

The ISO's current market rules for the dispatch of ancillary services awards should not result in dispatches that last longer than one hour for proxy demand resources with ancillary service awards. Furthermore, in a different proceeding before the Commission, the ISO has requested that the Commission accept the ISO's proposal to modify the continuous energy requirement for non-spinning reserve from two hours to 30 minutes.⁴ As explained in the ISO's filing for that tariff amendment, the ISO should not need to dispatch a resource with an ancillary service award for more than 30 minutes in order to recover from a contingency and return the market to a normal operating state.⁵ For these reasons, the ISO requests that the Commission provide clarification or, in the alternative, grant rehearing of the *PDR Order*, and confirm it is not necessary for the ISO to propose a methodology to verify that a proxy demand resource has in fact provided ancillary service capacity when the ISO dispatches that capacity for longer than one hour. The circumstance described in the *PDR Order* is not a practical reality under the ISO market design. Consistent with the relief requested in the motion, and absent direction to the contrary, the ISO does not intend, within its compliance filing on the *PDR Order*, to propose a methodology to verify that a proxy demand resource has provided ancillary service capacity for dispatches lasting longer than one hour.

⁴ See the ISO's July 12, 2010 filing in Docket No. ER10-1755.

⁵ *Id.* at 3.

II. Background

On February 16, 2010, the ISO submitted proposed tariff modifications to implement the proxy demand resource product, a new demand response product. The purpose of these revised tariff provisions is to increase demand response participation in the ISO market and respond to stakeholders' requests for a demand response product that will facilitate the participation of existing retail demand programs in the ISO market. As conditionally accepted by the Commission in its *PDR Order*, this tariff amendment satisfies the directives of the Commission's Order No. 719,⁶ in that it reduces barriers to participation by allowing demand response providers to submit bids on behalf of retail customers, subject to the ISO's reasonable restrictions.⁷ Under the ISO's proposed tariff amendment, a proxy demand resource may participate in the ISO's ancillary service market by initially submitting bids for non-spinning reserve, once they are certified as meeting applicable operating and technical requirements to provide ancillary services.⁸

The ISO proposes to measure the ancillary service performance of a proxy demand resource that receives a non-spinning reserve award by means of a meter before and meter after measurement.⁹ The California Public Utilities Commission ("CPUC") submitted comments in response to the ISO's proxy

⁶ *Wholesale Competition in Regions with Organized Electric Markets*, FERC Stats. & Regs. ¶ 31,281 (2008).

⁷ *PDR Order* at P 23.

⁸ ISO February 16, 2010 filing at 18; *PDR Order* at P 23.

⁹ "Draft Final Proposal for the Design of Proxy Demand Resource" (Aug. 28. 2009), at 27, available on the ISO's website at <http://www.caiso.com/241d/241da56c5950.pdf>.

demand resource tariff amendment supporting this approach to measure performance for dispatches of ancillary services award lasting less than one hour.¹⁰ The CPUC, however, raised a concern that this approach may not be a sufficient method for measuring the performance of a proxy demand resource when its ancillary services award is dispatched for longer than one hour because of a proxy demand resource's normal energy use cycle.¹¹ The CPUC requested that the Commission direct the ISO to propose a more refined measurement to measure dispatches that last longer than one hour.¹² The ISO filed an answer responding to CPUC's comments, which the Commission accepted into the record.¹³ But the *PDR Order* fails to consider the information provided in the ISO's answer. Instead, the Commission granted the CPUC's request and directed the ISO to include a proposed methodology to verify that a proxy demand resource provided ancillary service for dispatches that last longer than one hour.¹⁴

¹⁰ CPUC Comments dated March 9, 2010 at 6-7.

¹¹ CPUC Comments dated March 9, 2010 at 6-7.

¹² *Id.*

¹³ ISO Answer dated March 24, 2010 at 18-21; *PDR Order* at P 19.

¹⁴ *PDR Order* at P 84.

III. Statement of Issues and Specification of Error or Clarification

The ISO identifies the following statement of issues and specifications of error or clarification concerning the *PDR Order*.

1. The *PDR Order* fails to account for the ISO's current tariff rules related to dispatch of resources with ancillary service awards. Based on these market rules, which include a five-minute real time dispatch, proxy demand resources with ancillary service awards are unlikely to receive dispatches of longer than one hour. The *PDR Order* ignores record evidence concerning this point. There is no need to develop, test and implement a baseline calculation methodology to verify that a proxy demand resource provided ancillary services capacity for dispatches lasting longer than one hour. The ISO requests that the Commission clarify its *PDR Order* to specify that the ISO does not need to submit a compliance filing that includes a methodology to verify that a proxy demand resource provided ancillary service capacity for dispatches lasting longer than one hour. If the Commission does not make this clarification, the ISO respectfully submits that the *PDR Order* is in error and should be modified on rehearing.

