

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Nora Mead Brownell, and Suedeen G. Kelly.

California Independent System Operator  
Corporation

Docket No. ER05-1502-001

## ORDER ON REHEARING AND CLARIFICATION

(Issued May 12, 2006)

1. In this order, we address requests for rehearing and clarification of our November 21, 2005 Order,<sup>1</sup> in which we approved, subject to modifications, the California Independent System Operator Corporation's (CAISO's) proposed Amendment No. 72. Specifically, we deny requests for rehearing and provide clarification regarding the applicability of Amendment No. 72. We also direct a compliance filing to reflect the tariff changes ordered below.

**Background**

2. On September 22, 2005, the CAISO filed Amendment No. 72 to its Tariff. Among other things, Amendment No. 72 modifies the CAISO Tariff to require scheduling coordinators (SCs) to submit day-ahead schedules<sup>2</sup> that reflect at least 95 percent of their forecasted demand for each hour of the trading day. Amendment No. 72 also requires that SCs submit to the CAISO, on a weekly basis, an hourly summary comparing their total estimated actual load with their forecasted load and an estimate of the SC's actual demand. Under Amendment No. 72, the CAISO is required to report any

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<sup>1</sup>*California Independent System Operator Corp.*, 113 FERC ¶ 61,187 (2005) (November 2005 Order).

<sup>2</sup>Day-ahead schedules are submitted to the CAISO by 10:00 AM the day before the start of the trading day. See the CAISO's Tariff Appendix C.

observed underscheduling behavior to the Commission as a potential violation of the CAISO Tariff's Enforcement Protocol or as a violation of the Commission-established Market Behavior Rule 2.<sup>3</sup>

3. In the November 2005 Order, the Commission approved the CAISO's proposed Amendment No. 72 with certain modifications. In addition to imposing a 95 percent day-ahead scheduling requirement, Amendment No. 72, as proposed originally, required that those SCs, whose day-ahead schedules reflected less than 100 percent of the SC's forecasted demand for the peak hour of the trading day, submit a list of resources that the SC planned to rely upon during the trading day to meet its forecasted peak demand requirement. The Commission rejected this provision of Amendment No. 72 without prejudice to the CAISO making a future filing that explains why a list of resources is needed and how the CAISO grid operations will benefit from such a list. The Commission found that the explanation provided by the CAISO in support of the proposed reporting requirement was inadequate justification for imposing this reporting requirement on the market participants.

4. Furthermore, the November 2005 Order rejected an alternative proposal by The Utility Reform Network and Pacific Gas & Electric Company (TURN/PG&E). TURN/PG&E contended that Amendment No. 72 failed to accommodate the intra-day flexibility needed to adjust to Northern California's unpredictable weather conditions. PG&E claimed that it entered into resource contracts that allowed it to call on resources in the intra-day timeframe, albeit at increased expense. TURN/PG&E argued that these contracts allowed PG&E to meet the CAISO's reliability needs while reducing the overall cost to consumers. TURN/PG&E proposed a modification to Amendment No. 72 that would allow a SC to provide to the CAISO a schedule, which, when combined with units that have been identified to the CAISO as being on-line, or otherwise able to start after day-ahead schedules are due, and are dispatchable by the SC, would comprise 100 percent of that SC's forecasted demand.

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<sup>3</sup> Market Behavior Rule 2 was rescinded in *Order Revising Market-Based Rate Tariffs and Authorizations*, 114 FERC ¶ 61,165 (2006). Instead, the Commission issued Order No. 670, adopting a final rule making it unlawful for any entity, including public utility market-based rate sellers, to engage in fraudulent or deceptive conduct in connection with the purchase or sale of electric energy, natural gas, or transmission or transportation services subject to the jurisdiction of the Commission. *Prohibition of Energy Market Manipulation*, Order No. 670, 71 FR 4244 (Jan. 26, 2006), FERC Stats. & Regs. ¶ 31,202, 114 FERC ¶ 61,047 (Jan. 19, 2006).

