

102 FERC ¶ 61, 146  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, and Nora Mead Brownell.

California Independent System Operator  
Corporation

Docket No. ER02-2321-002

ORDER ON REQUEST FOR REHEARING AND CLARIFICATION

(Issued February 6, 2003)

1. On September 30, 2002, the State Water Project of the California Department of Water Resources (California DWR) filed a request for rehearing of the Commission's order accepting, subject to modification, the California Independent System Operator Corporation's (California ISO or ISO) Amendment No. 46 to its open access transmission tariff (OATT).<sup>1</sup> On September 25, 2002, the Cities of Anaheim, Azusa, Banning, Colton and Riverside, California (Southern Cities) filed a request for clarification of the August 30 Order. As discussed below, we deny the request for rehearing and respond to the request for clarification. The Commission's decision will allow public power entities to operate within the California ISO system.

**I. Background**

2. On August 31, 2001 and November 16, 2001, in Docket Nos. ER01-2998-000 and ER02-358-000, Pacific Gas and Electric Company (PG&E) filed notices of termination of interconnection agreements with NCPA and Silicon Valley, respectively, and unexecuted Interconnection Agreements intended to replace the terminated agreements.

---

<sup>1</sup>100 FERC ¶ 61,234 (2002) (August 30 Order). In the August 30 Order, we also accepted a Metered Subsystem Aggregator (MSSA) Agreement between the California ISO and the Northern California Power Agency (NCPA) and Metered Subsystem (MSS) Agreements between the California ISO and the City of Roseville (Roseville) and the California ISO and the City of Santa Clara, California as Silicon Valley Power (Silicon Valley) (collectively, MSS Agreements).

3. On February 27, 2002, NCPA filed an emergency petition in Docket No. EL02-64-000 seeking an expedited declaratory order confirming PG&E's continuing contractual obligations under existing Interconnection Agreements and Contract 2948A.<sup>2</sup> NCPA also requested that the Commission institute a technical conference or other settlement resolution procedure that would allow NCPA, PG&E, and other interested parties, including the California ISO and Western, to reach agreement on the terms of replacement Interconnection Agreements and any related implementation issues.
4. On March 14, 2002, the Commission conditionally accepted the unexecuted replacement Interconnection Agreements for filing in Docket No. ER01-2998-000, *et al.*, suspended them for five months, to become effective on September 1, 2002, subject to refund, and subject to further Commission order.<sup>3</sup> The Commission also accepted the notices of termination of the existing interconnection agreements, suspended them for five months, to become effective concurrently with the replacement Interconnection Agreements. Finally, the Commission directed staff to convene a technical conference at Commission headquarters for the parties in those proceedings to discuss the terms and implementation of the replacement Interconnection Agreements.
5. From May through July 2002, staff held a series of technical conferences at Commission headquarters for the parties.
6. On July 15, 2002, in Docket Nos. ER01-2998-002, *et al.*, PG&E filed a Settlement Agreement (Settlement), a replacement Interconnection Agreement between PG&E and NCPA, a replacement Interconnection Agreement between PG&E and Silicon Valley, an Amendment No. 4 to the Grizzly Agreement between PG&E and Silicon Valley, and a letter from Western to PG&E in support of the Settlement. Pursuant to the terms of the Settlement, the California ISO separately filed in the instant docket on July 15, 2002, as amended on July 30, 2002, proposed Amendment No. 46 to the California ISO OATT; an MSSA Agreement between the California ISO and NCPA; and MSS Agreements between the California ISO and Roseville and the California ISO and Silicon Valley.

---

<sup>2</sup>Contract No. 2948A is the 1967 agreement between the Western Area Power Administration (Western) and PG&E, as supplemented and amended, on file with the Commission as PG&E Rate Schedule FERC No. 79, for the sale, interchange and transmission of electric capacity and energy as it relates to deliveries to NCPA, Silicon Valley and Roseville.

<sup>3</sup>Pacific Gas and Electric Company, 98 FERC ¶ 61,281 (2002).

7. In the August 30 Order, we accepted Amendment No. 46 subject to the removal of the 10-year requirement in the proposed definition of a MSS. We also conditionally accepted the MSSA Agreement between the California ISO and NCPA and the MSS Agreements between the California ISO and Roseville and the California ISO and Silicon Valley subject to clarification of whether a MSS Operator that follows load internal to the MSS meets the requirement that the MSS Operator has self-supplied Regulation Service.

8. On September 27, 2002, the California ISO submitted a filing in compliance with the Commission's August 30 Order. By letter order dated January 3, 2003, the Commission accepted the ISO's compliance filing.

## **II. Discussion**

### **A. Undue Discrimination**

#### **1. Arguments**

9. California DWR argues that the Commission's refusal to endorse nondiscriminatory treatment for all ISO customers is contrary to the Commission's standard market design initiative and is based upon factual errors. It contends that the Commission erred in identifying California DWR as a Participating Transmission Owner (PTO). It states that it is similarly situated to the municipalities benefitting from MSS status because it is a state-owned and operated water utility that was a quasi-Control Area prior to the California ISO's inception. California DWR contends that the August 30 Order does not offer any reasons, other than allegedly incorrect factual assumptions, for excluding California DWR from provisions that motivate publicly-owned systems to operate within the California ISO systems.