2. The *PDR Order* acknowledges the ISO's proposed stakeholder initiative to modify its operating and technical requirements for ancillary services but fails to acknowledge that the proposal will, if accepted, reduce the continuous energy requirements for non-spinning reserve from two hours to 30 minutes. Again, the *PDR Order* ignores record evidence that the ISO has proposed to reduce this continuous energy requirement because there is no need to dispatch

a resource with an ancillary service award for more than 30 minutes in order to recover from a contingency and return the market to a normal operating state. Accordingly, the Commission should clarify the *PDR Order* to eliminate the directive that the ISO submit a compliance filing that includes a methodology to verify that a proxy demand resource provided ancillary services capacity for dispatches lasting longer than one hour. If the Commission does not make this clarification, the ISO respectfully submits that the *PDR Order* is in error and should be modified on rehearing.

IV. Request for Clarification or in the Alternative Rehearing

A. ISO market rules do not provide for dispatches of ancillary services awards lasting longer than one hour.

Under the ISO's current tariff, a resource may receive an ancillary service award for one hour in the day-ahead market or hour-ahead scheduling process.¹⁵ In the real-time market, a resource may also receive an ancillary service award for fifteen-minute intervals for up to one hour in order to satisfy incremental requirements to procure ancillary services.¹⁶ Any dispatch of energy for resources with ancillary service awards occurs in five-minute intervals as part of the ISO's real-time dispatch market process.¹⁷ The ISO's March 24, 2010 answer to comments in this proceeding clarifies that dispatches of ancillary services awards, especially for contingency only reserves, are for short

¹⁵ ISO tariff at sections 31.3.1 and 33.7.

¹⁶ ISO tariff at section 34.2.2.

¹⁷ ISO tariff at section 34.3.

durations.¹⁸ As explained in the ISO's answer, proxy demand resources are energy limited resources, and stakeholders have agreed that these resources will primarily serve as contingency only reserves.¹⁹ But, even in the event that a proxy demand resource bids and receives a non-contingency ancillary services award, the ISO's five-minute real-time market dispatch process should not result in dispatches lasting longer than one hour. The *PDR Order* does not discuss the ISO's current tariff or the ISO's answer, but instead directs the ISO to propose tariff provisions that account for ancillary services requirements lasting longer than one hour.²⁰ By failing to take into account the ISO's current tariff and the ISO's answer, which provided information relevant to the resolution of the issue, the Commission did not engage in reasoned decision-making.²¹

The Commission's directive stems from a CPUC concern that the ISO's proposed "meter before/meter after" measurement of ancillary services capacity may not be accurate for long-duration events.²² The CPUC requested that the

¹⁸ ISO Answer at 19-20. Contingency only reserves are capacity that may be dispatched by the ISO only in the event of a contingency or an imminent or actual system emergency. See ISO tariff, Appendix A.

¹⁹ ISO Answer at 19-20.

²⁰ *PDR Order* at PP 83-84.

²¹ "In previous cases, we have rejected agency orders when the Commission neglected to deal with an important part of the problem, or otherwise failed to offer an adequate explanation for a particular decision. In the present case, the Commission not only failed to provide an adequate response to NorAm's argument, it failed to take seriously its responsibility to respond at all. As we have said before, '[i]t most emphatically remains the duty of this court to ensure that an agency engage the arguments raised before it – that it conduct a process of reasoned decision making.'" *NorAm Gas Transmission Co. v. FERC*, 148 F.3d 1158, 1165 (D.C. Cir. 1998) (internal citations omitted).

²² The CPUC supports the use of the meter before/meter after measurement method for measuring load curtailment from a proxy demand resource for dispatches of ancillary services wards lasting less than one hour. See *PDR Order* at P 79.

Commission order the development of a more refined measurement and payment system for ancillary services dispatches lasting an hour or longer because the CPUC alleged that the ISO's proposal risks underpaying and/or overburdening proxy demand resources that provide load curtailment as an ancillary service. The CPUC's comments do not explain a situation in which, or provide an example of circumstances under which, the ISO would dispatch a proxy demand resource's ancillary service award for longer than an hour. This is important because it places the contingency in context. From a pragmatic perspective, it is unlikely that the situation for which the CPUC seeks a methodology will ever arise: in a contingency (*i.e.*, imminent or actual system emergency) situation, the ISO would dispatch the energy behind its contingency only reserve resources to address the disturbance and enable the ISO to bring other resources on-line, allowing the ISO to return those contingency only reserve resources to their schedule and restore its operating reserves. Under the tariff provisions conditionally accepted by the Commission, the ISO will determine ancillary service capacity provided by a proxy demand resource through a meter before/meter after methodology to measure the ancillary service capacity quantity (megawatts) provided over a demand response event. In response to the CPUC concern, the ISO explained that the meter before/meter after measurement will only be used to determine if the awarded ancillary service capacity was actually available and/or delivered, and that dispatches lasting longer than one hour are unlikely to be an issue because the ancillary services dispatches for proxy demand resources are expected to be for short durations

only. There is no record evidence to support a determination that the ISO will issue dispatches of ancillary service capacity awarded to proxy demand resources that last longer than an hour. Requiring the ISO to develop, test and implement tariff rules that have no practical effect is an inefficient use of the ISO's and stakeholders' resources.²³ For these reasons, the ISO requests that the Commission clarify its *PDR Order* to eliminate this directive.

