

138 FERC ¶ 61,112
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator
Corporation

Docket Nos. ER11-2256-000
ER11-2256-002

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued February 16, 2012)

1. In this order, the Commission approves a Settlement filed on December 23, 2011 by the California Independent System Operator Corporation (CAISO).¹ CAISO submitted an Offer of Settlement, an Explanatory Statement as Attachment A thereto, and an Attachment B containing revised tariff provisions to resolve all issues raised in this proceeding regarding the Capacity Procurement Mechanism (CPM) and the exceptional dispatch mitigation provisions of its tariff.² Pursuant to the Settlement, upon the date this order becomes final and non-appealable, any pending request for rehearing of the CPM Order will be deemed withdrawn with prejudice, and the Commission will therefore grant the request in section 5.1 of the Settlement to defer action on any pending rehearing request.

I. Background

2. The Public Utilities Commission of the State of California (CPUC) and other local California regulatory authorities have established resource adequacy programs to ensure that CAISO has sufficient resources offered into its market to maintain reliable grid operations. There may be circumstances, however, when resource adequacy capacity is insufficient to meet CAISO's operational needs. To meet these needs, CAISO relies

¹ CAISO states that each party to this proceeding has authorized CAISO to state that such party either supports or does not oppose the Offer of Settlement.

² *Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,211, at P 2 (2011) (CPM Order).

upon the backstop procurement authority in the CPM and exceptional dispatch provisions of its tariff.

3. The CPM is a voluntary backstop mechanism that authorizes CAISO to procure capacity to address a deficiency or supplement resource adequacy procurement by load serving entities, as needed, in order to maintain grid reliability.³ Exceptional dispatch is an involuntary backstop mechanism that enables CAISO to manually commit and/or dispatch resources that are not cleared through its market software in order to maintain reliable grid operations.⁴ The evolution of the CPM, its predecessor capacity procurement mechanisms, and exceptional dispatch have previously been described at length.⁵ Thus, only the relevant background details are described briefly here.

4. In the CPM Order, the Commission accepted and suspended for a nominal period CAISO's proposed CPM compensation methodology and indefinite extension of exceptional dispatch market power mitigation measures to become effective April 1, 2011, subject to refund. In the CPM Proposal, CAISO proposed to compensate CPM designated resources \$55/kw-year, based on the going-forward costs of a reference unit, plus a ten percent adder (ten percent of the going-forward costs).⁶ The Commission found, in the CPM Order, that CAISO failed to demonstrate that the proposed compensation was just and reasonable, and found that further assessment of the use of going-forward costs was necessary.⁷

³ CAISO December 1, 2010 Update to Capacity Procurement Mechanism and Exceptional Dispatch in Docket No. ER11-2256-000 (CPM Proposal or Proposal).

⁴ Exceptional dispatch may also be used for other situations that require dispatch of a resource outside of a market schedule such as testing, addressing transmission-related modeling limitations or providing voltage support, as specified in CAISO Tariff § 34.9.

⁵ *Cal. Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,053 (2008), *reh'g denied*, 134 FERC ¶ 61,132 (2011) (ICPM Order); *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,150, *order on reh'g*, 129 FERC ¶ 61,144 (2009) (Exceptional Dispatch Order).

⁶ Going-forward costs are defined as the sum of fixed operations and maintenance (O&M), *ad valorem* costs, and administrative and general costs, which include insurance. As the reference unit, CAISO uses the going-forward fixed costs of a 50 MW simple-cycle, gas-fired unit built by a merchant generator, based on comprehensive studies conducted by the California Energy Commission.

⁷ CPM Order, 134 FERC ¶ 61,211 at P 55-58.

