

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**California Independent System)
Operator Corporation)** **Docket No. ER07-326-000**

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER TO PROTESTS,
ANSWER TO MOTIONS TO INTERVENE AND COMMENTS, AND ANSWER
TO REQUEST FOR CLARIFICATION, OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

On December 15, 2006, the California Independent System Operator Corporation (“CAISO”)¹ submitted an amendment to the ISO Tariff. The amendment included, *inter alia*, the “December 2006 Local RCST Designation Amendments,” which were filed to modify the ISO Tariff with regard to the allocation of costs of Eligible Capacity designated in 2007 to provide services under the Reliability Capacity Services Tariff (“RCST”) to meet local reliability needs and to respond to Significant Events.² The CAISO requested that the December 2006 Local RCST Designation Amendments be made effective January 1, 2007.

The Commission established a January 5, 2007, comment date for the December 2006 Local RCST Designation Amendments, and in response a

¹ Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff, the compliance filing submitted on October 20, 2006, in Docket No. EL05-146, and the amendment to the ISO Tariff submitted in the above-captioned proceeding.

² The amendment to the ISO Tariff also included the “Order No. 676 Waiver Amendments,” which were submitted to modify the ISO Tariff with regard to Commission-approved waiver of the requirements of the Commission’s Order No. 676 and certain related revisions to the ISO Tariff directed by the Commission. No intervenor in this proceeding commented on the Order No. 676 Waiver Amendments, and so they require no further discussion in this answer.

number of parties filed motions to intervene.³ Some of those entities also filed comments and protests.⁴ In addition, AReM submitted a request for clarification.

The CAISO does not oppose any of the motions to intervene submitted in this proceeding. However, pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213, the CAISO respectfully requests leave to file an answer, and files its answer to the protests of the December 2006 Local RCST Designation Amendments.⁵ The CAISO also files its answer in response to the comments of SCE and the request for clarification. As explained herein, the Commission should accept the December 2006 Local RCST Designation Amendments as filed, and with the minor proposed addition that the CAISO does not object to as described in Section I.C, below.

³ Motions to intervene were submitted by the following parties: the Alliance for Retail Energy Markets ("AReM"); the California Department of Water Resources State Water Project ("SWP"); the California Electricity Oversight Board; the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, "Six Cities"); the City of Santa Clara, California, and the M-S-R Public Power Agency (collectively, "City/M-S-R"); Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc.; the Modesto Irrigation District; Northern California Power Agency; NRG Companies; Southern California Edison Company ("SCE"); Williams Power Company, Inc.

⁴ These intervenors are City/M-S-R, SCE, and Six Cities. In addition, SWP states that it reserves all objections previously set forth in the Docket No. EL05-146 proceeding, but does not submit any new comments in this proceeding. SWP at 5.

⁵ The CAISO requests waiver of Rule 213(a)(2) (18 C.F.R. § 385.213(a)(2)) to permit it to make this answer to the protests. Good cause for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in the case. See, e.g., *Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002); *Duke Energy Corp.*, 100 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Co.*, 93 FERC ¶ 61,098, at 61,259 (2000).

I. ANSWER

A. Commission Acceptance of the December 2006 Local RCST Designation Amendments Would Be Consistent with Commission Acceptance of the RCST Compliance Filing the CAISO Submitted in Docket No. EL05-146.

City/M-S-R and the Six Cities note that the Commission has not yet approved two filings submitted in the original RCST proceeding (Docket No. ER05-146): the Offer of Settlement and Explanatory Statement (“RCST Offer of Settlement”) containing the original RCST proposal and the CAISO’s October 20, 2006, compliance filing in that proceeding (“RCST Compliance Filing”). These intervenors argue that it would therefore be premature and otherwise procedurally incorrect for the Commission to approve the December 2006 Local RCST Designation Amendments.⁶ Although the CAISO agrees that the Commission needs to approve the pending RCST Offer of Settlement and the RCST Compliance Filing in Docket No. EL05-146 in addition to the instant tariff amendment filing, it is not procedurally incorrect for the Commission rule on the instant tariff amendment filing in a separate docket.

