

117 FERC ¶ 61, 353
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

California Independent System Operator
Corporation

Docket No. ER07-127-000

ORDER ACCEPTING FOR FILING, SUBJECT TO MODIFICATION,
TARIFF REVISIONS AND EXTENDING TEMPORARY WAIVER OF SANCTIONS

(Issued December 28, 2006)

1. This order addresses a filing in which the California Independent System Operator Corporation (CAISO) proposes revisions to its transmission tariff (CAISO Tariff) to amend the generator outage reporting requirements. As discussed below, the Commission accepts for filing, subject to modification, the proposed revisions to the CAISO Tariff to be effective the later of December 30, 2006 or within 24 hours after the CAISO informs the Commission about the completion of the software upgrades necessary for implementing revised outage reporting requirements. The Commission also grants the CAISO's request for an extension of temporary waiver of the outage reporting sanctions imposed under the current tariff. This temporary waiver is to be effective November 1, 2006 through the earlier of March 31, 2007 or within 3 business days of the date of the CAISO's filing requesting termination of the waiver.

Background

2. On July 22, 2003, the CAISO filed with the Commission, Amendment No. 55 to the CAISO Tariff in order to establish enforcement protocols defining rules of conduct for market participants and setting forth various penalties and sanctions for breach of those rules.¹ In Amendment No. 55, the CAISO proposed, among other things, to require

¹ In Amendment No. 55, the CAISO proposed nine market rules: (1) a requirement to comply with operating orders; (2) a requirement to submit feasible energy and ancillary service bids and schedules; (3) prohibition on physical withholding; (4) prohibition of economic withholding; (5) a requirement to comply with availability reporting requirements; (6) a requirement to provide factually accurate information; (7) a requirement to provide information required by the CAISO Tariff; (8) prohibition of detrimental practices; and (9) prohibition of market manipulation.

market participants to report to the CAISO any outage of a generating unit within 30 minutes after the outage occurs and to provide subsequent explanation of the cause for the outage and describe all remedial actions.

3. The Commission accepted Amendment No. 55 on September 22, 2003, subject to further modifications.² The Commission accepted for filing the CAISO's compliance filing required by the *Amendment No. 55 Order* on October 28, 2004.³

4. According to the CAISO, at the time *Amendment No. 55 Order* was issued, the CAISO had pending before the Commission in an unrelated proceeding a proposed tariff revision amending the definition of the term "outage" included then in the CAISO's Tariff.⁴ In that separate proceeding, the CAISO proposed to expand the definition of an outage to include a "reduction in capacity." The CAISO states that the Commission subsequently approved the expanded definition. The CAISO claims that as a result, the potential number of outages that must be reported under the provision of the CAISO Tariff has increased since the time Amendment No. 55 was filed and accepted.

5. The CAISO further states that market participants have raised several concerns regarding their ability to comply with the requirements of the CAISO Tariff provisions related to outage reporting. First, according to the CAISO, market participants have expressed concerns that under the expanded definition of an outage, market participants are required to report all normal variations of a unit's measurable capacity; with such variations possibly occurring multiple times during a day for a single unit.

6. Second, according to the CAISO, market participants are concerned that the current design of the CAISO's scheduling, logging and information system (SLIC)⁵ is not adequate to report outages at the frequency required to report variations in unit capacity. Also, the CAISO states, the cost of strict compliance with the current outage reporting requirements would be cost prohibitive for generating units rated at 10 MW or less.

² *Cal. Indep. Sys. Operator Corp.*, 104 FERC ¶ 61,308 (2003) (*Amendment No. 55 Order*).

³ *Cal. Indep. Sys. Operator Corp.*, 109 FERC ¶ 61,087 (2004).

⁴ At that time, the CAISO Tariff defined an outage as a "disconnection or separation, planned or forced, of one or more elements of an electric system."

⁵ The SLIC (Scheduling Logging for the ISO of California) operating system provides an interface for the transmission and generation owners to schedule their outages.

