129 FERC ¶ 61,142
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Suedeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

California Independent System Operator Corporation Docket No. ER09-1681-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued November 19, 2009)

1. On September 4, 2009, the California Independent System Operator Corporation (CAISO) filed revisions to its Market Redesign and Technology Upgrade (MRTU) tariff to reduce the maximum unsecured credit limit for market participants to $50 million.[1] As discussed below, the Commission accepts the tariff revisions effective January 5, 2010, as requested.

I. Background

2. In conjunction with its electricity market redesign the CAISO has proposed revisions to its MRTU tariff to implement a number of changes to its credit policy provisions, including decreasing the maximum unsecured credit limit from $250 million to $150 million, effective March 31, 2009.[2] At that time, the CAISO indicated that it planned to propose additional revisions to its credit policy to further lower market participants' exposure to credit risk. The CAISO has since proposed a payment acceleration program, and now seeks to reduce the maximum unsecured credit limit from

[1] FERC Electric Tariff, Second Replacement Volume Nos. I and II.

[2] *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,285 (2009) (March 2009 Order).

$150 million to $50 million based upon recommendations from CAISO management that were approved by the CAISO Board of Governors.[3]

3. More recently, the CAISO submitted tariff revisions for a payment acceleration program to speed the process by which the CAISO invoices and settles market transactions. On September 17, 2009, the Commission issued an order accepting, subject to modification, the CAISO's payment acceleration program, effective November 1, 2009.[4] Under the payment acceleration proposal, the CAISO payment calendar will be shortened from approximately 80 calendar days to approximately 25 calendar days.

4. In keeping with the CAISO's implementation of MRTU tariff provisions accepted by the Commission in the March 2009 Order and the anticipated establishment of the payment acceleration program, on September 4, 2009, the CAISO submitted the instant tariff revisions to lower the unsecured credit limit from $150 million to $50 million.

II. The CAISO's Filing

5. The MRTU tariff requires market participants that submit schedules or transact in the CAISO markets to either satisfy certain creditworthiness requirements or post financial security to provide assurance that they can meet their present and future financial obligations. The CAISO proposes to revise the MRTU tariff to reduce the maximum unsecured credit limit[5] for any market participant from $150 million to $50 million.

6. Further, the CAISO requests a waiver of section 35.3 of the Commission's regulations to permit the tariff sheets implementing the unsecured credit limit amendments to be made effective January 5, 2010, which is more than 120 days after the date of the CAISO's filing. The CAISO explains that its proposed tariff effective date of January 5, 2010 is two months after the CAISO begins implementing the payment

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[3] March 2009 Order, 126 FERC ¶ 61,285 at P 12, n.8, citing CAISO January 29, 2009 Filing at 4.

[4] *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,265 (2009) (September 2009 Order).

[5] The CAISO defines unsecured credit limit as "[t]he level of credit established for a Market Participant or CRR [congestion revenue right] Holder that is not secured by any form of Financial Security, as provided for in Section 12." FERC Electric Tariff, Second Replacement Volume No. II, Original Sheet No. 963.

acceleration program. By the beginning of January, the CAISO expects market participants to have adjusted to the impact of the payment acceleration program.

III. Notice of Filings and Responsive Pleadings

7. Notice of the September 9, 2009 filing was published in the *Federal Register*, 74 Fed. Reg. 48284 (2009), with interventions or protests due on or before September 25, 2009.

8. A notice of intervention was filed by the California Public Utilities Commission. Timely motions to intervene were filed by the Northern California Power Agency and jointly by the City of Santa Clara, California and M-S-R Public Power Agency.

9. The following parties submitted comments and/or protests along with their motions to intervene: Pacific Gas and Electric (PG&E), Southern California Edison Company (SoCal Edison), Powerex Corp. (Powerex), Modesto Irrigation District (Modesto). A joint motion to intervene and comment was filed by NRG Power Marketing LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo Power, LLC, Long Beach Generation LLC, Dynegy Morro Bay, LLC, Dynegy Moss Landing Bay, LLC, Dynegy Oakland, LLC, Dynegy South Bay, LLC, RRI Energy, Inc., J.P. Morgan Ventures Energy Corporation, and BE CA LLC (collectively, Joint Parties). The CAISO filed an answer to the comments and protests.

IV. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

11. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept the answer filed by the CAISO because it provided information that assisted us in our decision-making process.