B. The ISO's pending request to modify its operating and technical requirements for non-spinning reserve clarify that dispatches of ancillary services awards lasting longer than one hour are not necessary.

As acknowledged in the *PDR Order*, the ISO has undertaken a separate stakeholder initiative to modify its operating and technical requirements for ancillary services in order to facilitate further participation by non-generator resources, including proxy demand resources, in the ISO's ancillary services market.²⁴ On July 12, 2010, the ISO submitted a proposed tariff modification resulting from this stakeholder process, including a proposal to reduce the continuous energy requirements for non-spinning reserves from two hours to 30

²³ See, e.g., *Midwest Independent Transmission System Operator, Inc.*, 130 FERC ¶ 61,124, at P 29 (2010) ("MidAmerican does not need the proposed language for this particular customer since no network upgrades are required in the Amended LGIA. Also, in light of our decision here not to permit use of this Amended LGIA as a template for future MidAmerican interconnection agreements being converted to service under the Midwest ISO's Tariff, we reject the revisions to Article 11.4.1 as unnecessary and unsupported."); *Virginia Electric and Power Co.*, 131 FERC ¶ 61,171, at P 18 (2010) ("Dominion states that it filed the tariff sheets only to provide sufficient notice to its customers to ensure that, should its current allocation of costs be overturned in the Complaint proceeding, a future direct assignment of those costs would withstand a challenge that that future direct assignment violates the filed rate doctrine and the prohibition against retroactive ratemaking. We do not find that a tariff filing is necessary for this purpose in these circumstances.").

²⁴ *PDR Order* at P 13.

minutes.²⁵ This modification will allow a proxy demand resource to provide non-spinning reserve, if it can demonstrate the ability to provide continuous energy for 30 minutes. Under the ISO's proposed modification to the requirements for non-spinning reserve, proxy demand resources that receive ancillary service awards should not face dispatches for longer than one hour.

To the extent the Commission believes the current two-hour continuous energy requirement for non-spinning reserve will expose proxy demand resources with ancillary service awards to dispatches lasting longer than one hour, the ISO's tariff amendment should address this concern. With this proposed tariff modification, the ISO will no longer require continuous energy from a resource for greater than one hour. This change should ameliorate any concern regarding dispatches of proxy demand resources with ancillary service awards lasting longer than one hour.

The current two-hour requirement is a legacy requirement given the operational characteristics of traditional generators that historically comprised the bulk of supply resources in the ISO market. The ISO's proposed 30-minute time period meets the ISO requirement to recover from a contingency within 15 minutes and allows another 15 minutes for the real-time market to return to a normal state. As part of its stakeholder initiative, the ISO presented an analysis of disturbance control data from September 2009. This analysis reflected nine disturbance events in September 2009 that were all resolved within 30 minutes. The ISO also presented analysis of real-time contingency dispatch from

²⁵ See ISO July 12, 2010 filing in Docket ER10-1755.

April 2009 through September 2009. The analysis also showed that all real-time contingency dispatch events during this five-month period were resolved within 15 minutes.²⁶ The ISO referenced this data as part of its March 24, 2010 answer to comments, which the *PDR Order* does not take into account.²⁷ Again, as discussed above, reasoned decision-making requires the Commission to engage arguments raised in its proceedings.²⁸ The Commission should consider this information and clarify its order to eliminate the directive that the ISO propose tariff provisions to account for ancillary service requirements greater than one hour.

V. Conclusion

The Commission should clarify its *PDR Order* or, in the alternative, grant rehearing of its *PDR Order* to state explicitly that it is not necessary to propose a methodology to verify that a proxy demand resource has provided ancillary service capacity when dispatches of that capacity last longer than one hour. Absent further direction and consistent with the relief requested in this pleading, the ISO intends to submit a compliance filing that does not propose a methodology to verify that a proxy demand resource has provided ancillary service capacity for dispatches lasting longer than one hour.

²⁶ Revised Draft Final Proposal for participation of Non-Generator Resources in California ISO Ancillary Services Market at 8. <http://www.caiso.com/2753/275383f257220.pdf>

²⁷ ISO Answer at 20, fn 33.

²⁸ See footnote 21, above, and accompanying text.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 16th day of August 2010.

Anna Pascuzzo
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