

UNITED STATES OF AMERICA 140 FERC ¶ 63,019
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator
Corporation

Docket No. ER12-50-000

CERTIFICATION OF UNCONTESTED SETTLEMENT

(September 6, 2012)

TO THE COMMISSION:

I. Case Summary

1. On October 7, 2011, the California Independent System Operator Corporation (CAISO) submitted, in the above captioned proceeding, amendments to its tariff to implement a Flexible Ramping Constraint in its real-time market and to provide related compensation. The purpose of the Flexible Ramping Constraint is to procure upward ramping capability from committed, flexible generation resources and proxy demand response resources that are not designated to provide regulation or contingent operating reserves, and to provide upward ramping capability that is not reserved for load forecast needs. The Flexible Ramping Constraint is designed to optimize the real-time pre-dispatch runs, which include the hour-ahead scheduling process, the short-term unit commitment process, the 15-minute real-time unit commitment, and also the real-time economic dispatch run as part of the 5-minute real-time dispatch process.
2. On December 12, 2011, the Commission accepted the Flexible Ramping Constraint, suspended it for a nominal period, and subjected it to refund to become effective December 13, 2011. The Commission also established hearing and settlement judge procedures to consider contested factual issues with respect to compensation, cost allocation and eligibility.
3. On January 5, 2012, the Chief Judge issued an order designating the Settlement Judge and scheduling a settlement conference. Several settlement conferences were held which culminated in this agreement and resolve all issues in these proceedings.

II. Terms of Settlement

4. The agreement includes the Offer of Settlement (Settlement), an Explanatory Statement (Statement), the proposed Revised Tariff Provisions and the draft Commission Letter. The Settlement consists of seven parts and is summarized below.

5. Part 1 provides definitions. Part 2 establishes that the Settlement resolves all issues in these proceedings and seeks the Commission's acceptance without modification or suspension of the Revised Tariff Provisions, which are included in Attachment B.
6. Part 3 contains eight subparts, which summarize the Revised Tariff Provisions by tariff section, as described below:
 7. Part 3.1 addresses Section 11.25 of the tariff that is modified to incorporate the new payment structure which will allow the CAISO to rescind payments for non-performance, and to allocate costs that are associated with the Flexible Ramping Constraint.
 8. Part 3.2 addresses Section 11.25.1, which is added to compensate resources that have been identified as having contributed to the relief of the Flexible Ramping Constraint. *See* the Settlement at 2-3 for a description of the compensation methodology, which is established in Section 11.25.1.
 9. Part 3.3 addresses Section 11.25.2, which is added provide the terms to rescind payments to resources under Section 11.25.1. Generally, the CAISO will rescind payments to scheduling coordinators for the non-performance of resource delivery of megawatts (MWs) which are deemed to be undelivered Flexible Ramping Constraint capacity. Part 3.3 also summarizes the methodology that will define undelivered Flexible Ramping Constraint capacity.
 10. Part 3.4 addresses Section 11.25.3, which is added to reflect the method to allocate the total costs that are incurred for Flexible Ramping Constraint capacity. The total Flexible Ramping Constraint costs are determined by netting out the amounts that are rescinded per Section 11.25.2 from the total payments to resources for the Flexible Ramping Constraint awards. Further, these total netted costs will be divided into two portions, and each portion will be allocated as described below in Part 3.5.
 11. Part 3.5 addresses the new Section 11.25.3.1. This section provides that 75 percent of the total netted costs will be allocated to scheduling coordinators as determined by their measured demand for each applicable trading hour. This section also provides that each scheduling coordinator will be assessed a portion of these costs based on the scheduling coordinator's measured demand for the applicable trading hour, divided by total market measured demand for the applicable trading hour.
 12. Part 3.6 addresses the new Section 11.25.3.2 which provides that 25 percent of the total netted costs will be allocated to scheduling coordinators for each scheduling coordinator's gross negative supply deviations. This part also summarizes the two-part process that will be used for this allocation. *See* Settlement at 5 for a description of this process.

13. Part 3.7 states that Section 27.10 is modified to clarify that Participating Load can participate in the Flexible Ramping Constraint.