5. The Commission in the November 2005 Order rejected TURN/PG&E's proposed modification to Amendment No. 72. The Commission found that it would be operationally burdensome to implement the modification if all load serving entities (LSEs) were to underschedule in the day-ahead timeframe and simply provide a list of available resources. The Commission also found that TURN/PG&E did not make a convincing showing that their requested modification was workable or that it would not put the CAISO back into the position that had led to the Amendment No. 72 filing. The Commission noted that the CAISO had expressed its commitment to monitor the impact and benefits of the 95 percent scheduling requirement and to seek modification to the requirement if needed. The Commission also stated that it expected that the CAISO would work with TURN/PG&E and other market participants to identify appropriate solutions to address the CAISO's operational needs while accommodating PG&E's and other stakeholders' concerns about the 95 percent scheduling requirement.

6. PG&E, Williams Power Company, Inc. (Williams), Independent Energy Producers Association (IEPA), and Sempra Energy Solutions (Sempra) filed requests for rehearing of the November 2005 Order.

### **Procedural Matters**

7. The CAISO and Duke Energy North America, LLC and Duke Energy Marketing America, LLC (collectively, Duke) filed answers to requests for rehearing. Answers to requests for rehearing are not permitted pursuant to Rule 713(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713(d) (2005). We therefore reject the CAISO's and Duke's answers to the rehearing requests.

### **Discussion**

#### **A. PG&E's Request for Rehearing**

8. PG&E requests rehearing of the Commission's rejection of TURN/PG&E proposed modification to Amendment No. 72. According to PG&E, in Amendment No. 72, the Commission was faced with a filing that drew opposite conclusions from the same evidence, and should have reconciled the arguments with the underlying evidence rather than arbitrarily favoring one conclusion over the other.<sup>4</sup> PG&E argues that the evidence

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<sup>4</sup> PG&E states that, on one hand, CAISO claimed that TURN/PG&E's proposal to allow a SC to submit a list of resources to augment the SC's schedules – in lieu of scheduling 95 percent of its load - was operationally burdensome to implement. On the other hand, CAISO sought a list of resources from SCs that schedule less than 100

in CAISO's filing sufficiently demonstrates that the CAISO can accommodate a limited degree of intra-day flexible resources – up to five percent of forecasted load – if the CAISO can obtain energy from these resources through clearly identified and normal means.<sup>5</sup> PG&E further argues that if the Commission directs the CAISO to permit intra-day flexibility subject to operationally acceptable constraints, PG&E and its customers will not lose the value of intra-day flexibility in some of PG&E's contracts.

9. PG&E further argues that in rejecting TURN/PG&E proposal, the Commission suggested that the cost ramifications of the scheduling requirement could be other than those described by TURN and PG&E. According to PG&E, the November 2005 Order incorrectly suggested that resources could be dispatched without constituting a "call" on the resources. PG&E also claims that the November 2005 Order incorrectly implied that overscheduling creates no harm. Rather, argues PG&E, overscheduling causes unnecessary commitment costs that can be avoided when the system operator can be assured of availability of resources to be dispatched when needed.

10. PG&E also claims that rather than speculating about the terms of PG&E contracts, the Commission could have ordered a technical conference or requested briefing on the matter. PG&E requests permission to submit a brief on this matter to provide the Commission with the facts.

11. Finally, PG&E argues that the CAISO's Amendment No. 72 filing showed that the CAISO can accommodate a significant degree of intra-day flexibility. Therefore, PG&E requests that the Commission revise the November 2005 Order and require the CAISO to file tariff amendments allowing for limited intra-day flexibility at a level that would not cause undue operation burdens.

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percent of their load. PG&E argues that "[w]hen the Commission has not been provided a basis in the record to find one result more credible than the other, it is not permissible for the Commission to select one over the other." PG&E Rehearing Request at 4.

