

132 FERC ¶ 61,211
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

California Independent System Operator Corporation Docket No. ER10-1755-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued September 10, 2010)

1. On July 12, 2010, the California Independent System Operator Corporation (CAISO) submitted, pursuant to section 205 of the Federal Power Act (FPA),¹ tariff revisions to facilitate the provision of ancillary services by non-generator resources. As discussed below, the Commission conditionally accepts the proposed tariff revisions, effective September 10, 2010, as requested.

I. Background

2. CAISO proposes tariff revisions to modify its operating characteristics and technical requirements for existing ancillary service products. CAISO states that the purpose of these revisions is to facilitate the participation of non-generator resources in its ancillary services market, consistent with the requirements of Commission Order Nos. 719² and 890.³ Specifically, CAISO cites to the directive in Order No. 719 to each

¹ 16 U.S.C. § 824d (2006).

² *Wholesale Competition in Regions with Organized Electric Markets*, Order No. 719, FERC Stats. & Regs. ¶ 31,281 (2008); *order on reh'g*, Order No. 719-A, FERC Stats. & Regs. ¶ 31,292 (2009); *order on reh'g*, Order No. 719-B, 129 FERC ¶ 61,252 (2009) (Order No. 719).

³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009) (Order No. 890).

regional transmission organization (RTO) or independent system operator (ISO) “to accept bids from demand response resources, on a basis comparable to any other resources, for ancillary services that are acquired in a competitive bidding process,” if the demand response resources meet the specified technical and bidding requirements.⁴ In addition, CAISO states that Order No. 890 requires RTOs/ISOs to “evaluate non-generation resources, such as demand response and storage, on a comparable basis to services provided by generation resources.”⁵ CAISO asserts that its proposal will advance both of these directives by expanding the pool of resources that can participate in CAISO’s ancillary services market and allowing non-generator resources to be treated on a comparable basis to generation resources.⁶

3. CAISO states that the proposed revisions are the result of a stakeholder process commenced in September 2009 to ensure that non-generator resources can participate in its ancillary services market consistent with the directives discussed above. Specifically, CAISO proposes the following revisions to the provisions of its tariff pertaining to the technical requirements for ancillary service providers: (1) reduction of the minimum rated capacity⁷ requirement to 500 kW from the existing one MW; (2) clarification that the measurement of the continuous energy requirement⁸ will start from the point a resource reaches its award capacity rather than the existing measurement starting after the

⁴ CAISO Proposal at 5 (citing Order No. 719 at P 49).

⁵ *Id.* (citing Order No. 890 at P 888). We note that CAISO’s compliance with Order No. 890 is the subject of an ongoing proceeding in Docket Nos. OA08-12-005 and OA08-113-002. That proceeding addresses the procedures, such as the timeframe for submission of bids, for non-generators participation in CAISO’s ancillary services market. The issue of whether CAISO has provided a sufficient explanation of why applying the same procedural standards to non-generator resources satisfies the Commission’s “comparability” requirement will be addressed in that docket. The scope of the instant proceeding is limited to consideration of CAISO’s proposed operating characteristics and technical requirements for the provision of ancillary services by non-generator resources.

⁶ *Id.* at 1-2.

⁷ CAISO states that the minimum rated capacity is the lowest MW level a resource must be capable of providing in order to receive a certification to provide ancillary services.

