153 FERC ¶ 61,045
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation Docket No. ER15-2441-000

ORDER ACCEPTING TARIFF REVISIONS

(Issued October 15, 2015)

1. On August 13, 2015, the California Independent System Operator Corporation (CAISO) filed under section 205 of the Federal Power Act (FPA)[1] proposed tariff revisions to implement a settlement process for charges CAISO will receive from Peak Reliability for reliability coordinator services. In this order, we accept CAISO's proposed tariff revisions for filing, effective October 15, 2015, as requested.

I. Background

2. With the recent bifurcation of the Western Electricity Coordinating Council (WECC), Peak Reliability was formed as a separate, independent company to perform the reliability coordinator function in the Western Interconnection.[2] Prior to the bifurcation of WECC into two separate entities, WECC performed the reliability coordinator function and included the costs of the reliability coordinator services, as well as charges for WECC's function as a regional entity, in a single invoice to CAISO.[3] CAISO

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[1] 16 U.S.C. § 824d (2012).

[2] CAISO Transmittal at 1. In a February 12, 2014 order, the Commission accepted compliance filings to effectuate the bifurcation of WECC into separate entities, WECC and Peak Reliability, and the sub-delegation of WECC's reliability coordinator and interchange authority functions to Peak Reliability. *See North American Electric Reliability Corp.*, 146 FERC ¶ 61,092, *reh'g denied*, 147 FERC ¶ 61,064, at P 15 (2014), appeal docketed *sub nom. Edison Electric Institute v. FERC*, No. 14-1071 (D.C. Cir. May 9, 2014).

[3] CAISO Transmittal at 1.

explains that its existing tariff provisions regarding settlement of North American Electric Reliability Corporation (NERC)/WECC charges allow CAISO to pass through the charges for WECC services to scheduling coordinators serving load.[4]

3. According to CAISO, Peak Reliability developed a funding agreement that it will execute with balancing authorities and certain transmission operators throughout the Western Interconnection, including CAISO, to cover the cost of services provided by Peak Reliability.[5] CAISO states that the funding agreement allocates Peak Reliability's charges for the reliability coordinator function according to essentially the same percentage of total load formula that WECC previously used to allocate reliability coordinator charges as part of the total WECC invoice, with only minor changes that are inapplicable to CAISO.[6]

II. CAISO's Filing

4. CAISO states that, because the reliability coordinator service charges will no longer be included in CAISO's annual invoice from WECC, CAISO can no longer use the billing and settlement provisions in its tariff for NERC/WECC charges.[7] Therefore, CAISO states, it developed tariff provisions to allocate the charges it receives from Peak Reliability to scheduling coordinators within CAISO. CAISO proposes to use the same cost allocation methodology for these charges as is currently used for the NERC/WECC charges. CAISO explains that scheduling coordinators will be assessed the same percentage of the cost for the reliability coordinator services that they receive under the current WECC invoice. CAISO states that it has also developed a settlement process for the annual Peak Reliability charge similar to the current process for NERC/WECC

[4] *See North American Elec. Reliability Corp.*, 116 FERC ¶ 61,062, at PP 166-169 (2007). On April 19, 2007, the Commission accepted a delegation agreement between NERC and WECC that established WECC as the regional entity for the Western Interconnection and provided for the allocation of NERC/WECC charges under section 215 of the FPA to load-serving entities in the Western Interconnection. *North American Elec. Reliability Corp.*, 119 FERC ¶ 61,060 (2007). Section 11.20.1(a) of CAISO's tariff provides that, "CAISO shall invoice Scheduling Coordinators for all of the NERC/WECC Charges that are invoiced to the CAISO by the WECC on behalf of itself, NERC, and/or regional advisory bodies."

[5] CAISO Transmittal at 2.

[6] *Id.* CAISO explains that under the Peak Reliability allocation formula, a balancing authority that has no load would pay a nominal minimum charge. *Id.*

[7] *Id.* at 4.

charges, but with certain changes to address CAISO's payment obligation to Peak Reliability based on a direct bill arrangement that is not in place under WECC.[8]

5. CAISO adds that Peak Reliability is in the process of finalizing and executing its funding agreement and that pursuant to the agreement, Peak Reliability will be sending parties their first annual invoice, covering the 2016 funding year, on or around November 1, 2015. CAISO therefore requests an October 15, 2015 effective date for the tariff revisions in order to have the provisions in place in time to process Peak Reliability's first annual invoice.[9]