<sup>5</sup> PG&E quotes the CAISO staff memorandum to the CAISO Board of Governors in which, in reference to PG&E's proposal, the CAISO staff wrote: "The ISO feels this approach may be workable. However, the extent to which this alternative is acceptable is dependent on the timing and number of such resource lists and the level to which the ISO has ability to actually call on such resources." PG&E Rehearing Request at 5.

### **Commission Determination**

12. We deny PG&E's request for rehearing of the November 2005 Order. We found that the CAISO had sufficiently demonstrated the existence of a problem with underscheduling and that the implementation of proposed Amendment No. 72 was necessary to address the reliability and increased cost issues arising from underscheduling. In the November 2005 Order, we also found that the CAISO provided sufficient evidence to support its tariff proposal to impose a 95 percent day-ahead scheduling. However, with regard to the CAISO's proposal to require SCs to submit a list of resources they intend to use to meet 100 percent of their peak forecast load, we determined that that CAISO had not justified this proposal. The CAISO had the burden of justifying its tariff proposal and, as we found in the November 2005 Order, the CAISO failed to do so with regard to requiring a resource list.<sup>6</sup> Indeed, as we noted in the November 2005 Order, the entire support for CAISO's resource list proposal was one sentence in the CAISO's transmittal letter.<sup>7</sup>

13. In the November 2005 Order, we also pointed out that the CAISO's proposal to require a resource list from SCs was at odds with the CAISO's statements opposing the TURN/PG&E proposal. Specifically, we quoted the following statement by the CAISO:

...although a listing of resources from LSEs may be helpful, it is not clear whether all the resources that an LSE lists will be made available to the CAISO *via* the normal bid stack or whether the CAISO would have to make special calls to actually obtain energy from such resources. Further, SCs may also want to include imports and trades as resources on the list, which raises the same questions with respect to the CAISO's ability to call on these resources.<sup>8</sup>

We interpreted this statement as the CAISO's concern over potential problems with implementation of TURN/PG&E's proposal. We therefore reasoned that "[g]iven the problems the CAISO perceive[d] with implementing PG&E's resource list, it is not clear

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<sup>6</sup> See November 2005 Order at P 32.

<sup>7</sup> *Id.* n.13

<sup>8</sup> *Id.* at P 33.

how the CAISO [would] be able to incorporate many resource lists from all LSEs in its operations.”<sup>9</sup> This determination served as one of the bases for rejecting the CAISO’s proposal to require a resource list.

14. The CAISO’s statement identifying potential problems with the implementation of TURN/PG&E’s resource list was also considered by the Commission in its evaluation of TURN/PG&E’s proposal.<sup>10</sup> Based on this and other evidence, the Commission concluded that TURN/PG&E failed to make “a convincing showing that their requested modification [was] workable or that it [would] not put the CAISO back into the position that led to this filing.”<sup>11</sup>

15. While the CAISO’s statements with regard to its own resource list proposal and TURN/PG&E’s proposal could be viewed as contradictory, the Commission was consistent in its treatment of the CAISO’s and TURN/PG&E’s proposals. These proposals were rejected in large part due to being operationally burdensome for the CAISO to implement. In addition, PG&E points out that the CAISO staff memo, included in its original tariff filing as an attachment, states that PG&E’s resource list proposal may be workable. We note that the CAISO staff memo also states that whether or not PG&E’s proposal is workable “depends on the timing and number of such resource lists and the level to which the ISO has ability to actually call on such resources.”<sup>12</sup> These are the same concerns that the CAISO expressed in its answer to TURN/PG&E’s proposal. The fact that the CAISO’s staff suggested to the CAISO Board of Governors that PG&E’s proposal *may* be workable does not mean that it is workable or that the CAISO considered it such. However, taking into consideration PG&E’s interests, we, in the November 2005 Order, encouraged PG&E and the CAISO to work toward a workable solution that addresses the CAISO’s operational needs and allows PG&E to maximize the value of its flexible resource contracts.<sup>13</sup> No new proposal has been filed for Commissions consideration.