⁸ CAISO states that the continuous energy requirement is the amount of energy a resource must deliver at a sustained level for a determined interval in order qualify to provide ancillary services.

ten-minute ramp requirement; and (3) reduction of the continuous energy requirement for ancillary services from the existing two hour requirement to 30 minutes for spinning and non-spinning reserves, 60 minutes for day-ahead regulation, and 30 minutes for real-time regulation. In addition, CAISO proposes conforming changes to modify tariff language that may preclude non-generator resources from providing regulation, spinning reserve, or non-spinning reserve.⁹

II. Notice and Responsive Pleadings

4. Notice of the proposed tariff revisions was published in the *Federal Register*, 75 Fed. Reg. 42,434 (2010), with comments or protests due on or before August 2, 2010. Timely motions to intervene were filed by the following: (1) Beacon Power Corporation (Beacon); (2) the California Department of Water Resource State Water Project (SWP); (3) California Municipal Utilities Association; (4) The Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities); (5) Dynegy Morro Bay, LLC, Dynegy Moss Landing, LLC, Dynegy Oakland, LLC, and Dynegy South Bay, LLC (Dynegy); (6) Golden State Water Company; (7) the Northern California Power Agency; (8) Pacific Gas & Electric Company; and (9) Southern California Edison Company. Comments were filed by SWP and Dynegy. Beacon filed a protest. CAISO filed an answer.

III. Discussion

A. Procedural Matters

5. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

6. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2010), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept CAISO's answer because it has provided information that assisted us in our decision-making process.

7. We note that this order primarily addresses the contested features of CAISO's proposal. With respect to the proposed tariff revisions that are not contested and not specifically discussed herein, the Commission finds that they are just and reasonable and they are hereby accepted.

⁹ CAISO Proposal at 2.

B. Requirements for Non-Generator Providers of Regulation Services**1. CAISO Proposal**

8. To facilitate the participation of non-generator resources in its ancillary services market, CAISO proposes to reduce the minimum rated capacity for a resource to provide ancillary services from one MW to 500 kW in size.¹⁰ CAISO asserts that lowering this threshold will allow more demand response resources, as well as a broader spectrum of resource types to participate in CAISO's ancillary services market.¹¹

9. CAISO also proposes to change the continuous energy requirements associated with ancillary services. CAISO states that non-generation resources have the potential to provide ancillary services but may not have the ability to meet the current two-hour continuous requirement. Thus, CAISO proposes to reduce the continuous energy requirement for spinning and non-spinning reserves from two hours to 30 minutes. CAISO explains that this 30-minute requirement is based on data which shows that CAISO generally recovers from an area control error contingency event,¹² for which the reserves are needed, within 15 minutes and returns the contingency resources to their pre-contingency point within another 15 minutes. CAISO asserts that this data demonstrates that the 30-minute requirement is reasonable.¹³

10. For regulation services, CAISO proposes to reduce the continuous energy requirement from two hours to 60 minutes for the day-ahead market and 30 minutes for the real-time market. CAISO states that the 60-minute continuous energy requirement for the day-ahead market is consistent with the one hour day-ahead procurement interval. Regarding the 30-minute real-time continuous energy requirement, CAISO avers that in the real-time market, it procures incremental regulation requirements in 15-minute

¹⁰ The proposed CAISO tariff revision specifies that the rated capacity of the resource must be 500 kW or greater unless the resource is participating in an aggregation arrangement approved by the CAISO. CAISO Tariff, Appendix K, A.1.1.1.

¹¹ *Id.* at 2.

¹² "Area control error" is defined as the instantaneous sum of the difference between the actual and schedule net imports and exports between CAISO and interconnected balancing authority areas. Appendix A of CAISO Tariff.

¹³ CAISO Proposal at 3.

intervals, but explains that it set the continuous energy requirement at 30 minutes so that regulation bids also qualify as substitutes for spinning reserves.¹⁴

11. In addition, CAISO proposes to measure continuous energy from the time a resource reaches its award capacity. CAISO states that the measurement currently begins after ten minutes, the period CAISO allows for generators to reach their dispatch operating point, regardless of when the resource reaches its award capacity. CAISO asserts that the proposed modification recognizes that some resources may be able to reach their award capacity in less than ten minutes.¹⁵

12. Finally, CAISO proposes conforming changes to the language in Section 8 and Appendices A and K of its tariff to reflect the inclusion of non-generator resources as ancillary service providers.¹⁶