As explained below, the Commission, pursuant to orders issued in Docket No. EL05-146, stated that it would permit the CAISO to implement certain RCST rates (on an interim basis and subject to refund) following Commission approval of compliance tariff sheets, and the CAISO submitted the RCST Compliance Filing to satisfy the Commission’s directives. However, the Commission also carved out from Docket No. EL05-146 certain RCST cost allocation issues that the CAISO stated it would address in a separate filing under Section 205 of the

⁶ City/M-S-R at 7-9; Six Cities at 4-5.

Federal Power Act (“FPA”). Those cost allocation issues are addressed in the December 2006 Local RCST Designation Amendments. The Commission should approve the RCST Offer of Settlement and RCST Compliance Filing in Docket No. EL05-146 and the tariff amendment filing in this docket.

In its order issued July 20, 2006, in Docket No. EL05-146,⁷ the Commission, *inter alia*, permitted each seller of Eligible Capacity as defined under the terms of the RCST Offer of Settlement, at its election, to collect the RCST Offer of Settlement rates, so long as such seller agrees that all of these revenues will be subject to refund. July 20 Order at P 40. The Commission stated that each such seller of Eligible Capacity could collect the RCST Offer of Settlement rates from the date the July 20 Order was issued. July 20 Order at P 40.

In its September 27, 2006, order in Docket No. EL05-146,⁸ the Commission clarified that it was permitting implementation, on an interim basis and subject to refund, of the rates proposed in the RCST Offer of Settlement. The Commission directed the CAISO to “make a compliance filing to implement the Offer of Settlement rates as directed in the July 20 [O]rder and as clarified herein.” September 27 Order at P 10. The Commission stated that, upon approval of appropriate interim tariff sheets, the CAISO would be authorized to implement all of the terms of the RCST Offer of Settlement relating to the sales of

⁷ *California Independent System Operator Corp.*, 116 FERC ¶ 61,069 (2006) (“July 20 Order”).

⁸ *California Independent System Operator Corp.*, 116 FERC ¶ 61,297 (2006) (“September 27 Order”).

capacity (including Must-Offer Capacity Payments, RCST rates, and payments to frequently mitigated units), and that each potential seller of capacity under the RCST can collect the RCST Offer of Settlement rates if the seller has made an election pursuant to the July 20 Order and the clarifications provided in the September 27 Order. Specifically, the Commission noted that its approval in those orders encompasses provisions in the RCST Offer of Settlement establishing must-offer capacity payment rates, RCST rates due to designation resulting from a Significant Event, RCST rates due to designation resulting from deficiency in Resource Adequacy showings, and payments to frequently mitigated units. September 27 Order at P 14. The Commission also stated that the interim tariff sheets should include the cost allocation methodologies as proposed in the RCST Offer of Settlement and should include all reporting and procedural requirements set forth in the RCST Offer of Settlement. September 27 Order at PP 15-18.

Thus, the July 20 Order and the September 27 Order contemplated that the terms of the RCST Offer of Settlement described above (as clarified by the Commission) would go into effect on an interim basis. The CAISO submitted the RCST Compliance Filing, including interim ISO Tariff sheets, in order to “implement the Offer of Settlement rates” as directed by the Commission. The ISO Tariff sheets included in the RCST Compliance Filing bore effective dates of July 20, 2006, in compliance with the directive in the July 20 Order (at P 40) that each the RCST Offer of Settlement rates could be collected from the date that

Order was issued. The Commission has not yet issued an order on the RCST Compliance Filing.

The December 2006 Local RCST Designation Amendments, by comparison, concern RCST issues related to, but different than, those being addressed in Docket No. EL05-146. In that regard, in response to a CAISO request for clarification of the July 20 Order, the September 27 Order stated that, because the RCST Offer of Settlement did not propose a method for allocating RCST local reliability and Significant Event designation costs in 2007, the paper hearing the Commission established in the July 20 Order would not address the 2007 allocation of these costs. September 27 Order at P 22. The Commission also noted, without further comment, the CAISO's statement that the CAISO "anticipated making a Section 205 filing" to address the allocation of RCST costs incurred in 2007. September 27 Order at P 21. Thus, the Commission made it clear that the 2007 allocation of RCST costs fell outside the scope of issues to be addressed in the Docket No. EL05-146 proceeding. As the CAISO indicated, those issues were to be addressed in a new Section 205 proceeding – this proceeding. Accordingly, the CAISO submitted the December 2006 Local RCST Designation Amendments, and requested that they be made effective January 1, 2007, because the CAISO needs to determine whether there will be any local RCST designations for 2007, and needs a methodology to allocate such costs (as well as the costs of any Significant Event designations) effective as of the

beginning of that year, in accordance with the RCST Offer of Settlement and previously filed ISO Tariff provisions.⁹

