

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

**California Independent System) Docket Nos. ER07-805-003 and
Operator Corporation) ER07-1304-001**

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF THE CALIFORNIA
INDEPENDENT SYSTEM OPERATOR CORPORATION**

On December 14, 2007, the California Independent System Operator Corporation (“CAISO” or “ISO”) submitted a filing in the above-captioned proceeding (“Compliance Filing”) to comply with the Commission’s “Order on Clarification and Rehearing, Accepting Compliance Filing with Modifications, and Accepting Billing Services Agreement,” 121 FERC ¶ 61,074, issued on October 22, 2007 (“October 22 Order”).¹ The Compliance Filing contained revisions both to the CAISO Tariff and to the Billing Services Agreement (“ISO-WECC Billing Services Agreement”) between the CAISO and the Western Electricity Coordinating Council (“WECC”). The Commission established a January 4, 2008, comment date concerning the Compliance Filing. No party submitted comments by January 4, but on January 9, 2008, the Alliance for Retail Energy Markets (“AReM”) filed a “Motion for Acceptance of Late Filing and Protest.”

Pursuant to Rules 212 and 213 of the Commission’s Rules, 18 C.F.R. §§ 385.212, 385.213, the CAISO respectfully requests leave to file an answer, and

¹ Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the CAISO Tariff, and in the Compliance Filing.

files its answer, to AReM's protest.² For the reasons explained below, the Commission should reject AReM's filing and should accept the Compliance Filing without modification.

I. Answer to AReM's Protest

A. The Provision of the CAISO Tariff that AReM Protests Does not Give the CAISO the Option to Refuse to Make Load Adjustments, It Merely and Reasonably Allows the CAISO to Exclude Load Adjustments from its Reports to the WECC if Time Constraints Do Not Permit Their Inclusion.

In its protest, AReM states that the Compliance Filing appropriately includes an annual deadline of July 1 for the WECC to approve and inform the CAISO in writing of any adjustments to the load of a Load-Serving Entity ("LSE") for the upcoming NERC/WECC Charge Assessment Year, and that the July 1 deadline complies with the direction in the October 22 Order that WECC-approved load adjustments should not "impair efficient administration" or arise "too late in the billing cycle."³ However, AReM objects to the following provision shown in boldface type, which is contained in Section 11.2.19.4(b) of the CAISO Tariff as proposed in the Compliance Filing:

The ISO will report to the WECC the total of all Scheduling Coordinators' NERC/WECC Metered Demand for the calendar year two years prior to the NERC/WECC Charge Assessment Year, including any adjustments to the calculation of NERC/WECC Metered Demand for that year made by the ISO in response to

² 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 AReM's protest. 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 this case. See, e.g., *Entergy Services, Inc.*, 116 FERC ¶ 61,286, at P 6 (2006); *Midwest Independent Transmission System Operator, Inc.*, 116 FERC ¶ 61,124, at P 11 (2006); *High Island Offshore System, L.L.C.*, 113 FERC ¶ 61,202, at P 8 (2005).

³ AReM at 2-3 (citing October 22 Order at P 22).

disputes raised by Scheduling Coordinators pursuant to Section 11.2.19.4(a) [of the CAISO Tariff]. The report will also include any adjustments to the calculation of NERC/WECC Metered Demand, based on the decisions by the WECC to permit such adjustments, that **the ISO has time to reflect in the report and that** the WECC provides to the ISO in a written statement in accordance with the ISO-WECC Billing Services Agreement.

AReM asserts that the provision stating that the CAISO's report of total NERC/WECC Metered Demand will include any WECC-approved load adjustments that the CAISO has time to reflect in the report does not comply with the October 22 Order, because the provision purportedly gives the CAISO "the unilateral option to ignore WECC-approved adjustments to LSE load when submitted by the July 1 deadline."⁴ Contrary to AReM's claims, the provision does not do that.