2. Comments and Protests

13. Beacon opposes the CAISO Proposal, arguing that it discriminates against limited energy storage resources such as flywheels and batteries. Beacon Power states that despite being certified to provide ancillary services, the proposed tariff revisions impose financial barriers to the entry of limited energy storage resources in the CAISO market.¹⁷ Beacon complains that the CAISO Proposal erects barriers to the use of energy storage for regulation at a time when the integration of renewable resources is creating a need for a significant increase in regulation capacity.¹⁸

14. First, Beacon contends that the CAISO's proposed continuous energy requirement for regulation is excessive and discriminatory to limited energy storage devices. Beacon asserts that whereas most generation resources are indifferent to how long they run, energy storage devices have a limited storage capacity and, therefore, a limited ability to sustain continuous energy. Beacon explains that inherent in the design of a limited energy storage resource, the amount of regulation capacity it can provide varies with each

¹⁴ *Id.* at 3-4.

¹⁵ *Id.* at 4.

¹⁶ *Id.*

¹⁷ Beacon August 2, 2010 Protest in Docket No. ER10-1755-000 at 1 (Beacon Protest).

¹⁸ *Id.* at 22-24. Beacon cites to numerous studies and reports indicating, first, the need for more regulation and, second, the superior regulation capability of limited energy storage resources.

dispatch interval based on the amount of energy stored in the device. Thus, Beacon argues that the proposed continuous energy requirement for regulation would limit the amount of regulation capacity it can provide to a fraction of what it is technically capable of producing. For example, Beacon states that a 20 MW/5 MWh flywheel storage plant is technically capable of providing 20 MW of power in either direction, within four seconds of receiving a CAISO instruction, for up to 15 minutes. However, according to Beacon, under the CAISO Proposal that same facility would only be allowed to offer and be paid for 5 MW of regulation in the day-ahead market because it can only continuously provide 5 MW of energy for the full 60 minutes.¹⁹

15. Beacon contends that the 30-minute continuous energy requirement for the real-time market is also onerously restrictive because it still severely limits the amount of its nameplate capacity that it can offer in the market. Beacon expresses concern that no investor will be interested in funding a plant that can be paid for only a fraction of its nameplate capacity. Also, Beacon argues that because CAISO procures the bulk of its regulation capacity in the day-ahead market, Beacon projects that it would only occasionally be able to take advantage of the 30-minute continuous energy requirement.²⁰

16. In addition, Beacon argues that the 30-minute requirement has no logical basis. Beacon notes that CAISO's stated reason for the proposed 30-minute requirement is to allow regulation to continue to be substituted for spinning reserve. Beacon contends that it is unreasonable to restrict a resource from providing one ancillary service to enable it to be substituted for another ancillary service. Beacon states that it has never sought to provide contingency reserves and points out that its flywheels are designed to provide regulation only. Beacon asserts that other ISOs²¹ allow storage resources to participate in regulation markets without requiring the capability to provide other ancillary services. Beacon claims that CAISO has not justified its failure to adopt a similar approach.²²

17. Moreover, Beacon asserts that the CAISO Proposal fails to award regulation to limited energy resources on a comparable basis to generators. According to Beacon, the CAISO allows generators ten minutes to achieve their regulation dispatch operating point, but fails to take into account the increased flexibility of storage resources, which Beacon claims have the capability to respond almost instantly to CAISO signals. Thus,

¹⁹ *Id.* at 13-14.

²⁰ *Id.* at 15.

²¹ Beacon asserts that the New York Independent System Operator (NYISO) and the Midwest Independent System Operator, Inc. (MISO) have adopted such provisions.