City/M-S-R and the Six Cities erroneously attempt to conflate the Docket No. EL05-146 proceeding with the instant proceeding. For example, City/M-S-R assert that the appropriate vehicle for proposing ISO Tariff language concerning the 2007 allocation of RCST costs would have been an amendment to the CAISO's October 20, 2006, compliance filing in Docket No. EL05-146.¹⁰ Just the opposite is true: it would have been inappropriate for the CAISO to submit in Docket No. EL05-146 *any* filing in which the CAISO proposed ISO Tariff changes on an issue that the Commission had expressly stated it was not going to address in that docket. Such a filing would have directly contradicted the Commission's directives in the September 27 Order, and, if submitted as an amendment to the compliance filing, would have been beyond the permissible scope of the compliance filing.¹¹ Instead, the CAISO properly submitted those changes in a new Section 205 proceeding, as it told the Commission it was going to do.¹² The CAISO finds it interesting that neither City/M-S-R nor Six Cities

⁹ See Transmittal Letter for December 2006 Local RCST Designation Amendments at 1-9.

¹⁰ City/M-S-R at 8.

¹¹ See, e.g., *Midwest Independent Transmission System Operator, Inc.*, 117 FERC ¶ 61,363, at P 45 (2006) (“[T]he Commission rejected without prejudice Midwest ISO’s proposal to impose a charge on generators that operate above certain limits because the proposal was beyond the scope of a compliance filing but Midwest ISO could file the proposal in an adequately supported section 205 of FPA filing.”).

¹² The Six Cities also argue that it would be premature to issue an order on the December 2006 Local RCST Designation Amendments because they have submitted requests for rehearing of the July 20 Order and September 27 Order that are still pending before the Commission. Six Cities at 4-5. This argument should be rejected. Section 313(c) of the FPA, 16 U.S.C. § 825l(c), states that the filing of a request for rearing does not operate as a stay of the Commission order

argued in comments on the RCST Compliance Filing that such compliance filing was inadequate because it failed to address 2007 local and Significant Event cost allocation issues, but that they now raise such an argument after the fact.

Although the CAISO can accommodate Commission action whether the Commission first issues an order in this docket or in Docket No. EL05-146, the CAISO urges the Commission to issue an order in Docket No. EL05-146 either prior to or simultaneously with its issuance of an order in this proceeding. That would allow the CAISO to implement all of the RCST provisions in a timely manner.¹³

The Six Cities also rehash in the instant proceeding an argument they made in the Docket No. EL05-146 proceeding with regard to 2006: that there is purportedly no indication that the CAISO requires the ability to designate RCST capacity to ensure reliability during 2007.¹⁴ This issue has already been argued in Docket No. EL05-146 and should not be debated anew in this proceeding, which pertains to two discrete cost allocation issues, not to the justness and reasonableness of RCST or the proposals contained in the RCST Offer of

for which rehearing is sought, unless the Commission specifically directs otherwise. The Commission has issued no such directive in Docket No. EL05-146.

¹³ If the Commission issues an order accepting the December 2006 Local RCST Designation Amendments prior to the time it issues an order accepting the RCST Compliance Filing, the CAISO would not object to a postponement of the implementation of the December 2006 Local RCST Designation Amendments until the Commission issues an order on the RCST Compliance Filing. In that case, the RCST Compliance Filing would still become effective as of July 20, 2006, and the ISO Tariff sheets in the December 2006 Local RCST Designation Amendments would still become effective as of January 1, 2007. As indicated by the fact that the CAISO did not request Commission action on the December 2006 Local RCST Designation Amendments earlier than the standard 60-day time period, it is of no consequence to the CAISO if the Commission order authorizing the implementation of those amendments is issued subsequent to their January 1, 2007 effective date.