5. The Commission previously approved mitigation measures for two types of exceptional dispatches.⁸ A sunset date of March 31, 2011 was established for the mitigation provisions.⁹ The CPM Proposal indefinitely extended the existing exceptional dispatch market power mitigation provisions beyond the sunset date. In the CPM Order, the Commission found that CAISO did not provide sufficient justification to retain the exceptional dispatch market power mitigation measures.¹⁰

6. The Commission directed staff to convene a technical conference to resolve the compensation and exceptional dispatch mitigation issues.¹¹ Additionally, the Commission, in relevant part, accepted (1) CAISO's proposed tariff language that set a minimum 30-day term for CPM designations resulting from exceptional dispatches;¹² and (2) the proposal to allow for CPM designations that include only a portion of a resource's available non-resource adequacy capacity, including partial CPM designations that result from exceptional dispatches.¹³

7. On April 18, 2011, the Independent Energy Producers Association (IEP) filed a request for rehearing and motion for clarification of the CPM Order. IEP argued that the Commission erred by deciding issues related to the quantity and term of CPM designations without the benefit of the full record on issues relating to price, compensation methodologies, and the level of total compensation. IEP also argued that the Commission erred in its determinations that the quantity of an exceptional dispatch CPM designation should be based on the level of energy dispatch specified in an exceptional dispatch and also in its acceptance of the 30-day minimum term for exceptional dispatch CPM designations.

⁸ Exceptional Dispatch Order, 126 FERC ¶ 61,150 at P 74. The Commission approved the application of market power mitigation measures to exceptional dispatches to address congestion on non-competitive paths and exceptional dispatches made under delta dispatch. Delta dispatch is an environmental restriction that affects the operation of specific generators in the Sacramento Delta area during a limited period in the spring and summer, which limits the usage of resources and requires different combinations of resources to be used in certain circumstances.

⁹ CPM Order, 134 FERC ¶ 61,211 at P 65.

¹⁰ *Id.* P 74-78.

¹¹ *Id.* P 2.

¹² *Id.* P 189.

¹³ *Id.* P 188-199.

8. Commission staff held a technical conference on April 28, 2011, with initial comments due on or before Friday, May 27, 2011. The Commission granted five subsequent extensions of time to file comments, with final comments due on or before December 30, 2011.¹⁴ The Commission granted the extensions of time to file comments in response to CAISO's requests for additional time to engage in discussions with parties, and reach joint resolution of the outstanding issues with parties.

II. Procedural Matters

9. On December 23, 2011, CAISO filed the Settlement with the Commission pursuant to Rule 602 of the Commission's Rules of Practice and Procedure.¹⁵ Pursuant to Rule 602(f), the initial comments were due on or before January 12, 2012, and reply comments were due on or before January 22, 2012.¹⁶ No adverse comments were filed concerning the Settlement.

III. The Terms of the Settlement

10. The Settlement requires CAISO to revise the CPM compensation methodology, retain the exceptional dispatch mitigation provisions, and revise the tariff provisions related to the term and quantity of exceptional dispatch CPM designations, among other things. Under the Settlement, CAISO will revise its tariff to provide for a fixed CPM capacity price of \$67.50/kW-year, which will become effective on the date the Commission issues an order approving the Offer of Settlement (Settlement Order) and remain in effect for two years. On the second anniversary of the Settlement Order date, the fixed CPM capacity price will increase by five percent to \$70.88/kW-year, which will remain in effect for two years.¹⁷ The CPM and all revisions to other tariff sections to implement the CPM will expire after 48 months.¹⁸ The Settlement also provides for the continuation of the exceptional dispatch mitigation provisions, as currently in effect.¹⁹

¹⁴ See October 28, 2011 Notice of Extension of Time.

¹⁵ 18 C.F.R. § 385.602 (2011).

¹⁶ *Id.* § 385.602(f).

¹⁷ Offer of Settlement at 5.

¹⁸ *Id.* at 2.

¹⁹ Explanatory Statement at 9.

11. With regard to the quantity of exceptional dispatch CPM designations, the Settlement provides for tariff revisions that will require CAISO to base the quantity of the designation on the greater of the resource's minimum load or the amount of capacity needed to address the reliability issue as determined by the CAISO in an engineering assessment conducted as set forth in the Business Practice Manuals.²⁰ The Settlement specifies that the Business Practice Manuals will set forth transparent engineering assessment methodologies and processes that CAISO will use for each type of exceptional dispatch CPM designation. The Settlement also requires tariff revisions for addressing partial-unit CPM designations.²¹