²² Beacon Protest at 18-19.

because a limited energy storage resource will likely achieve its dispatch operating point much more quickly than a generator, Beacon claims that a limited energy storage resource will be required to perfectly provide continuous power for a greater portion of the 60 minutes than a generator.²³ Beacon argues, therefore, that the CAISO Proposal discriminates against limited energy storage resources by holding them to a higher performance standard than generators and effectively punishes these resources for their ability to respond much more quickly to CAISO signals than most conventional generators.²⁴

18. Further, Beacon offers that CAISO could easily accommodate the needs of limited energy storage resources by implementing a regulation energy management mechanism.²⁵ Beacon notes that NYISO and MISO have implemented procedures that allow storage resources to continuously replenish their states-of-charge. Beacon asserts that the regulation energy management option enables limited energy storage resources to deliver their maximum nameplate regulation capacity on a comparable basis to generators. Beacon states that CAISO had previously proposed the inclusion of such a mechanism during the stakeholder process, but prematurely eliminated this option from the proposal due to concerns expressed by CAISO's Department of Market Monitoring and other

²³ *Id.* at 17. For example, Beacon asserts that if the CAISO awards a generator 5 MW of up and down regulation, it allows 10 minutes for the generator to reach its capacity level, resulting in the generator providing just 4.6 MW of regulation, even though it gets paid for the full 5 MW. On the other hand, Beacon asserts that the only way a limited energy storage resource can be paid for 5 MW of regulation is if it can actually provide the full 5 MW over an hour.

²⁴ *Id.* at 16-17.

²⁵ Regulation energy management would involve use of the 5-minute imbalance energy market for real-time energy injections or withdrawals scheduled by CAISO to manage the storage capacity of a limited energy storage resource. *See* Beacon Protest at 20.

stakeholders.²⁶ Beacon contends that the concerns regarding regulation energy management could be quickly resolved and implemented in 2010.²⁷

19. Finally, Beacon asserts that simply changing the definitions of certain terms in the CAISO tariff to replace references to specific generation resources with the more generic term “resources” is not sufficient to comply with Order 890’s directives pertaining to the provision of ancillary services. Beacon argues that despite the proposed changes in the tariff language, limited energy storage resources will still be excluded from participation in the regulation market.²⁸ Thus, Beacon dismisses the notion that the CAISO Proposal is a step forward in allowing non-generating resources to participate in CAISO markets. Accordingly, Beacon requests that the Commission reject the CAISO’s filing and direct CAISO to submit, by a date certain, tariff provisions that comply with the directives of Order No. 890 and would allow all resources to participate in the CAISO markets on a comparable basis.²⁹

3. CAISO Answer

20. CAISO rejects Beacon’s position that CAISO’s proposed continuous energy requirements for regulation are unjust, unreasonable, and unduly discriminatory. First, CAISO asserts that its proposed tariff amendments are consistent with the requirements of Order No. 890 and will permit a larger pool of resources to provide ancillary services. According to CAISO, Order No. 890 requires that RTOs and ISOs permit non-generator resources to provide ancillary services only where appropriate.³⁰ CAISO also argues that Order No. 719 did not preclude CAISO from maintaining existing technical requirements for providers of ancillary services in its markets.³¹ CAISO acknowledges that Order

²⁶ For example, CAISO’s Department of Market Monitoring raised concerns about physical withholding by traditional generators and the potential uplift costs resulting from the exemption of regulation energy management resources from settlement of real-time energy. *See* Department of Market Monitoring Comments on Final Proposal on Non-Generator Resources in California ISO Ancillary Service Markets, March 4, 2010, *available at*: <http://www.caiso.com/2750/2750bb072b320.pdf>.

²⁷ Beacon Protest at 20-22.

²⁸ *Id.* at 19-20.

²⁹ *Id.* at 24-25.

³⁰ CAISO August 17, 2010 Answer in Docket No. ER10-1755-000 at 7 (citing Order No. 890 at P 888) (CAISO Answer).

³¹ *Id.* at 7-8 (citing Order No. 719 at P 49).

