

UNITED STATES OF AMERICA 92 FERC ¶ 61,004
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: James J. Hoecker, Chairman;
William L. Massey, Linda Breathitt,
and Curt Hébert, Jr.

California Independent System Operator Corporation Docket No. ER00-555-002

ORDER ACCEPTING COMPLIANCE FILING

(Issued July 3, 2000)

In this order, we accept the California Independent System Operator Corporation's (ISO) compliance filing, as amended by the ISO's Answer in this proceeding, submitted in response to the Commission's January 7, 2000 order in California Independent System Operator Corp., 90 FERC ¶ 61,006, reh'g denied, 91 FERC ¶ 61,026 (2000) (January 7 Order).

I. Background

When the ISO has not received bids from generators that must operate in order to resolve a real-time system problem, the ISO has the authority to issue dispatch orders to those generators and pay them for the energy they produce at the real-time market price. In Docket No. ER00-555-000, the ISO filed Amendment No. 23 to the ISO Tariff. The primary purpose of Amendment No. 23 was to expand the ISO's out-of-market (OOM) dispatch authority to also apply in instances in which generators have submitted bids but, in the determination of the ISO, the markets for such bids are not competitive.

In the January 7 Order, the Commission accepted for filing in part and rejected in part Amendment No. 23. In pertinent part, the Commission rejected the ISO's proposal to expand its OOM dispatch authority. In addition, the Commission directed the ISO to conduct a comprehensive reevaluation of its approach to addressing intra-zonal congestion. However, the Commission accepted the parts of Amendment No. 23 that would: (1) establish an additional payment option for ISO dispatch orders; and (2) change the method used to allocate the costs of ISO dispatch orders.

On February 7, 2000, the ISO submitted a compliance filing. The ISO requests that the tariff revisions in the compliance filing become effective January 1, 2000.

II. Notice of Filing and Pleadings

Notice of the ISO's compliance filing was published in the Federal Register, 65 Fed. Reg. 8134 (2000), with protests and motions to intervene due on or before February 28, 2000.

Timely protests were filed by: Enron Power Marketing, Inc.; Reliant Energy Power Generation, Inc.; Southern Energy California, LLC, Southern Energy Potrero, LLC, and Southern Energy Delta, LLC; and Williams Energy Marketing & Trading Company. Timely motions to intervene and protests were filed by Duke Energy North America, LLC (Duke) and Western Power Trading Forum (WPTF). Transmission Agency of Northern California, M-S-R Public Power Agency, Modesto Irrigation District and the Cities of Santa Clara and Redding, California (TANC and Cities/M-S-R) jointly filed timely comments.

On February 29, 2000, the Independent Energy Producers Association (IEP) filed a motion to intervene out-of-time and protest.

On March 14, 2000, the ISO filed an answer.

III. Discussion

A. Procedural Matters

With respect to their motions to intervene, Duke, IEP and WPTF are already parties to this proceeding because of their previous interventions in Docket Nos. ER00-555-000 and ER00-555-001.¹ In the absence of any undue prejudice or delay, we will also accept IEP's late protest.

Although our rules generally prohibit answers to protests,² we will accept the ISO's answer. It has aided us in understanding and resolving the issues.

B. The ISO's Compliance Filing

¹90 FERC at 61,010 (noting Duke's and IEP's interventions); 91 FERC at 61,085 (granting WPTF's intervention).

²18 C.F.R. § 385.213 (1999).

1. References to "Locational Requirements" and "Location-Specific Requirements"

ISO Tariff Section 11.2.4.2 (Payment Options for ISO Dispatch Orders), as revised by the ISO in its compliance filing, provides in pertinent part as follows:

With respect to all resources which have not bid into the Imbalance Energy or Ancillary Services markets but which have been dispatched by the ISO to avoid an intervention in market operations, to prevent or relieve a System Emergency, or to satisfy a locational requirement, the ISO shall calculate, account for and, if applicable, settle deviations from the Final Schedule submitted on behalf of each such resource, with the relevant Scheduling Coordinator for each Settlement Period for each such resource by application of either of the [alternative payment options]. . . .

ISO Tariff Section 11.2.4.2.1 (Allocation of Costs Resulting From ISO Dispatch Orders), as revised by the ISO's compliance filing, provides in pertinent part as follows:

Pursuant to Section 11.2.4.2, the ISO may, at its discretion, dispatch any Participating Generator, Participating Load and import, that has not bid into the Imbalance Energy or Ancillary Services markets, to avoid an intervention in market operations or to prevent or relieve a System Emergency. Such dispatch may result from, among other things, planned and unplanned transmission facility outages; bid insufficiency in the Ancillary Services and Real-Time Energy markets; and location-specific requirements of the ISO that cannot be meaningfully provided through the market. . . .

Intervenors argue that the language "or to satisfy a locational requirement" should be removed from Section 11.2.4.2, because it was originally part of the ISO's proposal to expand its OOM authority, which the January 7 Order rejected. They contend that the language is unnecessary for the ISO to implement the payment option and cost allocation aspects of Amendment No. 23 that the Commission accepted for filing. They further contend that the language creates ambiguity, because the term "locational requirement" is not defined in the ISO Tariff. Intervenors also express concern that the ISO might attempt to use that language as a justification for ignoring market bids and issuing OOM calls, contrary to the January 7 Order.

Intervenors also argue that the language "and location-specific requirements of the ISO that cannot be meaningfully provided through the market" in ISO Tariff Section 11.2.4.2.1 should be deleted for the same reasons that they argue for the deletion of language from Section 11.2.4.2.