12. In addition, the Settlement requires CAISO to make tariff revisions related to the term of exceptional dispatch CPM designations. CAISO states that it will make an explicit determination for each initial exceptional dispatch CPM designation as to whether it was necessary to address an exceptional dispatch CPM system reliability need (i.e., a need that does not depend on a resource in a specific geographic area), resulting in an initial 30-day term, or an exceptional dispatch CPM non-system reliability need (i.e., resolution depends on a resource in a specific geographic area), resulting in an initial 60-day term.²² The Settlement requires CAISO to issue a market notice for CPM designations and specifies the information that must be included in the notice. The Offer of Settlement also requires CAISO to post a designation report for CPM designations and specifies the information that must be included in the report.²³

13. Pursuant to the Settlement, the revised tariff provisions will become effective as of the date of the order approving the Settlement, and will expire 48 months following the effective date. The Settlement specifies that the revised tariff provisions relating to price, quantity and term of a CPM designation that is subject to tariff section 43, will not be subject to change over the 48-month period.²⁴ CPM designations in existence on the expiration date will continue in effect and remain subject to the CPM until such time as the CPM resources have been fully compensated for their services rendered under the CPM prior to the termination of the CPM and the CAISO has finally allocated and

²⁰ CAISO will determine the amount of capacity needed at the time of the exceptional dispatch instruction or within 24 hours following the instruction.

²¹ Offer of Settlement at 2-4.

²² *Id.* at 4-5.

²³ *Id.* at 5.

²⁴ *Id.* at 7.

recovered the costs associated with such CPM compensation.²⁵ Prior to the Settlement effective date, the tariff provisions suspended by the CPM Order shall be in effect, as filed, and shall not be subject to refund.²⁶

14. The Settlement requires CAISO to submit a compliance filing that contains the revised tariff provisions within 15 calendar days after the date of the Settlement Order.²⁷

15. The Settlement provides that, if the Commission modifies the Settlement in a manner that materially changes the benefits and burdens negotiated in the Settlement, the parties to this proceeding will meet and confer within 30-days as to whether all of them can support or not oppose the modification. If all of the parties do not agree to support or not oppose the modified settlement within 60 days of the Commission order, the Offer of Settlement will terminate.²⁸

16. As part of the Settlement, CAISO asks the Commission to defer action on any pending request for rehearing in this proceeding. Upon the date this order approving the Settlement becomes a final, non-appealable order, any pending rehearing request will be withdrawn with prejudice. If the Settlement is modified by the Commission upon rehearing of such order or upon a remand following judicial review of such order, any party that has a pending rehearing request may request that the Commission resume consideration of the deferred rehearing request.²⁹

17. The Settlement and any modifications thereto are subject to the just and reasonable standard of review.³⁰

²⁵ *Id.* at 2.

²⁶ *Id.* at 8.

²⁷ *Id.* at 2. CAISO did not file the Offer of Settlement in the eTariff format required by Order No. 714. CAISO's compliance filing must therefore be made in eTariff format to reflect the Commission's action in this order approving the Settlement and incorporate the revised tariff provisions in Attachment B into the CAISO Tariff. *See Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

²⁸ *Id.* at 8-10.

²⁹ *Id.* at 8.

³⁰ *See id.* at 9, and Explanatory Statement at 10.

IV. Commission Determination

18. The Settlement appears to be fair and reasonable and in the public interest and is hereby approved. The Commission's approval 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 FPA, 16 U.S.C. § 824e (2006).

19. We find that the Settlement resolves all issues raised by IEP in its request for rehearing of the CPM Order. Accordingly, once this order approving the uncontested Settlement is final and non-appealable, IEP's request for rehearing of the CPM Order is withdrawn with prejudice pursuant to the Settlement's terms, and the rehearing docket shall be terminated.

The Commission orders:

(A) The uncontested Settlement is hereby approved.

(B) CAISO is directed to submit a compliance filing in eTariff format, within 15 days of the date of this order, to reflect the Commission's action in this order, and to incorporate into the CAISO Tariff the revised tariff provisions in Attachment B to the Offer of Settlement.

(C) As of the date this order approving the uncontested Settlement becomes final and non-appealable, the requests for rehearing of the CPM Order are deemed withdrawn with prejudice, and the rehearing docket will be terminated.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.