Nos. 890 and 719 extend to non-generator resources such as limited energy storage resources, but contends that these orders do not direct CAISO to implement preferential tariff rules or develop new functionality, such as a regulation energy management mechanism, to accommodate a specific technology.³²

21. In addition, CAISO argues that its proposed continuous energy requirements for regulation do not discriminate against limited energy storage resources. CAISO disputes Beacon's claim that it has been "certified" by CAISO to provide regulation. CAISO claims that it has merely confirmed that Beacon's flywheel technology is capable of responding to real-time instructions. CAISO states that in order to receive certification to submit bids for regulation, all resources must comply with the technical requirements in the CAISO tariff, regardless of the technology involved. Thus, CAISO appears to suggest that Beacon's technology, and not the proposed technical requirements, drive any limitation on Beacon's ability to participate in CAISO's ancillary services market. In addition, CAISO disagrees with Beacon's contention that the proposed technical requirements do not award regulation to limited energy storage resources on a comparable basis with generators because CAISO allows generators ten minutes to reach their dispatch operating point. CAISO claims that resources without ramping constraints can immediately reach their dispatch operating points and may have an operating advantage over resources with longer ramping periods.³³

22. CAISO reiterates its position that a 60-minute continuous energy requirement for regulation bids in the day-ahead market is necessary because CAISO procures regulation on an hourly basis in the day-ahead market. With regard to its continuous energy requirement for regulation bids in real-time, CAISO offers two reasons why resources submitting regulation bids must have the capability to provide 30 minutes of continuous energy. First, CAISO states that data pertaining to contingency recovery times indicate that CAISO requires 15 minutes to recover from a contingency and another 15 minutes for the real-time market to return to a normal state. CAISO argues, therefore, that it has good reason to ensure that resources submitting regulation bids in real-time can supply 30 minutes of continuous energy.³⁴

23. In addition, CAISO declares that the 30-minute requirement allows higher quality ancillary services, such as regulation, to be substituted for lower quality ancillary services when it is economic to do so, consistent with existing tariff provisions governing the

³² *Id.* at 5-6, 8.

³³ *Id.* at 9-10.

³⁴ *Id.* at 12.

procurement of ancillary services.³⁵ CAISO acknowledges that Beacon has no interest in providing ancillary services other than regulation, but contends that Beacon's desire for a new, regulation-only product does not demonstrate that CAISO's proposed tariff amendments are unjust and unreasonable. CAISO argues that the Commission should not reject its proposal on the grounds that Beacon believes there is a better approach to including non-generator resources in CAISO's ancillary services market.³⁶

24. CAISO also asserts that Beacon's arguments contravene current Western Electricity Coordinating Council (WECC) reliability standards. CAISO contends that current WECC reliability standards define regulation and spinning reserves solely in terms of generation, and do not permit the provision of these ancillary services by non-generator resources.³⁷ CAISO claims that despite the proposed revisions to ancillary services requirements, the CAISO tariff continues to require CAISO to procure ancillary services in a manner that is consistent with the WECC reliability standards. Thus, CAISO claims that even with the proposed tariff amendments in effect, non-generator resources may face a delay in providing regulation and spinning reserve in CAISO's market unless and until a new reliability standard is approved.³⁸

25. Finally, CAISO confirms that it is considering the regulation energy management option advanced by Beacon.³⁹ CAISO states that it intends to focus on the implementation of regulation energy management during the first phase of a recently commenced renewable integration market product review. Specifically, CAISO states that it intends to finalize design elements associated with regulation energy management and resolve technical issues surrounding the real-time available capacity of limited energy storage resources to provide regulation, but does not provide a timeline for resolution of these issues.⁴⁰ CAISO requests that the Commission allow it to continue to work with Beacon and other affected interests as part of existing stakeholder processes to address the concerns raised by Beacon in its protest.

³⁵ *Id.* at 7.

³⁶ *Id.* at 13.