6. CAISO states that, after receiving the annual invoice from Peak Reliability, it will issue a market notice to advise market participants of the invoice and the charge rate CAISO will use for the assessment year. CAISO states that it will calculate the charge rate using the total dollar amount of reliability coordinator charges invoiced to CAISO divided by the most recent total NERC/WECC metered demand. CAISO proposes to allocate the reliability coordinator charges to each scheduling coordinator serving load in the CAISO balancing authority area using the most recent NERC/WECC metered demand for each scheduling coordinator. CAISO adds that this is the same methodology that CAISO currently uses to allocate NERC/WECC charges. CAISO states that, rather than receiving one invoice, scheduling coordinators will receive two invoices—one for NERC/WECC charges and another for reliability coordinator charges—but their payment obligation will effectively remain the same.[10]

7. CAISO also states that its proposed confirmation and validation process for Peak Reliability invoices, as well as the proposed dispute process, will be the same as for a NERC/WECC invoice. However, CAISO states that it is proposing new payment and default provisions for the Peak Reliability charges that do not exist for NERC/WECC charges. CAISO explains that the reason for the difference is that CAISO's funding agreement with WECC requires CAISO to forward to WECC only the NERC/WECC charges it collects from scheduling coordinators and a list of any scheduling coordinators that did not make full payment, with no further payment obligation, but by contrast,

[8] *Id.*

[9] *Id.*

[10] *Id*. at 4-5.

under Peak Reliability's funding agreement, CAISO will now be required to pay the Peak Reliability invoice in its entirety, regardless of whether a scheduling coordinator pays its CAISO invoice in full.[11]

8. CAISO states that if a scheduling coordinator defaults on payment of all or part of the reliability coordinator charge invoice, CAISO will follow its existing tariff authority applicable to payment defaults. According to CAISO, in the event of a default, it may exercise its rights to enforce the financial security provided by the defaulting scheduling coordinator or take other actions under its tariff to obtain payment from the defaulting scheduling coordinator for the amount owed.[12]

III. Notice and Responsive Pleadings

9. Notice of CAISO's proposed tariff revisions was published in the *Federal Register*, 80 Fed. Reg. 50,619 (2015), with interventions and protests due on or before September 3, 2015. Timely motions to intervene were filed by NRG Companies, Southern California Edison Company, and Pacific Gas and Electric Company. A timely motion to intervene and protest was filed by Six Cities.[13] On September 10, 2015, CAISO filed an answer to Six Cities' protest.

10. In their protest, Six Cities request that the Commission reject the cost allocation methodology proposed by CAISO, which allocates reliability coordinator charges exclusively to load, and instead direct CAISO to implement a cost allocation methodology that reflects assessment of a portion of reliability coordinator charges to resources, which also benefit from reliability coordinator services.[14] Six Cities state that if the Commission does not require CAISO to adopt such an allocation methodology, then Six Cities request that the Commission direct CAISO to evaluate using the System Operations Charge component of the Grid Management Charge (GMC) in the next cost-of-service study related to the GMC.[15]

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[11] *Id*. at 6-7.

[12] *See* CAISO, eTariff, §§ 11.29.12, 11.29.13, 11.29.13.3.

[13] For purposes of this proceeding, Six Cities are Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California.

[14] Six Cities Protest at 1-2.

[15] *Id.*

11. Six Cities acknowledge that the Commission has previously found the cost allocation methodology that CAISO proposes to be just and reasonable when the reliability coordinator function was performed by WECC, and for a short transition period following the separation of the WECC reliability coordinator into a separate entity, Peak Reliability.[16] Six Cities argue that, although CAISO states that the charges it receives from Peak Reliability are based on CAISO load under CAISO's funding agreement with Peak Reliability, the agreement does not govern the recovery of Peak Reliability assessments within a balancing authority or by a transmission operator.[17]

12. Six Cities assert that, like load, resources benefit from a safe and reliable electric system, and thus imposing a share of reliability coordinator costs on scheduling coordinators for resources as well as those for load is a reasonable way to evenly spread the reliability coordinator costs among all beneficiaries within CAISO.[18] Six Cities explain that the Systems Operation Charge of CAISO's GMC, which is assessed by "dividing the annual GMC revenue requirement allocated to this service category by forecast annual gross absolute value of MWh of real-time energy flows on the [CA]ISO Controlled Grid," net of certain exclusions, would be a more appropriate mechanism for allocating the cost of reliability coordinator services.[19]

13. In its answer, CAISO argues that although Peak Reliability's services provide a general reliability benefit to all market participants, the same is true for the reliability standards development, compliance, and enforcement functions performed by NERC and WECC, the cost of which the Commission has found is properly allocated to load by CAISO using the same methodology as CAISO proposes for Peak Reliability's charges.[20] CAISO asserts that Six Cities identify no materially changed circumstances that would require the Commission to overhaul CAISO's longstanding, Commission-approved methodology for allocating reliability coordinator costs to load.[21]

[16] *Id.* at 2.

