102 FERC 61, 252

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

California Electricity Oversight Board,

Complainant

v.

Williams Energy Services Corporation, AES Huntington Beach LLC, AES Alamitos LLC, AES Redondo Beach LLC, Mirant Americas Energy Marketing L.P., Mirant Delta LLC, Reliant Energy Services, Inc., Reliant Energy Coolwater LLC, Reliant Energy Etiwanda LLC, Reliant Energy Mandalay LLC, Reliant Energy Ormand Beach LLC, Dynegy Power Marketing, Inc., Encina Power LLC, Calpine Corporation, Geysers Power Company LLC, Southern California Edison Company,

All Other Public and Non-Public Utilities Who Own or Control Generation in California And Who Sell Through the Markets or Use The Transmission Lines Operated by the California Independent System Operator Corporation, and

All Scheduling Coordinators Acting on Behalf of the Above Entities,

Respondents

Docket No. EL02-51-001

ORDER DENYING REHEARING

(Issued March 3, 2003)

1. In this order, the Commission is denying the California Electricity Oversight Board's (CEOB) request for rehearing of our March 27, 2002 order (March 27 order) dismissing the CEOB's complaint.[1]

Background

2. On January 16, 2002, the CEOB filed a complaint requesting the Commission to issue an order prohibiting what it perceived to be anti-competitive decremental energy bids. The CEOB also requested that the Commission expand the "must-offer" obligation to include a requirement that suppliers with a Participating Generator Agreement and scheduled to run submit decremental bids based on avoided cost methodology. In the alternative the CEOB requested that the Commission establish a hearing to resolve these issues and set the earliest allowable refund effective date.

3. In our March 27 order, we dismissed the CEOB complaint without prejudice because the CEOB's proposed remedies were related to market design issues under review by the California Independent System Operator Corporation (Cal ISO) as part of its revised market design proposal which was to be filed by May 1, 2002. The Commission concluded that it was premature and a potential waste of resources to engage in piecemeal adjustment of the current market design when a revised design was imminent. We also noted that we expected the Cal ISO to address CEOB's concerns in its revised market design.

4. The CEOB filed this rehearing request on April 29, 2002.

Discussion

5. In its rehearing request, the CEOB declares that suppliers have exploited, and continue to exploit, California's transmission constraints, and the Cal ISO's inability to alleviate intrazonal congestion by submitting infeasible schedules thereby forcing the Cal ISO to accept allegedly anti-competititve decremental energy bids to maintain system balance. According to the CEOB, the result is unjust and unreasonable rates for decremental energy.

[1] 98 FERC ¶ 61,327 (2002).

6. CEOB notes that the Cal ISO's comprehensive redesigned congestion management procedures are not scheduled for implementation until the fall of 2003 and that other market power mitigation measures are scheduled for implementation on October 1, 2002. They also note that any Cal ISO proposal on intrazonal congestion is subject to further technical conferences and therefore is unlikely to be submitted to the Commission as part of the Cal ISO's market mitigation proposal to be submitted on May 1, 2002. The CEOB contends therefore that anti-competitive conduct is occurring in the decremental energy market, and the Commission's March 27 order will allow it to continue unabated for at least six more months. According to the CEOB, the Federal Power Act requires the Commission to remedy unjust and unreasonable rates, and the Commission's March 27 order violates the FPA by exposing California to unjust and unreasonable rates for at least six months. At a minimum, the CEOB requests that the Commission set this complaint for an expedited hearing.

7. We will deny CEOB's request for rehearing. As we indicated in our March 27 order, the Cal ISO filed its market redesign proposal in Docket No. ER02-1656-000 on May 1, 2002. In that proposal, the Cal ISO proposed, and we accepted, a limit on negative decremental energy bids, which addresses the CEOB's concerns regarding negative bids.[2]

<u>The Commission orders:</u>

The CEOB's request for rehearing is denied.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

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[2] 100 FERC ¶ 61,060 at 61,255, P 135 (2002).