³⁷ *Id.* at 11 (citing WECC reliability standard BAL-STD-002-0-Operating Reserves).

³⁸ *Id.* at 10-11. CAISO notes that the Commission is currently considering a notice of proposed rulemaking to replace the WECC reliability standard at issue.

³⁹ *Id.* at 6-7, 8, 10, 14.

⁴⁰ *Id.* at 14.

4. Commission Determination

26. The Commission conditionally accepts the CAISO Proposal, subject to further compliance, as discussed below. The Commission finds that the CAISO Proposal represents an incremental step towards removing barriers to comparable treatment of non-generator resources to provide existing ancillary service products. We find that the reduction in the minimum rated capacity from one MW to 500 kW allows a greater number of demand response resources as well as a broader spectrum of non-generator resources to provide ancillary services and is just and reasonable. In addition, we find that CAISO's reduction in its continuous energy requirements, combined with the change in the way it measures continuous energy, serve to make the provision of ancillary services less burdensome for non-generator resources, while still supplying the service needed by CAISO.

27. We are mindful of the benefits of reducing barriers to participation of storage resources in the provision of ancillary services in the CAISO markets, particularly as the percentage of variable resources within CAISO's total generation portfolio increases.⁴¹ At the same time, we find that delaying acceptance of the instant tariff amendments until all tariff mechanisms necessary to fully integrate storage resources are developed would unnecessarily impede the participation of other non-generator resources in CAISO's ancillary service markets. We find that the potential harm of further delaying the timely implementation of the proposed CAISO tariff revisions may outweigh the potential benefits of requiring complete functionality upon initial implementation.⁴² Further, we believe that impeding non-generator participation by rejecting the CAISO Proposal would run contrary to the goals of Order Nos. 890 and 719. Accordingly, we accept CAISO's tariff revisions because they represent an incremental step towards comparable treatment of non-generators resources in the ancillary services markets and enhance CAISO's ability to operate its system reliably.

28. We do not find merit in Beacon's argument that CAISO's proposal in this filing discriminates against limited energy storage resources by allowing generators ten minutes to reach their dispatch operation point. The revisions at issue in this case⁴³ modify the

⁴¹ As technology evolves, we believe that energy storage and other non-generator resources are likely to play an increasing role in the provision of ancillary services.

⁴² See, e.g., *California Indep. System Operator Corp.*, 116 FERC ¶ 61,274, at P451-52 (2006); *order on reh'g*, 119 FERC ¶ 61,076, at P 117 (2007) (finding that the harm of further delaying implementation of CAISO's Market Redesign and Technology Upgrade (MRTU) tariff justified accepting CAISO's proposed tariff without the inclusion of convergence bidding in MRTU Release 1.0).

⁴³ Proposed CAISO Tariff §§ 8.4.1.1(c) and 8.4.3(a).

method CAISO will use to measure continuous energy, but do not change the amount of time that CAISO allows for a generator to reach its dispatch operating point. The ten-minute ramping allowance is an existing feature of the CAISO markets,⁴⁴ for which CAISO has not proposed revisions in this proceeding. As a result, the reasonableness of this provision is beyond the scope of this proceeding.

29. Regarding the continuous energy requirements for regulation services, we find that CAISO's proposal to reduce the continuous energy requirement from two hours to one hour in the day-ahead market and 30 minutes in real-time represents an improvement over its current tariff provisions. First, we find that CAISO's 30-minute continuous energy requirement for spinning and non-spinning reserve ancillary services was appropriately developed based on data concerning the length of contingency events and recovery time from those events. Studies regarding contingency recovery time referenced by CAISO demonstrate that a 30-minute continuous energy requirement for spinning reserves is just and reasonable. In addition, under the current CAISO tariff, regulation up capacity can be used to satisfy requirements for spinning and non-spinning reserves if CAISO determines that it is economically efficient to do so. Therefore, we agree with CAISO's argument that regulation up capacity must meet certain minimum characteristics of spinning and non-spinning reserves, including the 30-minute minimum continuous energy requirement. Therefore, we find that it is just and reasonable for CAISO to set the same real-time continuous energy requirement for regulation and spinning and non-spinning reserves.