[17] *Id.* at 3.

[18] *Id*.

[19] *Id*. at 4 (citing CAISO Tariff, Appendix F, Schedule 1 Part A).

[20] CAISO Answer at 2.

[21] *Id.*

14. CAISO also asserts that Six Cities' proposal to include the reliability coordinator costs in CAISO's GMC fails to take account of the broader structure of the GMC.[22] CAISO explains that the GMC structure effectively operates as a rate cap, allowing it to avoid annual cost-of-service filings provided it manages the costs it recovers through GMC so that they remain below a Commission-approved limit.[23] CAISO reasons that this works well for expenses that CAISO has the ability to manage, but is improper for an externally imposed and unavoidable charge such as the Peak Reliability charge.[24] CAISO argues that it has no ability to manage, reduce, or avoid this charge, which is substantial in amount and has been variable and increasing in recent years.[25]

15. Additionally, CAISO argues that its GMC is the vehicle through which it recovers its administrative, operating, and capital costs associated with managing the grid and providing services under its tariff from the entities that use CAISO services.[26] CAISO asserts that Peak Reliability's reliability coordinator costs are separate and distinct from the costs CAISO incurs to manage the grid and provide services under its tariff, and the reliability coordinator function does not constitute a service or function provided by CAISO.[27]

16. CAISO states that the Peak Reliability charge is no different from NERC and WECC charges because CAISO has no means to avoid or limit the charge.[28] CAISO believes that the Commission correctly treats these charges as pass-through expenses allocable to CAISO market participants through a load-based assessment mirroring how NERC and WECC charges are allocated to CAISO. CAISO states that these charges should continue to be allocated through a separate invoicing process rather than through the GMC.[29]

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[22] *Id.*

[23] *Id.*

[24] *Id.* at 2-3.

[25] *Id.*

[26] *Id.* at 3.

[27] *Id.*

[28] *Id.*

[29] *Id*. at 3-4.

IV. Discussion

A. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding.

18. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept CAISO's answer because it has provided information that assisted us in our decision-making process.

B. Commission Determination

19. We accept CAISO's proposed tariff revisions, effective October 15, 2015, as requested. We find that the proposed tariff revisions are just and reasonable because, as discussed more fully below, they prescribe a settlement process for reliability coordinator service charges that is consistent with Commission precedent.[30] We also find that CAISO's proposed invoice payment and default provisions for Peak Reliability charges provide a reasonable approach to ensuring that those responsible for such charges be responsible for paying those charges.

20. We reject Six Cities' protest arguments, which challenge the methodology CAISO would use to allocate Peak Reliability's reliability coordinator costs. As Six Cities acknowledge, that methodology is the same methodology that CAISO currently uses to allocate the NERC/WECC reliability charges it incurs. Although the tariff changes at issue here incorporate that methodology as part of the revised settlement process, CAISO does not seek to change it. We see no reason based upon the record here, regarding revisions that are largely procedural in nature, to require substantive changes to CAISO's allocation of reliability coordinator costs.

21. We note that in Order No. 672, the Commission determined that allocating Electric Reliability Organization (ERO) charges, fees, and dues to regional entities, such as WECC, on the basis of net energy for load was a fair and reasonable apportionment

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[30] *See Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,316, *order on reh'g and compliance*, 121 FERC ¶ 61,074 (2007).

method.[31] Furthermore, when the Commission accepted CAISO's tariff proposal to allocate NERC/WECC reliability charges, it found NERC/WECC metered demand to be a reasonable basis for allocating costs to CAISO market participants.[32] CAISO's proposed allocation of Peak Reliability charges is consistent with these findings.

22. Based upon the foregoing, we accept CAISO's proposed tariff revisions and reject Six Cities' protest arguments.

<u>The Commission orders</u>:

CAISO's proposed tariff revisions are hereby accepted for filing, effective October 15, 2015, as requested, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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[31] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards*, Order No. 672, FERC Stats. & Regs. ¶ 31,204, at PP 211, 213 (2006) (rejecting arguments that non-load serving entities using the Bulk-Power system would not pay their fair share of costs), *order on reh'g*, Order No. 672-A, FERC Stats. & Regs. ¶ 31,212 (2006). *See also North American Electric Reliability Corp.*, 116 FERC ¶ 61,062, *order on reh'g and compliance*, 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc. v. FERC*, 564 F.3d 1342 (D.C. Cir. 2009) (certifying NERC as the ERO, and accepting net energy for load method for allocating NERC fees).

[32] *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,316 at PP 11, 25, *order on reh'g and compliance*, 121 FERC ¶ 61,074 at P 25.