V. Discussion

12. The CAISO states that the maximum unsecured credit limit for any market participant is currently $150 million.[6] The CAISO notes that in Docket No. ER09-589-000, the Commission approved its proposal to lower the maximum unsecured credit limit for any market participant from $250 million to $150 million.[7] In the instant proceeding, the CAISO states it proposes to modify tariff sections 12.1.1 and 12.1.1.1 to lower the maximum unsecured credit limit for any market participant to $50 million.

13. The March 2009 Order[8] noted the CAISO's intention to follow its payment acceleration program with additional tariff revisions to lower the maximum unsecured credit limit in order reflect its new accelerated payment cycle. The March 2009 Order stated that:

> the reduction to $150 million is an appropriate move towards a more conservative credit policy, represents an appropriate balancing of interests among stakeholders and is also a logical step in the CAISO's plan to eventually reduce the maximum unsecured credit limit to $50 million upon the implementation of the CAISO's payment acceleration program.[9]

14. In its September 4, 2009 Filing, the CAISO states that the payment acceleration program will result in an approximately 70 percent reduction in cash clearing cycles and estimated aggregate liabilities. Based upon these anticipated reductions, the CAISO asserts that its proposal to reduce the maximum unsecured credit limit from $150 million to $50 million provides a comparable reduction.[10] Additionally, the CAISO estimates that there will be a transition period consisting of approximately two months following the proposed November 1, 2009 effective date of the payment acceleration program. The CAISO explains that during this transition period, the CAISO's settlement systems will be clearing the financial liabilities accrued by market participants prior to implementing

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[6] CAISO September 4, 2009 Filing at 1-2, citing currently effective CAISO tariff sections 12.1.1 and 12.1.1.1.

[7] March 2009 Order, 126 FERC ¶ 61,285 at P 33.

[8] *Id*. P 36.

[9] *Id*.

[10] CAISO September 4, 2009 Filing at 2.

the substantially revised settlement procedures contained in the payment acceleration program.[11]

A. General Supporting Comments

15. NCPA, Joint Parties, and Powerex generally support the CAISO's proposal to reduce the unsecured credit limit to $50 million. Modesto also supports the CAISO's proposal to reduce the unsecured credit limit to $50 million,[12] but cautions that the proposed reduction should not lead to the elimination of the unsecured credit limit. Modesto argues that the credit limits are an important part of market operations and, the availability of some level of unsecured credit should not be eliminated. Modesto contends that removing the unsecured credit limit would impose undue costs on smaller, creditworthy market participants.[13]

B. Protested Issue: Unsecured Credit Limit for Congestion Revenue Rights

16. Section 12.1 (Credit Requirements) of the MRTU tariff states that "[f]or each Market Participant, the sum of its Unsecured Credit Limit and its Financial Security Amount shall represent its Aggregate Credit Limit. Each Market Participant shall have the responsibility to maintain an Aggregate Credit Limit that is at least equal to its Estimated Aggregate Liability."[14] A market participant's estimated aggregate liability includes, among other things, all amounts owed to the CAISO for unpaid obligations, the value of a market participant's CRR portfolio (if negative), CRR auction limit and CRR auction awards.[15] A market participant's unsecured credit limit is determined by the CAISO pursuant to Section 12.1.1.1.2, which describes a six-step process used to calculate a market participant's unsecured credit limit. This process takes into account a market participant's net assets, credit agency ratings, and other indicators of financial security.[16]

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[11] *Id*. at 3.

[12] Modesto Comments at 5.

[13] *Id*. at 6.

[14] CAISO tariff section 12.1.

[15] CAISO tariff section 12.1.3.1.1.

[16] The six-step process described in section 12.1.1.1.2 may determine that a market participant's unsecured credit limit is less than $50 million.

17. Section 12.6 (Credit Obligations Applicable to Congestion Revenue Rights (CRRs)) of the CAISO tariff outlines the credit obligations applicable to CRRs. The credit requirements for participation in the CRR auctions state that each CRR holder or candidate CRR holder must have an unsecured credit limit[17] or provide financial security for the CRR annual auction process.[18] The CAISO has not proposed to change the tariff provisions of section 12.6 regarding the credit obligations applicable to CRRs in the instant proceeding.