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

<sup>10</sup> *Id.* at P 26.

<sup>11</sup> *Id.* at P 27.

<sup>12</sup> See PG&E’s Request for Rehearing at 5.

<sup>13</sup> See *November 2005 Order* at P 28.

16. We also deny PG&E's request that the Commission require additional evidence regarding the CAISO's inability to accommodate resource lists. As we stated above, the burden of providing adequate support for the proposals was on the CAISO and TURN/PG&E. In both instances, the Commission concluded that these parties failed to do so and rejected the proposals.

17. With regard to PG&E's argument that the November 2005 Order incorrectly suggested that resources could be dispatched without constituting a "call" on the resources, PG&E has misconstrued our statement. In the November 2005 Order, we stated that TURN/PG&E failed to explain why a day-ahead schedule submitted to the CAISO constitutes a "call" on an intra-day flexible resource, which presumably is a fast-start unit or unloaded capacity on an on-line unit.<sup>14</sup> We did not question whether dispatching a unit constitutes a call; rather, we questioned why providing a day-ahead schedule to the CAISO constitutes a dispatch instruction to intra-day flexible resources.

18. Regarding PG&E's argument that overscheduling causes unnecessary commitment costs that can be avoided when the ISO can be assured of availability of resources to be dispatched when needed, we reiterate that the fundamental problem with the TURN/PG&E proposal is that the CAISO does not have the requisite assurance of the availability and dispatchability of resources under the TURN/PG&E proposal. Therefore, PG&E's proposal – *i.e.*, for SCs to schedule less than 100 percent of their forecast load and schedule additional load intra-day as conditions warrant – does not necessarily reduce overall commitment costs. As the CAISO explained in the Amendment No. 72 filing, when LSEs schedule less load than their forecast load, the CAISO must make commitment decisions and incur costs to ensure grid reliability.<sup>15</sup>

### **B. Request for Permission to File Brief**

19. PG&E also claims that rather than speculating about the terms of PG&E's contracts, the Commission could have ordered a technical conference or requested briefing on the matter. In connection with this, PG&E requests permission to submit a brief on this matter to provide the Commission with the facts.

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<sup>14</sup> *Id.* at P 27.

<sup>15</sup> The CAISO's Amendment No. 72 Filing, Docket No. ER05-1502-000, Transmittal Letter at 4 (September 22, 2005).

20. In regard to PG&E's contracts the Commission noted the following:

[i]n addition, TURN/PG&E have not provided contracts that support their claim regarding additional costs they may incur as a result of the 95 percent scheduling requirement.<sup>16</sup>

21. On rehearing, PG&E requests an opportunity to file a brief, explaining how PG&E's intra-day resource contracts operate and why that supports TURN/PG&E's resource list proposal. We reiterate that we denied TURN/PG&E's proposal because it was not operationally workable and TURN/PG&E failed to demonstrate otherwise. In addition, PG&E failed to demonstrate how its resource list proposal would address the alleged problem of additional costs under its intra-day flexible resources contracts. We remind PG&E that the burden of providing evidence in support of its resource list proposal was on PG&E, not on the Commission.

22. Moreover, new evidence that PG&E seeks to introduce at this stage of the proceeding is not sufficient alone to demonstrate that its resource list proposal is feasible to implement. In the November 2005 Order, we encouraged PG&E and the CAISO to work toward a mutually acceptable solution. We reiterate this recommendation here and expect that PG&E will pursue the recommended avenue.

23. For the above stated reasons, we deny PG&E's request to file a brief pursuant to Rule 713(d)(2) of the Commissions' Rules of Practice and Procedure, 18 C.F.R. § 713(d)(2) (2005).