30. Additionally, as CAISO notes, in order to permit some regulation capacity to be substitutable for spinning reserve while exempting other regulation capacity from this standard, the tariff provisions governing the procurement of ancillary services would require further consideration and modification. Under the current CAISO tariff, CAISO determines its ancillary service capacity requirements and procures its ancillary services on the premise that regulation can be used as a substitute for spinning reserves.⁴⁵ CAISO has not proposed tariff modifications to develop a regulation-only option, so such revisions are not before the Commission in the instant proceeding. Pursuant to section 205 of the FPA, the Commission limits its evaluation of a utility's proposed tariff revisions to an inquiry into "whether the rates proposed by a utility are reasonable – and does not extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs."⁴⁶ The proposed revisions "need not be the only

⁴⁴ CAISO Tariff § 8.4.3(a).

⁴⁵ CAISO Tariff § 8.2.3.5.

⁴⁶ *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984).

reasonable methodology.”⁴⁷ As a result, even if an intervenor develops an alternative proposal, the Commission must accept a section 205 filing if it is just and reasonable, regardless of the merits of the alternate proposal.⁴⁸ As discussed above, we find that the 30-minute continuous energy requirement for regulation in the real-time market is just and reasonable in light of CAISO’s current market design and the applicable reliability requirements.

31. We also find the 60-minute continuous energy requirement for regulation in the day-ahead market to be reasonable given CAISO’s existing tariff provisions, which require CAISO to procure ancillary services in the day-ahead market on an hourly basis.⁴⁹ We find that a 60-minute requirement represents an improvement over the existing two hour continuous energy requirement. Therefore, the Commission will accept CAISO’s proposed 60-minute continuous energy requirement for regulation in the day-ahead market.

32. Nevertheless, we find that it is unclear from the tariff language filed by CAISO, that its proposed section 8.4.1.1(g) reflects the modifications described in the transmittal letter. Specifically, the transmittal indicates that CAISO plans to measure continuous energy once a resource reaches its award capacity.⁵⁰ The proposed language of section 8.4.1.1(g) appears to require continuous energy upon issuance of a dispatch instruction. To clarify the meaning of section 8.4.1.1(g), we direct CAISO to submit language to reflect the modification described in the transmittal letter (e.g., a resource must be able to provide 60 or 30 minutes of continuous energy *after* it reaches its award capacity) in a compliance filing within 30 days of the date of this order.

33. Finally, the Commission finds the issue of regulation energy management to be beyond the scope of this proceeding. We agree with CAISO that the incorporation of regulation energy management raises numerous questions that warrant further discussion

⁴⁷ *Oxy USA v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995).

⁴⁸ *Southern California Edison Co., et al.*, 73 FERC ¶ 61,219, at 61,608 n.73 (1995) (“Having found the Plan to be just and reasonable, there is no need to consider in any detail the alternative plans proposed by the Joint Protestors.” (citing *City of Bethany*, 727 F.2d at 1136)).

⁴⁹ CAISO Tariff § 8.3.1.

⁵⁰ CAISO Proposal at 4 (“The ISO also proposes to measure continuous energy from the time that a resource reaches its award capacity. This change recognizes that some resources may reach their award capacity in less than 10 minutes, which is when the ISO currently commences measuring continuous energy.”).

within the context of a stakeholder process. However, we also find merit in Beacon's position that regulation energy management could eliminate the current barriers to full participation of limited energy storage resources in CAISO's ancillary services market. CAISO explains that it intends to examine energy regulation management as part of its recently initiated renewable integration market product review initiative.⁵¹ CAISO states that during the first phase of this initiative, it "intends to finalize design elements associated with regulation energy management and resolve technical issues surrounding the real-time available capacity of limited energy storage resources to provide regulation up and regulation down."⁵² CAISO requests that the Commission allow it to continue to work with Beacon and other affected interests as part of existing stakeholder processes to address the concerns raised by Beacon in its protest.

