

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

California Independent System)	
Operator Corporation)	Docket No. ER08-585
)	

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF
CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO MOTIONS TO INTERVENE,
COMMENTS AND PROTEST**

I. INTRODUCTION AND SUMMARY

On February 20, 2008, the California Independent System Operator Corporation (“CAISO”) filed with the Federal Energy Regulatory Commission (“FERC” or “the Commission”) a modified Grid Management Charge (“GMC”) to take effect upon implementation of the CAISO’s Market Redesign and Technology Upgrade (“MRTU”). In accordance with the Notice of Filing issued by the Commission on February 25, 2008, a number of interventions were filed on or before March 12, 2008, one of which included a protest and one of which included comments on the proposed GMC.

Pursuant to Rules 212 and 213 of the Commission’s rules of practice and procedure, 18 C.F.R. §§ 385.212 and 385.213, the CAISO submits its answer to the motions to intervene and comments submitted in the above-captioned docket, requests leave to respond to the sole protest, and submits its answer to that

protest. The CAISO does not oppose the intervention of any of the parties that have sought leave to intervene in this proceeding. The requests for substantive modifications of the GMC in the comments and protest, however, are unsupported. The Commission should, therefore, accept the proposed GMC without condition or substantive modification.

II. BACKGROUND

A. February 20, 2008 Filing

The GMC is the rate through which the CAISO recovers its administrative and operating costs, including the costs incurred in establishing the CAISO prior to the commencement of operations. The GMC operates on a formula basis, subject to certain restrictions.

The MRTU GMC proposal, as more fully described in the CAISO's February 20, 2008 filing, establishes a modified GMC rate design to take effect when MRTU goes into effect (the "MRTU GMC Rate Design"). The CAISO proposed making only a small number of changes to the current rate design to conform the GMC to the CAISO's market operations under MRTU. In connection with the MRTU GMC Rate Design, the CAISO also updated the Tariff's cost allocation matrix, which allocates the CAISO's costs to the different GMC charges. This update reflected both the changes in the CAISO's market operations associated with implementation of MRTU and the results of an updated cost allocation study conducted by the CAISO.

B. Interventions

Motions to intervene were filed by a number of parties.¹ Most intervenors either did not oppose or supported the modified GMC. CDWR, however, accompanied its intervention with comments regarding one aspect of the revised GMC and SDG&E protested a different aspect of the revised GMC.

The CAISO does not oppose the intervention of any of the parties that have sought leave to intervene. The CAISO does not believe, however, that either of the substantive challenges to the filing have merit. The CAISO believes its proposed GMC is a reasonable approach to unbundling the charge, and that it results in just and reasonable rates.

III. MOTION FOR LEAVE TO FILE ANSWER

While the CAISO is entitled to respond to the comments filed in response to its filing, it acknowledges that Rule 213(d)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(d)(2), generally prohibits the filing of an answer to a protest. The Commission has waived this prohibition, though, to accept an answer that aids the Commission in understanding the issues, provides additional information to assist the Commission in the decision-making process, and helps to ensure a complete and accurate record in a case. *See, e.g., Entergy*

¹ Timely motions to intervene were filed by the Alliance for Retail Energy Markets, California Department of Water Resources ("CDWR"); California Municipal Utilities Association; Public Utilities Commission of the State of California; the City of Santa Clara, California and the M-S-R Public Power Agency; Modesto Irrigation District; Northern California Power Agency; Pacific Gas and Electric Company; Powerex Corp.; San Diego Gas & Electric Company ("SDG&E"); Southern California Edison Company; and the Transmission Agency of Northern California. An out-of-time Motion to Intervene was filed by the Cogeneration Association of California and Energy Producers and Users Coalition on March 13, 2008.

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 CAISO's answer to SDG&E's protest, which is set forth in section IV(A), below, points out that SDG&E bases its argument upon an incorrect characterization of the CAISO's proposed charge on exports over Transmission Ownership Rights ("TORs"), and applies the incorrect legal standard in arguing that the billing determinant should be changed. Left uncorrected, SDG&E's misstatements confuse the issues and could cause the Commission to commit clear legal error, which would only further delay the resolution of this dispute. The CASIO accordingly submits that good cause exists for the Commission to waive the prohibition of Rule 213 and accept the CAISO's Answer.

