

148 FERC ¶ 61,023
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

California Independent System Operator Corporation

Docket No. ER14-480-001

ORDER ON COMPLIANCE FILING

(Issued July 17, 2014)

1. On March 20, 2014, the Commission issued an order conditionally accepting California Independent System Operator Corporation's (CAISO) tariff revisions to align its market structure with certain reforms mandated in the Commission's Order No. 764¹ and implement additional market enhancements (March 20 Order).² On April 21, 2014, CAISO submitted tariff revisions to comply with the Commission's directives in the March 20 Order. In this order, we conditionally accept CAISO's proposed tariff revisions and direct CAISO to make a further compliance filing.

I. Background

2. On November 26, 2013, CAISO proposed tariff modifications in this proceeding to: (i) institute 15-minute scheduling and settlement for all transactions, (ii) facilitate a transition to the new market structure for variable energy resources (VERs), and (iii) reinstate convergence bidding on the interties (November Filing). CAISO stated that

¹ *Integration of Variable Energy Resources*, Order No. 764, FERC Stats. & Regs. ¶ 31,331, *order on reh'g and clarification*, Order No. 764-A, 141 FERC ¶ 61,232 (2012), *order on reh'g*, Order No. 764-B, 144 FERC ¶ 61,222 (2013) (Order No. 764).

² *Cal. Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,204 (2014) (March 20 Order). On November 27, 2013, CAISO submitted a separate filing in Docket No. ER14-495-000 to comply with the meteorological and forced outage data reporting mandates of Order No. 764. The Commission conditionally accepted the Docket No. ER14-495-000 compliance filing in an order issued concurrently with the March 20 Order. *Cal. Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,205 (2014).

the purpose of these revisions was to facilitate the scheduling of VERs over the interties and integrate such resources into the CAISO markets, while also allowing all resources (internal and external) to be scheduled more effectively through more granular schedules with shortened forecast lead times. CAISO asserted that the revisions will have the benefit of aligning the settlement of internal and intertie transactions at the same time and at the same price.

3. In the November Filing, CAISO also proposed transition measures for VERs that utilize older technology or have power purchase agreements that explicitly prohibit them from voluntarily responding to real-time price signals (Protective Measures). The proposed Protective Measures established a three-year period, during which VERs would have time to adapt to the new real-time market structure.³ Additionally, CAISO proposed eligibility criteria for the Protective Measures. These criteria specified that, in the event of a dispute between a resource owner and a contractual counterparty regarding the eligibility of a resource for such Protective Measures, the resource would be subject to the Protective Measures pending resolution of the dispute. Moreover, upon resolution of the dispute, CAISO agreed not to undo any prior settlement under the Protective Measures unless requested by both parties.⁴

4. On March 20, 2014, the Commission conditionally accepted CAISO's November Filing. Among other things, the March 20 Order directed CAISO to submit a compliance filing within 30 days to address three compliance obligations.⁵ Specifically, the Commission directed CAISO to revise its tariff to clarify the use of the term "Instructed Imbalance Energy."⁶ In addition, the Commission directed CAISO to delete the clause

³ November Filing at 38.

⁴ CAISO April 21, 2014 Compliance Filing at 2-3 (Compliance Filing).

⁵ The Commission also issued two directives concerning the reinstatement of convergence bidding on the interties that will not be discussed in this order. Specifically, the Commission directed CAISO to: (1) submit reports regarding the performance of the revised market structure and the impact of convergence bidding on the interties, no later than 120 days prior to May 1, 2015; and (2) submit a report to evaluate the market impacts of convergence bidding on the interties, no later than 30 days after 12 months after the reinstatement of intertie convergence bidding. March 20 Order, 146 FERC ¶ 61,204 at P 103.