#### **B. Applicability to Generators**

24. Williams seeks clarification that the November 2005 Order does not impose any obligation on generators or other non-LSEs that may schedule load. Williams points to the CAISO's representations in the Amendment No. 72 filing and argues that Amendment No. 72 was filed to address the reliability and cost concerns caused by LSE underscheduling. According to Williams, Amendment No. 72 could not have been intended to apply to, and should not apply to, non-LSEs. Williams describes non-LSEs as generator auxiliary load or small weather- or time-insensitive load that do not comprise a significant portion of the CAISO control area load and do not vary in a way that affects the CAISO's unit commitment decisions.

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<sup>16</sup> See *supra* n. 14.



25. Williams further argues that the CAISO's statement that a waiver of 60-day notice period would not prejudice affected LSEs further supports Williams's interpretation that Amendment No. 72 is not applicable to non-LSEs. Williams also asks the Commission to clarify that generators with a must-offer obligation are not subject to the Amendment No. 72 scheduling requirement for their station power load because the CAISO does not inform these generators of their commitment status until after the day-ahead scheduling deadline. Williams asks that the Commission direct the CAISO to make a compliance filing that eliminates any ambiguity in the Amendment No. 72 tariff language that may impose an obligation upon non-LSEs.

26. Finally, if the Commission allows the broad application of Amendment No. 72, Williams asks that the Commission grant rehearing and direct the CAISO to convene a stakeholder process that includes all affected market participants and re-file Amendment No. 72 so that all market participants may respond as appropriate.

27. IEPA filed a request for clarification, or alternatively rehearing, joining and incorporating by reference, Williams's request for clarification and rehearing.

28. Sempra also requests rehearing or clarification of the November 2005 Order that Amendment No. 72 should not apply to generator station power. Sempra points to the history and evolution of Amendment No. 72 and argues that generator station power scheduling was not identified as a source of the underscheduling problem nor identified as a solution to the problem.

### **Commission Determination**

29. We grant Sempra's request for clarification and grant in part Williams's and IEPA's requests for clarification. Accordingly, we clarify that Amendment No. 72 does not apply to generator station power. Generator station power is distinct from other load in that the CAISO plays a role in when station power load appears on the CAISO system, for example, by approving schedules for maintenance outages. In addition, the unpredictability of generator forced outages and the timeline for the must-offer waiver denial process make it impractical to impose the day-ahead scheduling requirement envisioned in Amendment No. 72 on generator station power. Therefore, we direct the CAISO to make a compliance filing to exclude generator station power from Amendment No. 72.

30. Furthermore, we deny Williams's and IEPA's requests to exempt small weather- or time-insensitive load from the Amendment No. 72 requirements. While weather- or time-insensitive loads may not vary significantly through the day, underscheduling by such load will contribute to the reliability and cost issues arising from underscheduling.

In addition, as we stated in the November 2005 Order, while a single small LSE's scheduling practice alone may not have a significant impact on the CAISO system, the scheduling practices of a class of SCs can impact the CAISO's operations if the SCs engage in similar scheduling practices.<sup>17</sup> Underscheduling by a SC for a small load may not cause reliability problems by itself, but it can be a contributing factor to the overall underscheduling problem. Accordingly, we clarify that the Amendment No. 72 requirements apply to small weather- or time-insensitive loads. Consequently, we deny Williams's and IEPA's rehearing requests that the Commission direct the CAISO to reconvene a stakeholder process that includes all affected market participants and therefore re-file Amendment No. 72.

The Commission orders:

(A) PG&E's, Williams's, and IEPA's requests for rehearing are hereby denied for the reasons stated in the body of this order.

(B) Williams's and IEPA's requests for clarification are hereby granted in part and denied in part, as discussed in the body of this order.

(C) Sempra's request for clarification is hereby granted, as discussed in the body of this order.

(D) The CAISO is hereby directed to submit, within 30 days of the date of issuance of this order, a compliance filing reflecting the tariff changes directed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>17</sup> November 2005 Order at P 39.