IV. ANSWER TO COMMENTS AND PROTEST

A. The Commission Should Approve the CAISO's Energy-Based TOR Charge

Transmission Ownership Rights are the rights held by an entity that is not a Participating TO, through its ownership or joint ownership of transmission facilities located within the CAISO Control Area, which rights have not been incorporated into the CAISO Controlled Grid. In the MRTU GMC filing, the CAISO proposed a new rate applicable to energy exported from the CAISO Control Area over TORs. Because the CAISO's cost of providing reliability services for exports on TORs is systematically lower than its cost of providing

those services to loads and exports served by facilities that make up the CAISO Controlled Grid, the combined Core Reliability Services (“CRS”) and Energy Transmission Services (“ETS”) rates applied to TORs are lower than the CRS and ETS rates applied to other exports.² The TOR rate is applied to megawatt-hours of energy exported from the CAISO control area over TORs.³

SDG&E does not challenge in its protest the CAISO’s analysis of its cost of providing reliability services to TOR holders, which results in a significant reduction in the CRS and ETS charges payable with respect to TOR exports in comparison with exports over CAISO Controlled Grid facilities. However, SDG&E challenges the design of the TOR rates. It contends that the TOR charge should be assessed on a demand basis instead of on a volumetric basis as the CAISO proposed, a change that would shift the TOR charges from SDG&E to other customers with TORs. SDG&E also argues that an energy-based TOR charge could discourage beneficial TOR counter flows and would discourage SDG&E from investing in beneficial transmission system upgrades of bottlenecks associated with TORs. SGD&E Protest at 4.

SDG&E’s protest is unfounded. The CAISO’s rate design for the TOR rate, basing that rate on the volume of energy exported, rather than the peak level of exports during the month, is reasonable.

² The TOR rate comprises separate CRS and ETS rates for TORs. For ease of administration, because both rates have the same billing determinant, they were combined into a single TOR rate.

³ See February 20, 2008 filing at 6.

First, the CAISO developed the TOR charge in response to the concern expressed by some stakeholders that exports over TORs cause the CAISO to incur lower costs than exports over CAISO Controlled Grid facilities, making the CRS-Export and ETS-Net Energy charges too high for TOR exports. Although the CAISO responded to this concern by proposing the TOR charge, which is lower than the sum of the CRS-Export and ETS-Net Energy charges that it replaces, it remains reasonable to assess the GMC charge on all exports on the same basis. Given that exporters using facilities forming part of the CAISO Controlled Grid are charged the CRS and ETS charges on a volumetric basis, it is reasonable to design the TOR charge that replaces them on a volumetric basis, as well. By doing so, the CAISO has assured that the charges through which the CAISO's costs are recovered from energy exports are applied on a consistent basis. SDG&E has failed to show that a different GMC rate design for exports is appropriate solely because of the ownership of the facilities over which the exports take place.

Second, the rate design change sought by SDG&E would shift responsibility for the CAISO's costs of providing reliability services for exports over TORs from SDG&E to other TOR holders. SDG&E apparently exports energy over its TOR, the Southwest Power Link, at a higher load factor than holders of other TORs. SDG&E fails to show that it is reasonable and appropriate that other TOR holders, who make less extensive use of their TORs, should bear a greater portion of the CAISO's costs.

Third, SDG&E asserts that the costs recovered by the TOR charge “are fixed in nature and are not dependent upon the amount of energy actually flowing over the relevant transmission lines.” SGD&E Protest at 3. SDG&E is simply incorrect. While some of the costs recovered through the TOR rate are fixed, others are variable and do vary depending on the energy flowing over the transmission lines. This is not unique to TORs; it is also true of exports that use CAISO Controlled Grid facilities. Nevertheless, Scheduling Coordinators pay for their share of reliability-related costs allocated to energy exports through payment of the CRS-Energy Export charge, rather than the CRS-Demand Charge. The CAISO determined that a single variable rate was also appropriate for exports over TORs. As discussed above, this approach ensures that GMC costs are recovered from all energy exports on a consistent basis, without regard to the ownership of the facilities over which the exports take place. It is also significantly easier to establish and administer a single energy-based TOR rate rather than two separate TOR rates, one based on the volume of energy exported and a second based on the peak level of exports over TORs during the month.