14. Part 3.8 explains that Section 27.10 is modified to permit Dynamic System Resources to participate in relieving the Flexible Ramping Constraint if the scheduling coordinator scheduling that resource can demonstrate that it has firm transmission service to the CAISO balancing authority area intertie. The scheduling coordinator must comply with the existing requirements for Dynamic System Resources in Section 1.5 of the Dynamic Scheduling Protocol as outlined in Appendix M of the CAISO Tariff. See the Settlement at 6.

15. Part 4.1 establishes that the Revised Tariff Provisions will be effective as of the first calendar day of the month commencing after the date of the Commission's order accepting the Settlement without modification or condition. Part 4.2 provides that the tariff provisions, which were suspended by the December 12 Order, shall be in effect prior to the effective date, as filed, and shall not be subject to refund.

16. Part 5 establishes three additional requirements that the CAISO must complete no later than 15 calendar days after approval of the Settlement. These requirements pertain to: (1) providing enhancements to information and explanations on the OASIS that are related to the Flexible Ramping Constraint; (2) providing operating procedures that explain the CAISO's practices which will be used to determine and to procure the amount of Flexible Ramping Constraint; and (3) providing scheduling coordinators with the ability to see cost allocations for their resources in their regularly released settlement statements for the daily or monthly Flexible Ramping Constraint.

17. Parts 6.1 through 6.4 set forth customary general provisions concerning absence of precedential effect, reservations and other matters. Part 6.5 establishes the just and reasonable standard, not the public interest standard. The standard for any changes to the Settlement as proposed by a non-party, or the Commission acting *sua sponte*, shall be the just and reasonable standard.

18. Part 7 contains general conclusory language.

III. Comments on the Proposed Settlement

19. The CAISO asks the Commission to accept the Revised Tariff Provisions as a package and a "black-box" settlement resolving all issues that have been raised in these proceedings. Nothing in the Settlement is intended to bar the CAISO or the parties,¹ who

¹ The parties who participated in this case are: California Department of Water Resources State Water Project; Calpine Corporation; Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; City of Santa Clara, California and the M-S-R

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have provided their support or agreed not to contest the Settlement, from withdrawing their support of the Settlement in the event that the Commission imposes a material change or condition which may be unacceptable to such Parties. This Settlement represents the discussions between CAISO and the parties, which were conducted with the explicit understanding, pursuant to Rules 602 and 606 of the Commission's Rules of Practice and Procedure, that all offers of settlement and discussions relating thereto are and shall be privileged, shall be without prejudice to the position of any party or any participant presenting such offer or participating in any such discussions, and shall not to be used in any manner in these proceedings or otherwise, except as specifically noted in the Settlement or in an action to enforce the Settlement after its acceptance or approval by the Commission.

20. The Settlement states that it is not intended to prejudge or limit the CAISO's authority to make a filing with the Commission pursuant to Section 205 of the Federal Power Act (FPA), or other parties to exercise their rights under FPA Section 205 or 206, regarding any flexible ramping product or other measures, including to propose such new products or measures, which may be the same as or different from the Revised Tariff Provisions.

21. The Commission Trial Staff (Staff) presented comments and does not oppose the Settlement and believes that it represents a fair and reasonable resolution of the disputed issues in this proceeding. Further, Staff observes that the Settlement eliminates the need for any additional expenditure of major financial and personnel resources by the parties and the Commission.

22. Comments were also presented by the Independent Energy Producers Association (IEP) which is a nonprofit public benefit corporation that was formed under the laws of the State of California to encourage the development and use of independent electric resources. Its members own and operate roughly 20,000 MWs of electric generating capacity in California, including about 5,000 MWs of renewable and alternative generating resources, which are mostly within the control area of the CAISO. Most, if not all, of IEP's members participate in the markets which are administered by the CAISO.

Public Power Agency; Dynegy Marketing and Trade, LLC, et al.; GenOn Energy Management, LLC, GenOn Delta, LLC and GenOn West, LP; J.P. Morgan Ventures Energy Corporation and BE CA LLC; Modesto Irrigation District; Northern California Power Agency; NRG Companies; Pacific Gas and Electric Company; Powerex Corp.; San Diego Gas & Electric Company; Southern California Edison Company; NextEra Energy Resources, LLC; and Western Power Trading Forum.