AReM misunderstands the function of the provision it protests. This provision only pertains to the report that the CAISO will provide to WECC showing the total of all Scheduling Coordinators' NERC/WECC Metered Demand for the calendar year prior to the NERC/WECC Charge Assessment Year (plus any adjustments that the WECC has provided notice of to the CAISO in accordance with the ISO-WECC Billing Services Agreement); the provision is not determinative of what load will actually be reflected in invoices when such invoices are issued to Scheduling Coordinators as described in Tariff Sections 11.2.19.4(d) (concerning Preliminary NERC/WECC Charge Invoices) and 11.2.19.4(f) (concerning Final NERC/WECC Charge Invoices). The sole purpose of this report – as clearly specified in Tariff Section 11.2.19.4(b) – is to "facilitate

⁴ *Id.* at 3-5.

the WECC's calculation of actual NERC/WECC Charges to be invoiced to the ISO for the NERC/WECC Charge Assessment Year." In other words, the report is not the basis upon which the CAISO will issue invoices to Scheduling Coordinators. Section 11.2.19.4(b) merely states that the CAISO is required to include, *in its report to the WECC*, the WECC-approved load adjustments that the CAISO has time to include therein. The provision serves a very limited and practical purpose. If, for example, the WECC were to inform the CAISO that WECC has approved a proposed load adjustment the morning of the day the CAISO was going to transmit its report to the WECC, the provision would keep the CAISO from being obligated either to (i) reflect the last-minute load adjustment in the report before it was filed that day, which would be impossible for the CAISO to do, or (ii) postpone transmitting the report to the WECC while the CAISO updated it to include the last-minute load adjustment, which would require the CAISO to do further work on a report it has already finalized and to delay the WECC's receipt of the report.

There is no need for the CAISO to postpone transmitting its report to the WECC in order to include in the report all (including late-reported) load adjustments to be made for the upcoming NERC/WECC Charge Assessment Year. In that regard, every WECC-approved load adjustment that the CAISO is informed of prior to July 1 – including any load adjustment(s) not included in the CAISO's report to the WECC – will be reflected in the Preliminary NERC/WECC Charge Invoices that the CAISO issues to Scheduling Coordinators. Pursuant to Tariff Section 11.2.19.4(d), the CAISO is required to issue Preliminary

NERC/WECC Charge Invoices for the upcoming NERC/WECC Charge Assessment Year by August 31. The Preliminary NERC/WECC Charge Rate, which is a component of the calculation of each Preliminary NERC/WECC Charge Invoice, includes, *inter alia*, “any adjustments to the calculation of NERC/WECC Metered Demand as reported to the WECC pursuant to Section 11.2.19.4(b), and includ[es] any additional adjustments to the calculation of NERC/WECC Metered Demand, based on decisions by the WECC to permit such adjustments, that the WECC provides to the ISO in a written statement in accordance with the ISO-WECC Billing Services Agreement.”⁵ These “additional adjustments” are any WECC-approved load adjustments that the CAISO makes between the time it provides its report to the WECC and July 1.⁶ Therefore, all load adjustments that the CAISO receives from the WECC prior to July 1 will be reflected in Scheduling Coordinators’ invoices for the upcoming NERC/WECC Charge Assessment Year. AReM acknowledges that the July 1 reporting date is appropriate; so, there is no real issue here.

The CAISO notes that the October 22 Order itself establishes a standard that allows the WECC to consider and reject proposed load adjustments. This option is set forth in the Commission’s order and does not arise from the

⁵ Definition of Preliminary NERC/WECC Charge Rate (emphasis added).