⁶ *Id.* P 62. In its answer in the original proceeding, CAISO agreed to delete the term Instructed Imbalance Energy from tariff section 11.5.4.2 (Allocations of Non-Zero Amounts of the Sum of IIE, UIE, UFE, the Real-Time Ancillary Services Congestion Revenues and Real-Time Virtual Awards Settlements).

pertaining to the revocation of self-forecasting privileges or to propose a substitute clause with an objective threshold to determine whether a resource's forecasts are significantly less accurate than CAISO's.⁷ Finally, the Commission found that CAISO's proposal for resolving disputes pertaining to eligibility for participating in the Protective Measures did not adequately account for how eligibility for refunds would be determined, who would be eligible to receive a refund, and how and when refunds would be distributed. Thus, the Commission directed CAISO to revise its tariff language to set forth a process for distribution of such refund.⁸

II. Compliance Filing

5. In response to the March 20 Order, CAISO proposes to modify the relevant parts of tariff section 11.5.4.2 and Appendix A to delete the term Instructed Imbalance Energy. CAISO also proposes to replace the term "Instructed Imbalance Energy" with the terms "Fifteen Minute Market Instructed Imbalance Energy" and "Real-time Dispatch Instructed Imbalance Energy," both of which are defined terms in its tariff.⁹

6. CAISO also proposes to delete from tariff section 4.8.2.1.1 (Use of Own Forecast) the clause pertaining to revocation of self-forecasting privileges. CAISO states that it will not be proposing a substitute provision at this time. CAISO states that it believes that, even in the absence of a specific tariff provision, forecasts submitted by VERs would still be subject to the Commission's market conduct rules.¹⁰

7. To comply with the Commission's directive to propose a process to rescind Protective Measures payments for resources found ineligible to receive them through dispute resolution, CAISO proposes to revise tariff section 4.8.3.1.2.2 of the Protective Measures provisions to provide that CAISO will not undo any prior settlement under the Protective Measures "unless the parties submit a joint statement in writing indicating that the parties agree that the [Participating Intermittent Resource Program] Protective Measures settlement received during the term that the matter was in dispute should be unwound and resettled as if the [Participating Intermittent Resource Program] Protective Measures were not received."¹¹ CAISO's revisions state that, in the event that the parties

⁷ *Id.* P 63.

⁸ *Id.*

⁹ Compliance Filing at 5-6.

¹⁰ *Id.* at 6-7.

¹¹ *Id.* at 3 (citing proposed tariff § 4.8.3.1.2.2).

submit such a joint statement, it will unwind the Protective Measures provided to the affected scheduling coordinator and will process such resettlement charges or payments through the existing resettlement procedures specified in tariff section 11.29.7 (Settlement Cycle). CAISO's revisions also provide that, if the joint statement is provided in a timely manner, CAISO will take all reasonable and necessary steps to include the resettlement on the next recalculation statement.¹²

III. Notice and Responsive Pleadings

8. Notice of CAISO's Filing was published in the *Federal Register*, 79 Fed. Reg. 24,702 (2014), with interventions and protests due on or before May 12, 2014. Timely motions to intervene and comments/protests were filed by SESCO Enterprises, LLC (SESCO), Pacific Gas and Electric Company (PG&E) and the California Department of Water Resources State Water Project (SWP). On May 30, 2014, CAISO filed an answer.

A. Protective Measures

9. SWP and PG&E comment that CAISO has failed to comply with the Commission's directive to develop mandatory processes to unwind settlements related to the Protective Measures, after the conclusion of a dispute resolution process. These commenters state that CAISO's proposed modification of tariff section 4.8.3.1.2.2 appears to provide that a settlement will not be unwound after a VER is found to be ineligible unless the parties submit a joint statement in writing indicating that the parties agree that the Protective Measures should be unwound and resettled.¹³ PG&E asserts that, since the VER's eligibility for Protective Measures is only reviewed if requested by the counterparty, this request should serve as sufficient notice that a refund is required if the VER is found ineligible.¹⁴ SWP argues that it is not clear why a losing party to the dispute would ever agree that the Protective Measures should be unwound. SWP and PG&E contend that resettlements should be mandatory regardless of whether the parties to the dispute resolution process submit the statement specified by CAISO, and the Commission should require CAISO to revise its tariff accordingly.¹⁵

¹² *Id.* at 3-5.

¹³ SWP May 12, 2014 Comments at 3 (SWP Comments); PG&E May 12, 2014 Comments at 2 (PG&E Comments).

¹⁴ PG&E Comments at 2.

¹⁵ SWP Comments at 2-4, PG&E Comments at 1-2.