34. The Commission will grant CAISO's request and permit it to continue to work through existing stakeholder processes with Beacon and other affected interests on finalizing design elements associated with regulation energy management and resolving technical issues surrounding real-time available capacity of limited energy storage resources to provide regulation up and down. As part of its examination of the outstanding technical issues, CAISO should consider aligning the real-time continuous energy requirement with CAISO's stated 15-minute procurement interval for ancillary services in real-time. We will also require CAISO to file a progress report on these issues within six months of the date of this order.⁵³

C. Other Issues

1. Comments and Answer

35. Dynegy states that it does not object to CAISO's proposal, but recommends that in order to provide a more meaningful threshold for minimum frequency response requirements, CAISO should change the language concerning the requirement that resources providing spinning reserve must respond to a change in frequency by changing their output. Dynegy states that rather than referring generically to "any frequency deviation less than or equal to 59.92 Hz," the language should specify that a response is required only if "the system frequency is less than or equal to 59.92 Hz." Dynegy states

⁵¹ CAISO Answer at 14. The CAISO July 8, 2010 discussion paper outlining this initiative can be found at: <http://www.caiso.com/27cd/27cdeb8548450.pdf>.

⁵² CAISO Answer at 14.

⁵³ We note that this report is for informational purposes only and will not be noticed, nor require Commission action.

that it has discussed this issue with CAISO and believes that CAISO is amenable to making the change.⁵⁴

36. SWP supports CAISO's filing but asserts that in order to fully comply with Order No. 719, CAISO should develop additional ancillary services in which all resources are able to participate. Specifically, SWP argues that CAISO should develop: (1) a frequency response reserve service to maintain system frequency stability; and (2) a ramping reserve service to solve intermittent resources ramping and load problems during shoulder hours.⁵⁵

37. CAISO concurs with Dynegy's proposed change and agrees to make this change on compliance.⁵⁶ CAISO also proposes additional changes to the language of tariff section 30.5.2.6. This section currently contains language that limits the ability of certain resources to submit bids for specific ancillary services. CAISO's proposed changes remove the limitations and align section 30.5.2.6 with the overall goal of the proposed tariff modifications.

2. Commission Determination

38. In light of CAISO's concurrence with Dynegy's suggested revision, the Commission directs CAISO to submit the new language for the Ancillary Services Protocol, Appendix K, Part B, in a compliance filing no later than 30 days after the issuance of this order. The Commission also finds that the proposed conforming changes to section 30.5.2.6 are necessary to align with the other tariff revisions approved in this order. The Commission directs CAISO to submit the revised tariff language in a compliance filing 30 days from the date of this order.

39. We reject, as beyond the scope of this proceeding, SWP's request for CAISO to develop additional ancillary services products. This proceeding is limited to the question of whether the proposed revisions to the technical requirements for CAISO's existing ancillary service products are just and reasonable. Accordingly, we will not require CAISO to address the issues of a frequency response service and ramping reserve service within the context of this proceeding.

⁵⁴ Dynegy August 2, 2010 Comments in Docket No. ER10-1755-000 at 3.

⁵⁵ SWP August 2, 2010 Comments in Docket No. ER10-1755-000 at 2.

⁵⁶ CAISO Answer at 3.

The Commission orders:

(A) CAISO's tariff sheets are hereby conditionally accepted, effective September 10, 2010, as discussed in the body of this order.

(B) CAISO is hereby directed to submit a compliance filing within 30 days of the date of this order, consistent with the directives in the body of this order.

(C) CAISO is hereby directed to submit, within six months of the date of this order, a progress report, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.