7. As a result of these concerns, the CAISO filed with the Commission, on July 12, 2006, a petition for temporary waiver of the enforcement sanctions under the CAISO Tariff for failure to report outages. The CAISO explained that the waiver would allow the CAISO to investigate further the concerns raised by market participants and to work with stakeholders to identify and develop potential solutions to the outage reporting requirements issues raised by market participants. On September 8, 2006, the Commission issued an order granting the petition for temporary waiver of the sanctions.⁶

Proposed Tariff Changes

8. In the instant filing, the CAISO proposes several changes to the relevant sections of the CAISO Tariff in order to amend the outage reporting requirements. First, the CAISO proposes to require that generator operators report changes of the maximum output capability of any resource, as compared to any previous report, if that availability changes by the greater of at least 10 MW or five percent of the resource's unrestricted maximum power output capability on file with the CAISO, and lasts for fifteen minutes or longer. These reports must be made within 30 minutes of discovering the change in availability and should set forth only the unit availability changes.

9. Additionally, if, on an unplanned basis, any resource is derated by 40 MW or more, or ten percent of its unrestricted maximum power output capability for a period of fifteen minutes or more, or if the resource is taken offline on an unplanned basis, the resource owner must submit a detailed "Forced Outage Report," within two business days of the discovery of the event and must include detailed information about the event.⁷

10. To implement these changes, the CAISO proposes several modifications to its tariff. Specifically, changes are applicable to section 9 "Outages" and section 37 "Enforcement Protocol" of the CAISO Tariff.

11. The CAISO further states that to develop the proposed tariff changes, it has conducted a robust stakeholder process aimed at addressing stakeholder concerns with respect to the existing outage reporting requirements. The CAISO explains that because stakeholders generally agreed that there is a continued need for outage reporting, the stakeholder process mainly focused on developing a specific threshold for outage reporting. The CAISO states that it has held three meetings with stakeholders, posted the proposal on its website and solicited comments. The CAISO states that it has received substantial input from stakeholders, including written comments. According to the

⁶ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,226 (2006) (*Waiver Order*).

⁷ Such information must include an explanation of the forced outage, including a description of the equipment failure or other causes, and a description of all remedial actions take by the operator.

CAISO, stakeholders suggested outage reporting thresholds that ranged from 10 MW or 2 percent of maximum output capability, through 25 MW or 25 percent maximum output capability, to a fixed 50 MW minimum threshold. The CAISO contends that its main objective was to develop a specific outage reporting threshold that strikes the appropriate balance between reducing the reporting burden and unreasonable exposure of market participants to sanctions.

12. The CAISO requests that the Commission permit the proposed tariff revisions to become effective as of the later of December 30, 2006 (sixty days after the date of the instant filing) or 24 hours after the CAISO files a market notice with the Commission. The CAISO explains that before proposed changes can become effective, it must complete the necessary changes to the CAISO's SLIC system. The CAISO requests that the Commission extend the waiver of sanctions for failure to report outages until the effective date of the proposed modifications.

Notice of Filing and Responsive Pleadings

13. Notice of the CAISO's filing was published in the *Federal Register*, 71 Fed. Reg. 66,322 (2006), with interventions, comments, and protests due on or before November 24, 2006. Timely motions to intervene were filed by entities listed in Appendix to this order. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the filing of timely, unopposed motions to intervene serve to make the movants parties to the proceeding.

14. Pacific Gas and Electric Company (PG&E) filed a motion to intervene out-of-time that has not been opposed. Given the lack of undue prejudice and the party's interest in the proceeding, we find good causes to grant under Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), PG&E's unopposed, untimely motion to intervene.

15. PG&E, Williams Power Company, Inc., and the Metropolitan Water District of Southern California filed comments supporting the filing. Southern California Edison (SoCal Edison) and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Southern Cities) separately filed protests.

16. The CAISO filed an answer to the protests and PG&E filed an answer to the CAISO's answer. Rule 213(a) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a) (2006), prohibits answers to protests and answers unless otherwise permitted by the decisional authority. We are not persuaded to allow the CAISO's answer to protests and PG&E's answer to the CAISO's answer.