SDG&E’s protest thus fails to undermine the CAISO’s showing that the volumetric TOR rate it has proposed is just and reasonable. Even if SDG&E had shown that the demand-based TOR charge it would prefer was another reasonable alternative, or even superior to the CAISO’s proposed rate design for TOR charges – which SDG&E has not done – that would be insufficient to require modification of the CAISO’s proposal. As the proponent of a rate design

for the services it provides, the CAISO is only required to establish that its proposal is just and reasonable, as it has done. The CAISO need not show that its proposed rate design is the only conceivable just and reasonable rate design or that its proposal is “more” just and reasonable than alternatives. *See New England Power Co.*, 52 FERC ¶ 61,090 at 61,336 n.35 (1990), *reh’g denied*, 54 FERC ¶ 61,055, *aff’d Town of Norwood v. FERC*, 962 F.2d 20 (D.C. Cir. 1992); *citing City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir.), *cert. denied*, 469 U.S. 917 (1984) (utility need establish that its proposed rate design is reasonable, not that it is superior to alternatives); *OXY USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995) (“[T]he Commission may approve the methodology, proposed in the settlement agreement if it is ‘just and reasonable’; it need not be the only reasonable methodology or even the most accurate.”). As the CAISO’s proposed TOR rate reasonably allocates costs among TOR holders on whose behalf the CAISO incurs them, the rate clearly is just and reasonable and should be accepted by the Commission without condition or substantive modification.

B. The MRTU GMC Rate Design Does Not “Double Bill” Participating Load That Also Participates in CAISO Markets

In its comments, CDWR has requested clarification that Participating Load whose bid to provide Ancillary Services has been accepted will not be “double charged” by being assessed GMC charges imposed on (1) generation resources providing ancillary services and (2) loads. CDWR Comments at 5. CDWR asserts that “costs are imposed on either loads or generation,” but not both. *Id.*

Noting that “Participating Load is unique in that when providing demand response . . . it is subject to GMC charges for both costs ordinarily imposed on generation and costs ordinarily imposed on load,” CDWR asserts that it believes such “double charging” was not intended. *Id.*

CDWR’s comments are misplaced. No party, including Participating Load providing Ancillary Services, will be “double charged” under the MRTU GMC. CDWR correctly observes that a Scheduling Coordinator with Load in the CAISO Control Area that provides Ancillary Services to the CAISO as Participating Load will be subject to two separate charges. But this does not constitute improper double charging. Rather it reflects the fact that such a Scheduling Coordinator requires the CAISO to incur two distinct sets of costs: one set of costs to operate a Control Area and otherwise provide reliable service to Loads, and a second set of costs to operate the markets in which the Scheduling Coordinator participates as a Participating Load. It is entirely appropriate that such a Scheduling Coordinator pay charges associated with both of these distinct services, so that it shoulders an appropriate share of both sets of costs.

As recounted in Mr. Arikawa’s testimony accompanying the February 20 filing, the CAISO conducted a cost study that allocated the costs that it incurs to the services that it provides to its customers. As demonstrated in that study, some of its costs were incurred to provide services to Loads and other costs were

incurred to operate the CAISO's markets. Neither CDWR nor any other party has challenged that validity of that study.

The simple fact is that Scheduling Coordinators with Control Area Load impose costs on the CAISO to operate its Control Area reliably, which the CAISO recovers through its CRS charges and ETS-Net Energy charge. When any such Scheduling Coordinator also chooses to sell Ancillary Services to the CAISO as Participating Load, it (in common with other Market Participants) imposes other costs on the CAISO for market operations, which the CAISO recovers through its Market Usage - Ancillary Services charge. The charges are not duplicative because they recover the distinct costs of providing different services. The fact that the Scheduling Coordinator supplies Ancillary Services as a Participating Load, rather than as Generator, does not excuse it from paying the Market Usage - Ancillary Services charge to allow the CAISO to recover its market operations costs. Likewise, the fact that the Scheduling Coordinator may sometimes use its Control Area Load to sell Ancillary Services as a Participating Load does not excuse it from paying ETS-Net Energy CRS charges to recover its costs of operating a Control Area.

The CDWR's assertion that Participating Load providing Ancillary Services will be double charged is unsupported and unfounded. Accordingly, the Commission should accept the proposed ETS-Net Energy and Market Usage - Ancillary Services charges without condition or substantive modification.

V. CONCLUSION

Wherefore, for the foregoing reasons, the CAISO respectfully requests that the Commission accept its GMC filing.

Respectfully submitted,

/s/ Nancy Saracino
Nancy Saracino
General Counsel
Judith Sanders
Counsel
The California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630

/s/ Ronald E. Minsk
Kenneth G. Jaffe
Ronald E. Minsk
Alston & Bird LLP
950 F Street, NW
Washington, DC 20004
Tel: (202) 756-3300
Fax: (202) 756-3333

Counsel for the California Independent
System Operator Corporation

CERTIFICATE OF SERVICE

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

Dated at Washington, DC, on this 27th day of March, 2008.

/s/ Ronald E. Minsk
Ronald E. Minsk