10. SWP comments that some settlements that would be unwound under CAISO tariff section 4.8.3.1.2.2 may ultimately cost more in administrative expenses to unwind than the value of the payments and credits in question. SWP asserts that the CAISO tariff should explicitly account for these circumstances and recommends that CAISO make a determination not to unwind Protective Measures following the conclusion of a dispute resolution process, if the administrative costs of that resettlement exceed the credit or refund to or from the VER. SWP claims that such a tariff revision would be consistent with CAISO's own draft cost allocation principles, which specify that cost allocation be rational.¹⁶

11. In its answer, CAISO states that the requirement of a joint statement was meant to provide the parties flexibility in unwinding the Protective Measures based on their mutual agreement. CAISO asserts that, in some cases, a unit receiving Protective Measures may actually receive greater payment from the markets by not opting for Protective Measures. According to CAISO, if the resource's eligibility for Protective Measures were disputed and ultimately the resource is determined not to qualify, then a mandatory resettlement rule would result in some resources making a payment back to CAISO; in other instances, it may require a payment to the resource upon losing Protective Measures.¹⁷ CAISO states that the joint statement allows the parties to agree that, in order to avoid such resettlements and their attendant uncertainty, it is preferable not to unravel the prior settlements. CAISO states that nothing in the March 20 Order prohibited such flexibility; nevertheless, if the Commission now orders that CAISO should eliminate that option, CAISO states that it is prepared to revise its tariff and make the resettlement automatic.¹⁸

12. In response to SWP's comment that the CAISO tariff should consider resettlement costs, CAISO answers that the costs of resettlement would be difficult to quantify.¹⁹ CAISO states that any resettlement amount would be covered through its normal settlement processes and likely would be one of many line items covered on a settlement statement. CAISO adds that resettlement costs should be minimal and suggests that parties consider the implications of the resettlement among themselves, including costs, when determining whether to seek resettlement of past costs.²⁰

¹⁶ SWP Comments at 4-5.

¹⁷ CAISO May 30, 2014 Answer at 4-5 (CAISO Answer).

¹⁸ *Id.* at 5-6.

¹⁹ *Id.* at 6.

²⁰ *Id.*

B. Price Divergence

13. SESCO protests that CAISO's market enhancements have led to greater price divergence, the exact outcome CAISO was allegedly attempting to avoid. SESCO argues that, by clearing internal and intertie convergence bids at the 15-minute price, and settling generation and load at the five-minute price, CAISO has essentially isolated convergence bidding into one market, while placing load and generation into a completely separate market. SESCO asserts that this market structure defeats the very purpose of convergence bidding, which aims to converge prices between load and generation, not between convergence bids themselves.²¹

14. SESCO states that it appears that the market models used in the Fifteen Minute Market and the Real-time Dispatch are not the same. SESCO claims that transmission constraints may show up in one market but not the other, leading to significant price divergence. SESCO provides examples of several instances over a 12-day period in May 2014, when prices drastically diverged due to different constraints showing up in the two markets. SESCO maintains that these examples demonstrate that CAISO's new market enhancements create significant price divergence and send very different signals to the market participants engaged in the two markets. SESCO asserts that, as a result, market participants are unable to place price-sensitive bids and converge the markets when they do not have accurate information regarding actual market conditions.²²

15. According to SESCO, convergence bids are settling against forecasted prices that bear little, if any, relationship to 5-minute real-time prices. SESCO requests that the Commission direct CAISO to revert to settling internal convergence bids against the 5-minute real-time prices, pending a more comprehensive review of the realities of CAISO's market enhancements.²³

16. In response, CAISO states that SESCO's protest in no way speaks to the question of whether CAISO complied with the March 20 Order.²⁴ CAISO states that settling internal convergence bids at the five-minute price will essentially preclude it from ever implementing intertie convergence bidding. CAISO states that SESCO highlights a few select intervals during the first nine days of the new market's operation in which

²¹ SESCO May 12, 2014 Protest at 5.

²² *Id.* at 5-7.

²³ *Id.* at 8-9.

²⁴ CAISO Answer at 7.

five-minute and fifteen-minute prices diverge, but with any new market design there is an inevitable “shakeout” period in which market participants and the market operator become familiar with the new market. CAISO states that it is working with market participants to address any unexpected market issues, and through these efforts, is already observing changes in market outcomes.²⁵ Thus, CAISO concludes that the validity of its market design should not be determined by cursory market data.