1. Comments and Protests

18. PG&E and SoCal Edison[19] oppose the CAISO's proposal to reduce the maximum unsecured credit limit from $150 million to $50 million, and argue that the CAISO has not provided sufficient justification or suggested any potential benefits for the proposed change.[20] Opponents support their position by noting that the current unsecured credit limit was recently reduced from $250 million to $150 million. They also argue that the CAISO's credit exposure will be reduced further when the payment acceleration program is implemented because it will reduce the cash clearing cycles of the CAISO market. PG&E and SoCal Edison contend that these two changes, taken in combination, will increase the creditworthiness of market participants, and negate the need for additional changes at this time.[21]

19. In addition, PG&E asserts that the CAISO proposal will not increase liquidity in the CAISO markets. In fact, PG&E argues that reducing the unsecured credit limit will require some market participants to post additional collateral to meet the CAISO's

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[17] Under the CAISO tariff, a market participant has one maximum unsecured credit limit that can be used to cover both energy transactions and CRR credit obligations.

[18] CAISO tariff section 12.6.2 states that "(t)o establish available credit for participating in any CRR Auction, each CRR Holder or Candidate CRR Holder must have an Unsecured Credit Limit or have provided Financial Security in a form consistent with Section 12.1.2."

[19] SoCal Edison states that it agrees with and supports the position of PG&E expressed in its September 28, 2009 Comments. SoCal Edison Protest at 3.

[20] PG&E Comments at 3, citing CAISO September 4, 2009 Filing at 2; SoCal Edison Protest at 3.

[21] PG&E Comments at 3; SoCal Edison Protest at 3.

creditworthiness requirements, which may decrease market liquidity.[22] PG&E states that its current unsecured credit limit is $150 million and the CAISO's proposal could impose costs on those entities, like PG&E, whose unsecured credit limit is currently equal to $150 million.[23]

20. PG&E and SoCal Edison claim the CAISO's analysis in support of its proposal to reduce the unsecured credit limit fails to consider the collateral requirements for participation in the CAISO's CRR markets.[24] While market participants who participate in the annual CRR auction are required to provide the CAISO with sufficient collateral to cover their participation and potential awards, PG&E and SoCal Edison assert that, for load serving entities that serve a large amount of load, the collateral requirements can be substantial, possibly well above the CAISO's proposed $50 million dollar maximum unsecured credit limit.[25] Accordingly, PG&E and SoCal Edison request that the CAISO proposal to reduce the maximum unsecured credit limit be rejected.[26]

21. In the alternative, SoCal Edison requests that if the Commission is unwilling to reject the proposal in its entirety, then the Commission should require the CAISO to modify its proposed language to temporarily increase the maximum unsecured credit limit to $150 million for the month in which the annual CRR auction occurs.[27] SoCal Edison contends that by utilizing its approach, any unsecured credit awarded will only go to support the collateral requirements for bidding into the annual CRR auction and could not be used to offset energy market transactions. Once the auction is finished and awards are posted, collateral requirements resulting from holding a CRR would be considered part of daily energy market transactions and, therefore, would be covered under the maximum $50 million dollar limit.[28]

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[22] PG&E Comments at 4.

[23] *Id*.

[24] PG&E Comments at 4; SoCal Edison Comments at 3.

[25] *Id*.

[26] PG&E Comments at 5; SoCal Edison Comments at 3.

[27] SoCal Edison Comments at 4.

[28] *Id*.

2. **CAISO's Answer**

22. The CAISO contends there is no merit to the assertions of PG&E and SoCal Edison opposing a reduction in the maximum unsecured credit limit proposal. The CAISO argues that the fact that market participants may incur some costs in complying with its credit requirements is a necessary element of a credit policy that is tailored to protect the market against the risks of outstanding liabilities of market participants.[29] The CAISO notes that in a recent order the Commission determined that it was just and reasonable for PJM Interconnection L.L.C. (PJM) to reduce its maximum unsecured credit limit from $150 million to $50 million in accordance with its related proposal to accelerate its settlement procedures.[30]

23. Further, the CAISO argues that it should not be required to maintain the current maximum unsecured credit limit of $150 million based on pre-CRR auction credit requirements that apply for a relatively short period during the time of the auction.[31] The CAISO explains that the collateral required to cover pre-CRR auction credit requirements must be posted two business-days prior to the auction. After CRR awards are made, the CAISO will recalculate the market participants' portfolio values, which typically takes place approximately four business days after the auction. The CAISO contends that the balance of CRR auction-related collateral is returned when the auction settles, approximately three to four weeks after the auction concludes.[32] The CAISO argues that given the short duration of the pre-CRR auction credit requirements, it would be inappropriate to require the CAISO to maintain the current maximum unsecured credit limit.