Discussion

1. Proposed Outage Reporting Thresholds

17. SoCal Edison comments that certain components of the proposal are infeasible to apply. SoCal Edison contends that the proposed “greater of 10 MW or five percent” for output capability changes remains too small and overly burdensome. SoCal Edison points to personnel limitations it experiences and argues that instead of spending their time entering availability changes of minor magnitude, the same personnel should be focused on maintaining the reliability of the SoCal Edison system. To that end, SoCal Edison states that if the Commission determines that the minimum reporting threshold is necessary, it recommends that the Commission adopt a limit of 25 MW or greater. SoCal Edison contends that a higher reporting threshold would strike a more appropriate balance between grid reliability and the burden on market participants, and would eliminate the need to report the large percentage of renewable projects being constructed.

18. Southern Cities state that they do not oppose the substance of the CAISO Tariff revisions, but note that two elements of the proposed revisions appear deficient. First, Southern Cities state that the proposed revisions to section 9.3.10.5 of the CAISO Tariff do not include any reference to the 15-minute duration of an outage to be reported, as the CAISO described in the transmittal letter to the filing. Second, Southern Cities state that revised section 40.6A.3 “Reporting Requirements for Non-Participating Generators” retains certain language that may be perceived as holding Non-Participating Generators to a more stringent reporting requirement than the current one, which the CAISO is seeking to relax for Participating Generators. Southern Cities contend that the Commission should require that the CAISO remove the ambiguous language from section 40.6A.3.

Commission Determination

19. We note that the Commission has already accepted outage reporting requirements and thresholds, and sanctions for non-compliance with reporting requirements.⁸ In this order, we address the CAISO-proposed improvements to the existing outage reporting requirements. We disagree with SoCal Edison that new outage reporting thresholds are too low and would be burdensome. Under the current definition of an outage, market participants are required to report all normal variations of a unit’s measurable capacity; with such variations possibly occurring multiple times during a day for a single unit. The CAISO’s instant proposal will require generator operators to report only changes of the greater of 10 MW or five percent of the resource’s maximum capability, which last for fifteen minutes or longer. We find that the CAISO’s proposal will serve to reduce the

⁸ See generally *Amendment No. 55 Order*.

number of outages to be reported thereby alleviating the reporting burden imposed under the current tariff. Furthermore, we note the CAISO's extensive use of the stakeholder process in seeking comments on appropriate outage reporting criteria, and find that the CAISO has balanced the concerns of the stakeholders in developing the outage reporting criteria.

20. We also reject Southern Cities' contention that the existing language in section 40.6A.3 will become prejudicial to Non-Participating Generators once the proposed tariff revisions become effective. The CAISO proposes to revise section 40.6A.3 by adding the reference to the requirements for forced outages set forth in section 9.3.10.2. The CAISO- proposed revision does not impose on Non-Participating Generators any additional outage reporting requirements that are not applicable to Participating Generators. Moreover, because Non-Participating Generators are not bound by a Participating Generator Agreement, the language in section 40.6A.3 is necessary for the CAISO to reliably account for reductions in Non-Participating Generation operating levels.

21. We, however, agree with Southern Cities that the CAISO should modify section 9.3.10.5. The CAISO described in its transmittal letter that with respect to forced outages of 40 MW or greater or ten percent of the maximum rated capacity, that the derate or outage must occur for a period of fifteen minutes or more for the reporting requirement to be applicable.⁹ However, the CAISO failed to include the reference to the fifteen minute duration in the tariff revisions. We find that the CAISO must modify section 9.3.10.5 to include that the 40 MW or ten percent derate or outage reporting requirement will apply if the outage lasts fifteen minutes or longer. This is consistent with the CAISO's description of the revision in its transmittal letter, and with the section 9.3.10.2.1 language with regard to the greater of 10 MW or five percent outage reporting threshold. Accordingly, we direct the CAISO to submit, within 30 days of the date of issuance of this order, a compliance filing revising section 9.3.10.5.