The ISO responds that the disputed language does not reflect an attempt to expand its authority to dispatch resources. The ISO argues that the January 7 Order recognizes that the ISO has authority to dispatch resources to address location-specific requirements. Further, the ISO contends that the disputed language is necessary in Sections 11.2.4.2 and 11.2.4.2.1, because the distinction between whether a resource has been dispatched out-of-market to address a location-specific requirement or for some other purpose determines the entity to which the cost of that dispatch order will be allocated. In addition, the ISO contends that Sections 11.2.4.2 and 11.2.4.2.1 are pricing and allocation provisions which are included in the "Settlements and Billing" section of the ISO Tariff and do not bear on the ISO's authority to dispatch resources.

In response to Intervenors' concerns, the ISO does agree to delete the phrase "that cannot be meaningfully provided through the market" at the end of the second sentence of Section 11.2.4.2.1.³ The ISO states that failure to delete that language in the compliance filing was an oversight.

We find that the ISO's compliance filing, as amended by its Answer, is consistent with the January 7 Order. In that order, we accepted the ISO's proposed cost allocation tariff provision, stating that when OOM results from a local reliability problem, it is appropriate that transmission users paying rates on the basis of the affected system pay this additional reliability cost.⁴ Retaining the ISO Tariff's references to locational requirements and location-specific requirements does not result in authority for the ISO beyond what was authorized by the January 7 Order. The ISO's compliance filing did not add the references to locational requirements and location-specific requirements. Those references were already in the ISO Tariff, as amended by Amendment No. 23, and the January 7 Order did not require that they be deleted.

We also accept the ISO's deletion of the phrase "that cannot be meaningfully provided through the market" from the second sentence of Section 11.2.4.2.1. The deletion of that phrase is consistent with the January 7 Order's rejection of the ISO's original proposal in Amendment No. 23 to expand its OOM authority.

³ISO's Answer at 6-7. The ISO submits a revised tariff sheet reflecting that deletion. ISO's Answer, Attachment A.

⁴90 FERC at 61,015.

2. Section 11.2.4.2's Reference to a "System Emergency"

Reliant asserts that the phrase "to prevent or relieve a System Emergency" in the first sentence of Section 11.2.4.2 is ambiguous, given the ISO's attempts to read "System Emergency" to include Intra-Zonal Congestion. Reliant requests that the ISO be required to clarify and narrowly define the meaning of this phrase.⁵

The reference to "System Emergency" was in the ISO Tariff prior to the ISO's compliance filing, and the January 7 Order did not direct the ISO to delete that reference. Therefore, no modification is necessary.

3. References to "Resources" and "Imports" in Sections 11.2.4.2 and 11.2.4.2.1⁶

TANC and Cities/M-S-R contend that the ISO failed to comply with the January 7 Order by failing to replace the terms "resources" and "imports" with the term "Participating Generators." TANC and Cities/M-S-R state that, in their protest of Amendment No. 23, they opposed the inclusion of the terms "resources" and "imports," because those terms were not defined in the ISO Tariff and utilization of such terms could result in the expansion of the ISO's dispatch authority. TANC and Cities/M-S-R argue that the January 7 Order only discussed (and therefore limited the ISO's dispatch authority to) "Participating Generators."

The ISO disputes the contention that its authority is limited to "Participating Generators." The ISO argues that the January 7 Order also discusses the ISO's authority in the more general context of "generators," "generating units," and "resources."⁷ Further, the ISO asserts that, in discussing the ISO's authority under Section 5.1.3 of the ISO Tariff in the "Unresolved Issues" proceeding in Docket No. ER98-3760, TANC has conceded that the ISO's authority to call on resources out-of-market in certain circumstances extends beyond Participating Generators. Further, the ISO disputes the argument that the term "resource" should not be used because it is not a defined term in the ISO Tariff. The ISO states that the term "resources" appears in other Tariff

⁵Reliant's Protest at 3, n.2.

⁶The term "resources" appears in several places in Section 11.2.4.2, and the term "imports" appears in Section 11.2.4.2.1.

⁷The ISO cites 90 FERC at 61,011.

provisions approved by the Commission.⁸ Moreover, the ISO argues that its transmittal letter for Amendment No. 23 makes it clear that the term "resource" includes Generating Units and imports. The ISO also cites its February 11, 2000 Market Notice concerning the procedures for Scheduling Coordinators representing "Generating Units and other resources" to make the annual election described in Section 11.2.4.2.⁹

The ISO contends that the term "imports" is included within the definition of the term "resource." The ISO states that it does not suggest that it has the authority to direct the dispatch of resources outside the ISO Control Area under Section 5.1.3. However, the ISO contends that there are circumstances where the ISO will make OOM calls to import Energy or services from outside the ISO Control Area.

The terms "resources" and "imports" were included in Sections 11.2.4.2 and 11.2.4.2.1, which the January 7 Order accepted for filing. The January 7 Order did not require that these terms be deleted or that they be changed to refer to Participating Generators. Therefore, no modifications are necessary.

The Commission orders:

The ISO's compliance filing, as amended by its Answer, is hereby accepted for filing.

By the Commission.

(S E A L)

⁸For example, the ISO notes that Section 7.2.6.2 as currently approved by the Commission provides that "[i]n the event no Adjustment Bids or Imbalance Energy bids are available [to manage Intra-Zonal Congestion], the ISO will exercise its authority to direct the redispach of resources." ISO's Answer at 9.

⁹ISO's Answer at 9 & Attachment B.

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David P. Boergers,
Secretary.