24. The CAISO asserts SoCal Edison's proposal of a $150 million credit limit in the month of the annual CRR auction will increase the mutualized default risk for the entire market.[33] The CAISO notes that the credit requirements do not differentiate between collateral posted for a CRR auction and collateral posted for other market activities. Therefore, the CAISO contends that SoCal Edison's proposal would allow market

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[29] CAISO Answer at 3.

[30] *Id.*, citing *PJM Interconnection, L.L.C.*, 127 FERC ¶ 61,017, at P 35 (2009) (PJM Credit Policy Order).

[31] CAISO Answer at 5.

[32] *Id.*

[33] *Id.*

participants to obtain higher levels of unsecured credit during the month of CRR auction for use in market activities that are not related to the annual CRR auction. In addition, the CAISO notes that the Commission has recently approved the elimination of the use of the unsecured credit allowance for financial transmission rights in PJM, and has recognized that similar financial products present unique risk that justify the elimination of unsecured credit.[34] However, the CAISO notes that unlike PJM the CAISO is not proposing to eliminate the use of the unsecured credit limit for CRRs. The CAISO contends that maintaining a higher unsecured credit limit for the CRR auction would be inconsistent with Commission policy.

25. The CAISO notes that in August 2009 it initiated a stakeholder process to develop enhancements to its CRR policy.[35] Among other things, the proposed CRR policy changes would reduce the minimum credit requirements for the monthly CRR auctions and would eliminate the requirements for collateral to back a negatively valued bid.[36] The CAISO explains that it plans to seek approval from its Governing Board for the CRR policy enhancements in December 2009, and thereafter will submit to the Commission proposed tariff revisions to implement the credit policy enhancements approved by the CAISO Governing Board.

3. <u>Commission Determination</u>

26. The Commission accepts the CAISO's tariff revisions to reduce the maximum unsecured credit limit from $150 million to $50 million. The Commission explained in its *Policy Statement on Electric Creditworthiness* that:

> Since ISOs/RTOs are typically non-profit entities that administer the market on behalf of market participants and, in this capacity, serve as the clearing firm to every transaction, ISO/RTO members are exposed to the credit risk of other members. In addition, ISOs/RTOs are generally not capitalized sufficiently to absorb the impact of defaults by market participants on an outstanding obligation. If collateral posted by a defaulting party is not sufficient to cover the amount of its default, the remaining credit risk exposure and costs are socialized across an ISO's/RTO's members . . .

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[34] *Id.*, citing PJM Credit Policy Order, 127 FERC ¶ 61,017 at P 36.

[35] CAISO Answer at 7.

[36] *Id.*

> Furthermore, that exposure is not truly under a market participant's control because it is the ISO/RTO that serves as the gatekeeper for the integrity of the markets they administer. As a result, ISO/RTO market participants are exposed to risks based on an ISO's/RTO's determination of other market participants' creditworthiness, and they have little ability to mitigate that risk. Furthermore, market participants must trust ISOs/RTOs to implement their credit policies in a manner created to limit, as much as possible, the risk of credit defaults. [37]

27. Consistent with the *Policy Statement on Electric Creditworthiness*, the CAISO's proposal to reduce the unsecured credit limit to $50 million is justified, contrary to arguments of protestors, because it will decrease the CAISO market participants' exposure to default risk, and strengthen the overall creditworthiness of the CAISO market.[38] In arguing that the maximum unsecured credit limit should remain at $150 million because select entities, including PG&E,[39] currently maintain an unsecured credit limit of $150 million, the protestors do not explain why other market participants should be exposed to the risks stemming from these entities' unsecured credit limits.

28. Further, the CAISO's proposal to reduce the maximum unsecured credit limit is consistent with the shortening of the CAISO's payment and billing cycle established under its payment acceleration program.[40] The payment acceleration program is expected to reduce by approximately 70 percent the length of the cash clearing cycles and market participants' estimated aggregated liability. We find that it is reasonable to reduce the

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[37] *Policy Statement on Credit-Related Issues for Electric OATT Transmission Providers, Independent System Operators and Regional Transmission Organizations*, 109 FERC ¶ 61,186, at P 17-18 (2004) (*Policy Statement on Electric Creditworthiness*).

[38] The CAISO and stakeholders should monitor the future market impacts this change in unsecured credit limits could have on market liquidity and CRR auction activity. We note that the CAISO is currently undergoing a stakeholder process to develop enhancements to its CRR policy (CAISO Answer at 7).

[39] PG&E states that its current unsecured credit limit is $150 million. PG&E Comments at 4.