¹⁴ Six Cities at 5-6.

Settlement. The Commission noted the Six Cities' argument in the July 20 Order (at P 31). Nevertheless, as described above, the Commission approved the implementation of the RCST Offer of Settlement on an interim basis. The Six Cities' argument is no more persuasive now than it was previously. Therefore, that argument should be rejected.

B. The Commission Should Deny the Six Cities' Proposal to Be Given Access to Technical Information.

The Six Cities state that they do not object to any of the language of the December 2006 Local RCST Designation Amendments. However, they propose that if the Commission approves those amendments, it should require that the ISO Tariff be further amended to state that the CAISO will provide certain technical information on request to Scheduling Coordinators on for RA Entities.¹⁵ The Commission should not impose such a requirement. The Six Cities' proposal is entirely outside the scope of the December 2006 Local RCST Designation Amendments. Those amendments solely concern (1) the allocation of costs associated with 2007 local RCST designations and Significant Event RCST designations and (2) the related (and necessary) provision of information to the CAISO so the CAISO can determine whether regulatory authorities established any local requirements for load-serving entities ("LSEs") and whether LSEs met such requirements. The CAISO did not propose any changes to the previously filed RCST tariff provisions regarding Local Regulatory Authorities' ability to determine a local capacity requirement if they so wish – which is the nature of the ISO Tariff change that the Six Cities want the Commission to

¹⁵ Six Cities at 6-8.

require. However, none of these issues were raised in the Six Cities' comments on the RCST Offer of Settlement or on the RCST Compliance Filing, which contained the tariff language providing Local Regulatory Authorities with the opportunity to establish local capacity requirements for 2007 so that the CAISO could then determine whether it would be permitted to make local RCST designations, effective January 1, 2007.

In summary, the purpose of the December 2006 Local RCST Designation Amendments is not to establish local capacity requirements, set parameters/standards by which Local Regulatory Authorities can set local requirements, or even to give Local Regulatory Authorities the opportunity to set such requirements (that was done in a previous tariff filing). The purpose of the December 2006 Local RCST Designation Amendments is to implement two RCST cost allocation methodologies. As such, the Six Cities' arguments go beyond the scope of this proceeding.

In any event, tariff language identifying the technical information the Six Cities request is not necessary in order for the Six Cities determine local capacity requirements, as evidenced by the fact that the CPUC has been able to determine local capacity requirements for its LSEs without the need for such tariff language. The CAISO has no objection to meeting with the Six Cities to discuss what additional information the CAISO can provide to the Six Cities, subject to confidentiality requirements, that they may find useful, but the Six Cities' request for additional ISO Tariff changes should be denied.

The CAISO also notes that under the RCST Offer of Settlement, there is no requirement that Local Regulatory Authorities establish local requirements for their LSEs; it is purely a voluntary undertaking. Further, an important element of the RCST settlement is that the CAISO can only designate local RCST resources to the extent a Local Regulatory Authority in fact establishes local requirements **and** its LSE(s) are deficient in meeting such requirements. Thus, to the extent the Six Cities do not establish local capacity requirements for their LSEs, the CAISO cannot allocate any local RCST designation costs to such LSEs.

C. The CAISO Does Not Object to Modifying Section 43.2.1 of the ISO Tariff As Proposed by AReM and SCE.

AReM and SCE both propose that the CAISO further revise Section 43.2.1 of the ISO Tariff to state that if Local Regulatory Authority information has already been provided to the CAISO, that information does not need to be provided to the CAISO again.¹⁶ The CAISO does not object to making this addition to Section 43.2.1.

¹⁶ AReM at 3-4; SCE at 2.

II. CONCLUSION

For the reasons explained above, the Commission should accept the December 2006 Local RCST Designation Amendments as filed and with the minor addition to Section 43.2.1 that the CAISO does not object to as described in Section I.C, above.

Respectfully submitted,

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Dated: January 22, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon each person designated on the official service list maintained by the Secretary in this proceeding in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Folsom, California this 22nd day of January, 2007.

/s/ Anthony J. Ivancovich
Anthony J. Ivancovich

California Independent
System Operator Corporation