10. Furthermore, it claims that unduly discriminatory barriers continue to thwart its participation as a PTO and its full provision of resources. California DWR asserts that in spite of the California ISO's and the Commission's support for the conversion of existing transmission contracts those contracts provide California DWR some protection against costly ISO reliability services and permit the use of California DWR resources that are precluded under the ISO's OATT provisions.

11. California DWR claims that the Commission has unduly discriminated against entities such as California DWR by shifting costs away from MSS beneficiaries to entities that are not granted such favorable treatment.

12. California DWR also asserts that the Commission's conclusion, that the cost shifts caused by Amendment No. 46 are beyond the scope of this proceeding and will be resolved in the proceedings in Docket Nos. ER00-2019-000, *et al.*, improperly disregards the fact that the approval of Amendment No. 46, not the ISO Transmission Charge proposed in Docket No. ER00-2019, is the cause of the cost shift. It argues that the order improperly failed to address unresolved issues and constitutes reversible error because it relies upon an incorrect statement of the facts.

13. California DWR requests that the Commission require the California ISO, as part of the Market Design process,<sup>4</sup> to revise its OATT to: (1) promote and facilitate nondiscriminatory self-supply of ancillary services, energy and related services for all market participants; (2) apply principles of cost causation in allocating all California ISO costs for all California ISO market participants; and (3) amend its OATT to provide that (i) to the extent costs are not caused by MSS Operators that are properly excused from payment, the entities identified as responsible for causing the costs should bear them, and (ii) to the extent that MSS Operators are excused from payment because they self-supply certain services, ISO costs should be reduced, and not reallocated, to all other market participants.

## 2. Commission Response

14. In the August 30 Order, we did not intend to depict California DWR as a PTO in the California ISO. The intent of the August 30 Order was to note that NCPA, Roseville and Silicon Valley were differently situated than Sempra Energy and California DWR.<sup>5</sup> The August 30 Order sought to indicate that, although similar in many respects to NCPA, Roseville and Silicon Valley, California DWR is differently situated from those entities. For example, California DWR has not demonstrated that its contract obligations, interconnection agreements, load serving obligations or contract entitlements are similar to those of NCPA, Roseville and Silicon Valley. Further, we clarify that the August 30 Order does not preclude California DWR from entering into a similar MSS Agreement that would permit California DWR to operate seamlessly in the California ISO markets in a fashion similar to that achieved by NCPA, Roseville and Silicon Valley. California DWR has not taken it upon itself in this proceeding or any other proceeding before the Commission to open a dialogue with the California ISO to develop its own MSS Agreement. Here, NCPA, Roseville and Silicon Valley have developed, in concert with

---

<sup>4</sup>See Docket No. ER02-1656-000.

<sup>5</sup>August 30 Order at P 45.

Docket No. ER02-2321-002

- 5 -

the California ISO, MSS and MSSA Agreements that allow them to operate seamlessly. We encourage California DWR to enter into a similar dialogue with the California ISO.

15. We deny California DWR's request for rehearing regarding its cost causation concerns. In the instant proceeding, neither the parties nor California DWR has presented any cost data or evidence of cost causation or cost shifting. California DWR has not supported its allegation that a cost shift will occur as a result of Amendment No. 46.

16. We clarify that these cost causation and allocation issues are best raised in Docket Nos. ER00-2019-000, et al. We clarify that California DWR's proposed OATT revisions are best raised in the California market redesign proceeding in Docket No. ER02-1656-000.

## **B. Use of Forecasts to Measure Resource Adequacy**

### **1. Argument**

17. The Southern Cities note that the August 30 Order does not address the issue raised by the Southern Cities in their August 29, 2002 Supplemental Comments regarding the California ISO's use of forecast, as opposed to actual, relationships between loads and resources in determining curtailment obligations under Amendment No. 46.<sup>6</sup> The Southern Cities request that the Commission require the ISO to use actual relationships between loads and resources in assessing curtailment obligations in the event of a control area energy shortage. Alternatively, the Southern Cities request that the Commission clarify that its decision not to address this issue in this proceeding does not prejudice their ability to raise the issue in either the Market Design, Docket No. ER02-1656-000, or Transmission Access Charge, Docket Nos. ER00-2019-000, et al., proceedings.

### **2. Commission Response**

18. The resource adequacy issue has been raised in the Market Design proceeding, Docket No. ER02-1656-000. Nothing in the August 30 Order or this order prejudices the development of a resource adequacy plan by the parties in that proceeding. However, with respect to the instant MSSA/MSS participants, the use of forecasts to determine

---

<sup>6</sup>The Commission did not address these comments because they were filed out of time, less than one full day prior to the issuance of the August 30 Order.

Docket No. ER02-2321-002

- 6 -

resource adequacy is a reasonable approach and currently brings certainty to these parties.

The Commission orders:

The request for clarification is granted, and the request for rehearing is denied, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.