22. Accordingly, we accept for filing the CAISO's proposed tariff revisions, subject to one modification, to be become effective the later of December 30, 2006 or within 24-hours after the submission of a market notice by the CAISO informing the Commission that all necessary changes to SLIC are completed. In the event that the necessary revisions to SLIC take longer than 120 days, we grant waiver of the 120-days advance notice requirement¹⁰ and allow the proposed tariff sheets to become effective

⁹ See Transmittal Letter at 6.

¹⁰ See *PSI Energy, Inc.*, 56 FERC ¶ 61,237, at 61,611 (1991).

upon future notice by the CAISO. At that time, the CAISO is required to resubmit the revised tariff sheets, identifying the appropriate effective date, in conformance with Order No. 614.¹¹

2. Request for Waiver of Sanctions

23. SoCal Edison requests that the Commission reject the CAISO's request for sanction authority, and permit market participants to report forced outages based on the real-time availability of operations personnel. SoCal Edison expresses the concern that the low thresholds for reporting outages, coupled with the potential for sanctions for failure to adhere to the reporting requirements, will distract Scheduling Coordinators from more critical tasks. SoCal Edison states that no other ISO has authority under its tariff to impose sanctions on a market participant that fails to report outages within a specific time frame and that the CAISO has not explained how its situation is different to justify the sanction authority. Alternatively, SoCal Edison states that the Commission should require the CAISO to relax the sanctions and to impose sanctions only for willful actions, not, for example, for data entry errors or system-related delays.

24. Finally, SoCal Edison asserts that the Commission should withhold sanction authority from the CAISO until such time as the SLIC system modifications are completed and tested.

Commission Determination

25. We reject SoCal Edison's request that the Commission reject the CAISO's request for the authority to impose sanctions for failure to report outages. We find that SoCal Edison's contention constitutes a collateral attack on the Commission's prior order. We have already approved the sanction authority for the CAISO in *Amendment No. 55 Order*. The issues raised here by SoCal Edison have already been adjudicated by the Commission and will not be revisited.

26. However, we agree with SoCal Edison that the CAISO's SLIC modifications should be completed and tested before the outage reporting sanctions become effective. In the *Waiver Order*, the Commission granted a temporary waiver of the forced outage sanctions, effective for the period from December 19, 2005 through October 31, 2006.¹² The temporary waiver has already expired, and in order to provide continuous application of waiver of sanctions, we grant an extension of the temporary waiver, commencing on

¹¹ See *Designation of Electric Rate Schedule Sheets*, Order No. 614, 65 Fed. Reg. 18,221, FERC Stats. and Regs., Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000).

¹² *Waiver Order* at P 8.

November 1, 2006. Furthermore, consistent with our findings in the *Waiver Order*, we remind the CAISO that it is not the practice of the Commission to grant open ended waivers. While the CAISO states that the SLIC improvements should take no longer to complete than March 31, 2007, we will not leave open the termination date of the waiver. Therefore, we will grant temporary waiver of the outage sanction provisions in sections 37.4.1.2 and 37.4.3.2 of the CAISO Tariff until the earlier of March 31, 2007, or within 3 business days of the date the CAISO submits a filing to terminate the temporary waiver.

The Commission orders:

(A) The CAISO's proposed tariff revisions are hereby accepted for filing, subject to modification, effective the later of December 30, 2006 or within 24-hours after the CAISO informs the Commission of the completion of changes to the SLIC.

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

(C) Waiver of the 120-day advance notice requirement is hereby granted, as discussed in the body of this order.

(D) Temporary waiver of the CAISO's Tariff provisions imposing outage sanctions is hereby extended, effective November 1, 2006 through the earlier of March 31, 2007 or within 3 business days of the date of the CAISO's filing requesting termination of the waiver.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

Appendix

Timely Motions to Intervene

California Electricity Oversight Board
Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California
Cogeneration Association of California and the Energy Producers and Users Coalition
Metropolitan Water District of Southern California
Mirant Energy Trading, LLC, Mirant California, LLC, Mirant Delta, LLC, and Mirant
Potrero, LLC
Modesto Irrigation District
M-S-R Public Power Agency and the City of Santa Clara, California
Northern California Power Agency
NRG Companies
Southern California Edison Company
Transmission Agency of Northern California
Williams Power Company, Inc.