that this Load Serving Entity can request Congestion Revenue Rights (CRR) to hedge the costs of serving that load.<sup>8</sup>

4. Specifically, in CAISO's proposed tariff revisions in part (b), sub-part (i) requires the entity to be an end user, the ultimate consumer of the electricity. Sub-part (ii) requires the end user to have legal authority to serve its own load through purchases of energy from an entity that is not a Load Serving Entity. Sub-part (iii) requires the end user to have exercised its right to purchase electricity from a party that is not serving as the Load Serving Entity for the transaction.<sup>9</sup>

5. CAISO also proposes to revise part (c) of the current definition of Load Serving Entity. Part (c) identifies the State Water Project specifically as a Load Serving Entity. CAISO states that this specific designation is no longer necessary because the proposed tariff revisions to part (b) include a functional definition that identified the key characteristics of the State Water Project in order for it to be designated as a Load Serving Entity. Further, CAISO proposes to add a clause to the end of part (b) to the definition that exempts a party from the definition of a Load Serving Entity the purchase

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<sup>5</sup> CAISO Transmittal at 1.

<sup>6</sup> See CAISO Tariff, Appendix A – Master Definition Supplement.

<sup>7</sup> *Id.* at 5.

<sup>8</sup> *Id.* at 7.

<sup>9</sup> *Id.* at 5-6.

or sale of electric energy was made pursuant to section 218 of the California Public Utilities Code.<sup>10</sup>

6. Finally, CAISO proposes one additional change to part (a) of the definition. Previously, the definition referenced “California state or local law.” CAISO explains that after Valley Electric Association, Inc. joined CAISO, the reference to “California” is no longer appropriate. Proposed part (a) now references “[s]tate or local law.”<sup>11</sup>

### **III. Notice of Filings and Responsive Pleadings**

7. Notice of CAISO’s filing was published in the Federal Register, 81 Fed. Reg. 76,575 (2016), with interventions and protests due on or before November 18, 2016. Timely motions to intervene were filed by Pacific Gas & Electric Company, Southern California Edison Company, Metropolitan Water District of Southern California, Modesto Irrigation District, the City of Santa Clara, and Powerex Corp.

8. Motions to intervene and comment in support of the filing were filed by Northern California Power Agency and State Water Project. The Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside (Six Cities) filed a motion to intervene and protest. On December 5, 2016, CAISO filed an answer to Six Cities’ protest.

### **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 (2016), the timely, unopposed motions to intervene and protest serve to make the entities that filed them parties to this proceeding.

10. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2016), prohibits answers to protests and answers to answers 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. Comments**

11. Northern California Power Agency and State Water Project support CAISO’s proposed tariff revisions. Northern California Power Agency states that the Commission

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<sup>10</sup> *Id.* at 8-9.

<sup>11</sup> *Id.* at 9.

previously granted CAISO a waiver to treat one of its members, Bay Area Rapid Transit District (BART), as a Load Serving Entity<sup>12</sup> and that CAISO's proposed definition of Load Serving Entities in part (b) will remove the need for this waiver. State Water Project similarly filed comments in support of the tariff revisions, explaining that the proposed definition in part (b) eliminates the need for the tariff to specifically designate State Water Project as a Load Serving Entity.

12. Six Cities states that it generally supports CAISO's proposed tariff revisions, but asserts that additional clarification is needed to demonstrate that the three Load Serving Entity categories are distinct from one another. Six Cities explains that CAISO's revision to the definition of a Load Serving Entity may impact the allocation of CRRs to current Load Serving Entities.<sup>13</sup> In order to avoid any confusion, Six Cities proposes that the new definition only requires an entity to qualify under any one part of part (a), part (b), or part (c), and that the Commission should require CAISO to add "or" between parts (a) and (b).<sup>14</sup>

13. CAISO filed an answer to Six Cities' protest asserting that Six Cities has not identified any legitimate ambiguities in the proposed tariff language and that it does not find a reasonable way to read the proposed definition in the manner Six Cities asserts. Further, CAISO states that the tariff follows standard grammatical rules and conforms to the conventions of the prior tariff definition.<sup>15</sup>

#### **B. Commission Determination**

14. We accept the tariff revisions proposed by CAISO, effective January 1, 2017, as requested. The new definition of Load Serving Entities in part (b) includes entities that are similarly situated to current Load Serving Entities that are permitted to participate in the CRR allocation process in proportion to the load they serve. We find that the revised definition is a reasonable approach to encompass entities, such as BART, that are currently excluded but that nonetheless should be considered a Load Serving Entity, and avoids the need for CAISO to add carve-outs to the definition, as it initially did for State Water Project.

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<sup>12</sup> *Cal. Indep. Sys. Operator Corp.*, 156 FERC ¶ 61,153 (2016).

<sup>13</sup> Six Cities Protest at 2.

<sup>14</sup> *Id.* at 3.

<sup>15</sup> CAISO Answer at 2-3.

15. We are not persuaded by Six Cities that the proposed tariff language creates any confusion regarding the qualifications necessary to be designated as a Load Serving Entity. The proposed tariff language includes three categories for qualifying as a Load Serving Entity separated by an “or” between the second and third categories. This provides that a Load Serving Entity need only satisfy one of these categories. Further, the previous tariff definition of a Load Serving Entity also established three categories of Load Serving Entities, which were also separated with a single “or” between the second and third categories, yet only one category needed to be satisfied to qualify as a Load Serving Entity. Therefore, we do not find ambiguity in CAISO’s proposed tariff revisions.

16. Finally, in its answer, CAISO identifies a grammatical error in its tariff. Specifically, CAISO explains that it erroneously added a comma instead of a semicolon in separating part (b) from part (c) of the definition of Load Serving Entity. The Commission requests that CAISO file a revision to make this punctuation revision the next time it makes a tariff filing with the Commission.

The Commission orders:

CAISO’s revisions to its tariff are hereby accepted, effective January 1, 2017, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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