⁶ Even if, for some unknown reason, the additional adjustments were not included in Preliminary NERC/WECC Charge Invoices, they would still be included in the Final NERC/WECC Charge Invoices the CAISO issues to Scheduling Coordinators. Just like the Preliminary NERC/WECC Charge Rate, the Final NERC/WECC Charge Rate, which is a component of the calculation of each Final NERC/WECC Charge Invoice, reflects, *inter alia*, any “additional adjustments to the calculation of NERC/WECC Metered Demand, based on decisions by the WECC to permit such adjustments, that the WECC provides to the ISO in a written statement in accordance with the ISO-WECC Billing Services Agreement,” between the time the CAISO provides its report to the WECC and July 1. Tariff Section 11.2.19.4(e).

CAISO's Compliance Filing. In the October 22 Order, the Commission stated that it "will allow LSEs to obtain an update to their load data when (1) the change in load is attributable to the transfer of load to another LSE after the data year, (2) the transfer is significant and easily identifiable, and (3) the update would not impair efficient administration of or finality in the billing process."⁷ The Commission also made it clear that "[t]he WECC has not delegated the responsibility [for making such adjustments] to the CAISO."⁸ As a general rule, the CAISO expects to implement all load adjustments approved by WECC and reported to the CAISO by July 1 of the year prior to the applicable calendar year, consistent with the standard in the October 22 Order. In the unlikely event that the WECC informs the CAISO it is considering a load adjustment that could impair the efficient administration of the CAISO's billing process, the CAISO reserves the right to raise these efficiency concerns with the WECC. Indeed, in the October 22 Order (at P 23), the Commission recognized that the WECC must "inform the CAISO of adjustments on a timely basis." The proposed provisions in the Compliance Filing are consistent with this guidance and reflect the rules that the WECC has adopted for the adjustment process. The CAISO notes that the WECC has the ultimate responsibility for approving or rejecting any load adjustments.

In sum, the provision in Section 11.2.19.4(b) requiring the CAISO to include in its report only the WECC-approved load adjustments that the CAISO

⁷ October 22 Order at P 22.

⁸ *Id.* at P 23.

has time to include therein is just and reasonable, in compliance with the October 22 Order, and causes no harm whatsoever to AReM's constituency because it pertains only to a report and will not affect invoicing. The CAISO Tariff states that the CAISO will reflect in actual invoices load adjustments based on decisions by the WECC to permit such adjustments,⁹ and the ISO-WECC Billing Services Agreement states that the CAISO will include load adjustments that the WECC provides to the CAISO prior to July 1.¹⁰ As a result, AReM's protest is without merit and should be rejected.

B. The Provision of the ISO-WECC Billing Services Agreement that AReM Protests Does not Give the CAISO the Option to Refuse to Make Load Adjustments, It Merely and Reasonably Allows the CAISO to Exclude Load Adjustments from Certain Market Notices and Reports of NERC/WECC Metered Demand To The Extent Time Constraints Do Not Permit Their Inclusion.

For reasons similar to its protest of Section 11.2.19.4(b) of the CAISO Tariff, AReM protests the following provision shown in boldface type, which is contained in Section 2(d) of the ISO-WECC Billing Services Agreement:

The CAISO will reflect the WECC-approved adjustments described in Section 2(c) [of the ISO-WECC Billing Services Agreement] in the allocation and invoicing of NERC/WECC Charges **as time permits**, except that the CAISO will not reflect, with regard to the allocation and invoicing of NERC/WECC Charges for the upcoming calendar year, WECC-approved adjustments that are provided to the CAISO after July 1 of the year preceding the upcoming calendar year.

AReM asserts that the provision stating that the CAISO will reflect WECC-approved load adjustments in the allocation and invoicing of NERC/WECC

⁹ Definition of Preliminary NERC/WECC Charge Rate, and Tariff Section 11.2.19.4(e).

¹⁰ ISO-WECC Billing Services Agreement, Section 2(d).