[40] Although protestors argue that the CAISO's proposal is not necessary at this time, we note that under section 205 of the Federal Power Act, the "power to initiate rate changes rests with the utility." *Atlantic City Electric Co. v. FERC*, 295 F.3d 1, at 6 (2002).

CAISO's maximum unsecured credit limit in conjunction with the payment acceleration program.

29. Our findings in this proceeding are consistent with those made in the PJM Credit Policy Order.[41] In the PJM Credit Policy Order, the Commission accepted PJM's proposal to reduce the unsecured credit allowance from $150 million to $50 million[42] and to eliminate the use of unsecured credit for firm transmission rights (FTRs) transactions.[43] The CAISO's proposal to lower the unsecured credit limit, which in turn lowers the amount of unsecured credit that can be applied towards CRR auctions, is consistent with the PJM Credit Policy Order, where we accepted PJM's proposal to lower the unsecured credit limit for FTRs to zero. Further, we note that, if PG&E and SoCal Edison were market participants in PJM, under the PJM Credit Policy Order, they would be required to fully collateralize their participation in the CRR auctions, whereas under the CAISO proposal, PG&E and SoCal Edison are still able to utilize unsecured credit to participate in CRR auctions.

30. We also disagree with protestors' arguments that the CAISO has not justified the increased cost of participation in the CRR auction markets, which may result from the decrease in the maximum unsecured credit limit. The CAISO has explained that any collateral needed to cover pre-CRR auction credit requirements must be posted two business days prior to the auction and that the balance of CRR auction related collateral is returned when the auction settles, approximately 3-4 weeks after the auction concludes.[44] The possibility of a CRR market participant being required to post additional financial security for approximately 3-4 weeks does not justify maintaining the current maximum

[41] PJM Credit Policy Order, 127 FERC ¶ 61,017 at P 35-36.

[42] *Id*. P 35.

[43] *Id*. P 36. PJM's firm transmission rights (FTRs) are similar to CRRs in the CAISO market.

[44] *See* CAISO Answer at 4-5.

unsecured credit limit of $150 million for all transactions in the CAISO market, which increases all market participants' mutualized default risk.[45]

31. For similar reasons, we reject SoCal Edison's request to require the CAISO to modify its proposed language to temporarily increase the maximum unsecured credit limit to $150 million for the month in which the annual CRR auction occurs.[46] As discussed above, we find that the possibility of a market participant being required to post financial security as a requirement for participation in the CRR auction does not justify keeping the maximum unsecured credit limit, even for a one month period, at $150 million. Further, because a market participant's unsecured credit limit is used to cover a variety of its credit obligations, and is not limited to its CRR auctions credit obligation, we conclude that it would not be reasonable to temporarily increase the maximum unsecured credit limit for the month in which the annual CRR auctions occurs.[47] Increasing the maximum unsecured credit limit in the month in which the annual CRR auction occurs would allow market participants to obtain higher levels of unsecured credit during the month of a CRR auction for all market activities, not merely those related to the annual CRR auction. The Commission finds that this would unreasonably increase all participants' mutualized default risk.

32. Additionally, because the CAISO is not proposing to eliminate the unsecured credit limit, we find that Modesto's comment opposing the elimination of the unsecured credit limit is not ripe, and beyond the scope of this proceeding.

33. Finally, because the effects of the CAISO's payment acceleration program will not be fully realized until the CAISO's requested effective date for this proposal's tariff sheets, we find good cause to allow the CAISO tariff revisions to become effective January 5, 2010, approximately two months after the November 1, 2009 implementation date of the payment acceleration program.

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[45] *See, e.g.,* PJM Credit Policy Order, 127 FERC ¶ 61,017 at P 35. (The Commission accepted a PJM proposal to shorten its billing and payment schedule and a corresponding reduction in an Unsecured Credit Allowance. In the PJM Credit Policy Order, the Commission determined that "it is reasonable to reduce the Unsecured Credit Allowance in accordance with the accelerated settlements because without the reductions, it is estimated that over 70 percent of PJM's market participants' total credit requirements would be unsecured, which would increase market activity beyond current levels without providing financial security to PJM." *Id*.).

[46] *See* SoCal Edison Comments at 4.

[47] *See* CAISO tariff section 12.1.3.1.1.

The Commission orders:

The CAISO's tariff filing is hereby accepted, and waiver of section 35.3 of the Commission's regulations is granted to permit the tariff sheets to be effective on January 5, 2010, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Document Content(s)