17. Further, CAISO states that SESCO’s complaints are driven by several key misunderstandings regarding convergence bidding and the CAISO markets generally. CAISO asserts that generation and load are both, in fact, settled at the fifteen-minute price, and are only settled at the five-minute price to the extent there are deviations between the five-minute and fifteen-minute schedules. CAISO also asserts that, contrary to SESCO’s claims, it uses the same market model for the fifteen-minute market and real-time dispatch. CAISO states that while the market models are the same, actual conditions, such as congestion, can be present in the fifteen-minute market but not in the real-time dispatch, resulting in different prices between the two markets.²⁶

IV. Discussion

A. Procedural Matters

18. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motion to intervene serves to make SESCO a party to the proceeding. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answer filed by CAISO because it has provided information that has assisted us in our decision-making process.

B. Substantive Matters

19. We conditionally accept CAISO’s proposed tariff revisions, to be effective May 1, 2014, as requested. As an initial matter, we find that the clarifications to the term Instructed Energy Imbalance and the deletion of the clause pertaining to revocation of self-forecasting privileges are consistent with the directives of the March 20 Order.

20. As to the Protective Measures tariff provisions, we find that CAISO’s proposed revisions to set forth a process for refunding Protective Measures payments partially

²⁵ *Id.* at 6-10.

²⁶ *Id.* at 11-12.

comply with the directives of the March 20 Order. As directed, CAISO has revised its tariff to provide how eligibility for refunds will be determined, who would be eligible to receive a refund, and how and when refunds would be distributed. In this manner, we find that CAISO has complied with the directives of the March 20 Order.

21. However, we find that CAISO's proposal to require a joint statement that the settlement should be unwound is unjust and unreasonable. We share commenters' concerns that requiring a joint statement could have adverse effects. Requiring both parties to submit a statement in order for a refund to be made creates an opportunity for one of the parties to unilaterally delay its participation and the subsequent refund. We agree with commenters that resettlements should be mandatory once it has been determined that such refunds are appropriate. We therefore direct CAISO to submit in a compliance filing, within 30 days of the date of this order, revised tariff language removing the joint statement requirement.

22. We find no need to require that CAISO amend its tariff to account for instances where the administrative expenses of unwinding transactions exceed the value of the payments or credits in question. First, we find that SWP has not adequately supported its claim regarding excessive administrative costs from unwinding the Protective Measures. Second, we find that SWP has not shown that the Protective Measures are unjust and unreasonable or unduly discriminatory without the proposed revision. Further, we note that the Protective Measures are a temporary transition measure and that CAISO expects that any administrative costs associated with refunds that may be issued under this process will be minimal and potentially difficult to quantify. Thus, we find that SWP's proposed revision could add unnecessary complexity and uncertainty to the process.

23. We also find that the issues raised by SESCO regarding price divergence are outside the scope of this proceeding, which is limited to consideration of whether CAISO has complied with the directives in the March 20 Order.²⁷ In the March 20 Order, the Commission did not require CAISO to make tariff revisions related to or otherwise address issues related to price divergence. Therefore, we will not address the merits of SESCO's protest. However, we encourage SESCO to utilize the processes CAISO and

²⁷ The Commission has long established that compliance filings must be limited to the specific directives ordered by the Commission. The purpose of a compliance filing is to make the directed changes and the Commission's focus in reviewing them is whether they comply with the Commission's previously-stated directives. See *Pacific Gas and Electric Co.*, 109 FERC ¶ 61,336, at P 5 (2004); *Midwest Indep. Transmission Sys. Operator, Inc.*, 99 FERC ¶ 61,302, at 62,264 (2002); *ISO New England, Inc.*, 91 FERC ¶ 61,016, at 61,060 (2000); *Sierra Pacific Power Co.*, 80 FERC ¶ 61,376, at 62,271 (1997); *Delmarva Power & Light Co.*, 63 FERC ¶ 61,321, at 63,160 (1993).

its Market Monitor currently have in place to discuss regularly with its stakeholders reports on market issues and market performance.²⁸

The Commission orders:

(A) CAISO's compliance filing is hereby conditionally accepted, as discussed in the body of this order.

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²⁸ March 20 Order, 146 FERC ¶ 61,204 at P 80.