23. As IEP observes, the Flexible Ramping Constraint is meant as a temporary and transitional CAISO product, and therefore IEP does not oppose the Settlement. However, because a cost allocation mechanism is presented as part of the overall settlement, IEP seeks assurances that the cost allocation methodology is not precedential in any respect. They also address some overarching concerns with respect to the future need for new generation in California. They see this agreement as a transitional resolution to the specific issue of ramping but assert that CAISO must engage in broader planning for future generating needs. The IEP emphasizes the need to incentivize new generation and to achieve an eventual resolution of the continuing tension between cost causation and cost allocation.

24. Other than Staff and IEP, no other parties or participants submitted comments.

IV. Discussion

25. The Settlement Judge recommends approval by the Commission. The Settlement is fair, reasonable, and in the public interest. In addition, the Explanatory Statement addresses the requirements of the “Chief Judge’s Notice to the Public of Information to be Provided with Settlement Agreements” as follows: (1) the issues underlying the Settlement do not present any major implications; (2) the Settlement does not raise policy implications; (3) no other pending cases will be directly affected by the Settlement; (4) the Settlement does not involve issues of first impression or the reversal of any previous issues; and (5) the Settlement specifies that the standard to review any modifications of the Settlement, including any modifications resulting from the *sua sponte* action of the Commission, is the just and reasonable standard. For proposed modifications by non-parties, the Settlement also provides for the just and reasonable standard.

V. Certification

26. Upon review of the Settlement and accompanying documentation, as submitted on July 27, 2012, I find and conclude that the Settlement reflects a fair and reasonable negotiated resolution of all issues in these proceedings. Moreover, I further find and conclude that the Settlement is an uncontested offer of settlement and can be found by the Commission to be fair and reasonable and in the public interest. Accordingly, pursuant to 18 C.F.R. § 385.602(g)(1) (2011), I certify the Settlement Agreement, the Explanatory Statement in Support of Settlement Agreement, the Revised Tariffs and the Draft Commission Letter Order (as modified) as they were filed on July 27, 2012; and also the Initial Comments as filed by Staff on August 16, 2012, and the initial comments of IEP as

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filed on August 16, 2012, and the pleadings and record in these proceedings to date. Upon approval of the Settlement, these proceedings should be terminated.

Philip C. Baten
Settlement Administrative Law Judge

DRAFT
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

(Date)

In Reply Refer To:
Docket Nos. ER12-50-000

Anna A. McKenna, Esq.
Senior Counsel
California Independent System Operator Corporation
250 Outcropping Way
Folsom, CA 95630

Dear Ms. McKenna:

1. On July 27, 2012, you filed, on behalf of the California Independent System Operator Corporation (CAISO), a Settlement Agreement (Settlement) in the above-captioned proceeding. On August 16, 2012, Commission Trial Staff filed comments in support of the Settlement. On August 17, 2012, the Independent Energy Producers Association filed a Motion to Intervene Out of Time and Comments, but did not protest the proposed Settlement. The motion to intervene and to file comments was granted. No other comments were filed. On September 6, 2012, the Settlement Judge certified the settlement to the Commission as uncontested.
2. The settling parties agreed to amendments of CAISO tariffs to implement a flexible ramping constraint in CAISO's real-time market processes and to provide related compensation for the real-time pre-dispatch runs, which include the hour-ahead, short-term unit commitment process, 15-minute unit commitment, and also real-time economic dispatch run as part of the 5-minute real-time dispatch process.
3. The Settlement is in the public interest and is hereby approved. The rates and revised tariff sheets, submitted with the Settlement, are accepted as filed. The CAISO is ordered to submit a compliance filing of the Revised Tariff Provisions, contained in Attachment B of the Offer of Settlement, within fifteen (15) calendar days after the date of this order. *See Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).
4. The Revised Tariff Provisions as contained in Attachment B of the Offer of Settlement will be effective as of the first calendar day of the month commencing after

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the date of this order. The Settlement Agreement does not require the payment of any refunds.

5. The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Commission retains the right to investigate the rates, terms and conditions under the just and reasonable and not unduly discriminatory or preferential standard of Section 206 of the Federal Power Act, 16 U.S.C. § 824e (2006).

6. This letter terminates Docket No. ER12-50-000.

By direction of the Commission.

Secretary

cc: All Parties

Document Content(s)

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