Charges as time permits does not comply with the October 22 Order, because the provision purportedly gives the CAISO the option to ignore WECC-approved load adjustments submitted by the July 1 deadline.¹¹ Just like the language in Tariff Section 11.2.19.4(b) that AReM objects to, Section 2(d) of the ISO-WECC Billing Services Agreement does not permit the CAISO to ignore WECC-approved load adjustments submitted by July 1 of each year. Indeed, if it did, the WECC would never have executed the ISO-WECC Billing Services Agreement because such a concept would be inconsistent with the process for load adjustments that it has adopted and would render its wishes ineffectual.¹²

Again, AReM misapprehends the function of the provision it protests. The provision does not give the CAISO the option of ignoring WECC-approved load adjustments. Section 2(d) recognizes that the CAISO “will allocate NERC/WECC Charges among Scheduling Coordinators and issue invoices for NERC/WECC Charges to such Scheduling Coordinators in accordance with the provisions concerning the allocation of NERC/WECC Charges contained in the CAISO Tariff.” Section 2(d) encompasses all of the processes described in Tariff Section 11.2.19.4, including, *inter alia*, the CAISO’s issuance of a market notice that contains the total of Scheduling Coordinators’ NERC/WECC Metered Demand for the calendar year two years prior to the NERC/WECC Charge Assessment Year,¹³ the CAISO’s notification to each Scheduling Coordinator of

¹¹ AReM at 3-5.

¹² Similarly, the WECC has not protested the language in Tariff Section 11.2.19.4(b) – which AReM protests – as being inconsistent with the ISO-WECC Billing Services Agreement, its load adjustment process, or the invoicing process.

¹³ See Tariff Section 11.2.19.4(a).

its NERC/WECC Metered Demand for the calendar year two years prior to the NERC/WECC Charge Assessment Year,¹⁴ and the CAISO's provision of the report to the WECC described in Section I.A, above.¹⁵ Therefore, just like the provision in Section 11.2.19.4(b) discussed above, the provision in Section 2(d) serves a very limited and practical purpose. For example, if the WECC were to inform the CAISO of a load adjustment the morning of the day the CAISO was going to issue a market notice that contains the total of all Scheduling Coordinators' NERC/WECC Metered Demand for the calendar year two years prior to the NERC/WECC Charge Assessment Year, the provision in Section 2(d) of the ISO-WECC Billing Services Agreement would keep the CAISO from being obligated either to (i) reflect the last-minute load adjustment in the amount of NERC/WECC Metered Demand stated in the market notice before the market notice was issued that day, which would be an impossibility, or (ii) postpone issuing the market notice until the CAISO updated the NERC/WECC Metered Demand amount, which would require the CAISO to do further work on a market notice it has already finalized and to delay the issuance of the market notice.

For the reasons discussed above concerning the CAISO's report to the WECC, there is no need for the CAISO to postpone issuing its market notice containing the NERC/WECC Metered Demand amount, and that market notice does not serve as the final basis upon which the CAISO will issue invoices. The CAISO will reflect in invoices load adjustments based on decisions by the WECC

¹⁴ See *id.*

¹⁵ See Section I.A, above, and proposed Section 11.2.19.4(b) of the CAISO Tariff.

to permit such adjustments that the WECC provides to the CAISO prior to July 1. Because these invoices are not issued until August 31 (preliminary) and December (final), the fact that reports and/or market notices issued well before these dates may not reflect certain load adjustments will not preclude adjustments provided to the CAISO by July 1 from being reflected in these invoices. Therefore, the provision in Section 2(d) stating that the CAISO will reflect WECC-approved load adjustments in the allocation and invoicing of NERC/WECC Charges as time permits is just and reasonable and in compliance with the October 22 Order. For the reasons discussed above, there is no potential for harm to AReM's constituency. Consequently, AReM's protest is without merit and should be rejected.

II. Conclusion

For the reasons explained above, the Commission should accept the Compliance Filing without modification and should reject AReM's protest.

Respectfully submitted,

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Dated: January 24, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service lists in the captioned proceedings, 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 Washington, D.C. this 24th day of January, 2008.

/s/ Bradley R. Miliauskas
Bradley R. Miliauskas