

128 FERC ¶ 61,021
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation Docket No. ER08-585-002

ORDER ACCEPTING TARIFF SHEET

(Issued July 14, 2009)

1. In this order, the Commission accepts the California Independent System Operator Corporation's (CAISO) proposed tariff revision related to the CAISO's Grid Management Charge¹ to be effective March 31, 2009. The CAISO's filing satisfactorily complies with the directive of the March 2009 Order.²

I. Background

2. On February 20, 2008, the CAISO filed revisions to its Grid Management Charge rate design to accommodate changes in the CAISO's market operations under the CAISO's Market Redesign and Technology Upgrade (MRTU) Tariff. The Commission accepted the CAISO's proposed Grid Management Charge tariff revisions, with the exception of two modifications that had been protested.³ The Commission, however, directed the CAISO to submit a compliance filing to include previously accepted language regarding load-following metered sub-systems that the CAISO had proposed to delete from its tariff.⁴ The Commission also directed the CAISO to propose tariff

¹ The Grid Management Charge recovers the CAISO's administrative and operating costs through eight categories of services that the CAISO provides. *Cal. Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,338, at P 2-3 (2008) (December 2008 Order).

² *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,289 (2009) (March 2009 Order).

³ December 2008 Order, 125 FERC ¶ 61,338.

⁴ *Id.* P 40. At issue was MRTU Tariff section 11.22.2.5.7, which provides that load-following metered sub-systems should not be subject to instructed imbalance energy costs if those costs are a result of imbalances caused by following load in real time.

language addressing how Inter-Scheduling Coordinator Trades⁵ will be treated with regard to the calculation of Market Usage-Forward Energy Charges.⁶

3. On January 21, 2009, the CAISO submitted a compliance filing with revised tariff sheets addressing the two December 2008 Order directives. The CAISO proposed to restore language it had omitted regarding load-following metered sub-systems,⁷ and to clarify that the Market Usage-Forward Energy Charge will apply to energy in the day-ahead market as offset by physical (but not financial) Inter-Scheduling Coordinator Trades.⁸

4. The Northern California Power Agency (NCPA) protested the latter change stating that the CAISO had not sufficiently explained its rationale for excluding financial Inter-Scheduling Coordinator Trades from the calculation of the Market Usage-Forward Energy Charge. Thereafter, the CAISO filed an answer concluding that both physical and financial types of Inter-Scheduling Coordinator Trades should be treated in the same manner.⁹ The CAISO committed to file tariff revisions with this clarification. Finally, the CAISO represented that it would hold a future stakeholder process to re-evaluate the Market Usage-Forward Energy Charge and address the appropriate Grid Management

⁵ An Inter-Scheduling Coordinator Trade is a “trade between Scheduling Coordinators of Energy, Ancillary Services, or [Integrated Forward Market] Load Uplift Obligation in accordance with the CAISO Tariff.” MRTU Tariff, Appendix A, Master Definitions Supplement.

⁶ December 2008 Order, 125 FERC ¶ 61,338 at P 46. The Market Usage Charge, which is split into the Market Usage-Forward Energy and Market Usage-Ancillary Services and Real Time Energy Charges, is defined as the “component of the Grid Management Charge that provides for the recovery of the CAISO’s costs, including, but not limited to the costs for processing Day-Ahead, Hour-Ahead Scheduling Process and Real-Time Bids, maintaining the Open Access Same-Time Information System, monitoring market performance, ensuring generator compliance with market rules as defined in the CAISO Tariff and the Business Practice Manuals, and determining [Locational Marginal Prices].” MRTU Tariff, Appendix A, Master Definitions Supplement.

⁷ CAISO January 21 filing in Docket No. ER08-585-001 at 2 (proposing to revise MRTU Tariff, section 11.22.2.5.7).

⁸ *Id.* (proposing to revise MRTU Tariff, Appendix F, Schedule 1, Part 1, Paragraph 7).

⁹ CAISO Answer, Docket No. ER08-585-001, filed February 26, 2009 at 3.

Charge rate structure for recovery of the administrative costs associated with Inter-Scheduling Coordinator Trades.¹⁰

5. In the March 2009 Order, the Commission accepted the CAISO's Grid Management Charge compliance filing, subject to the CAISO making a further compliance filing to include language stating that physical and financial Inter-Scheduling Coordinator Trades will be treated in the same manner with regard to the Market Usage-Forward Energy Charge.¹¹

II. March 31, 2009 Compliance Filing

6. On March 31, 2009, the CAISO submitted a further tariff revision to comply with the March 2009 Order. The revised tariff provision contains language specifying that physical and financial Inter-Scheduling Coordinator Trades "will be netted against energy sales in the Day-Ahead Market for purposes of calculating the Grid Management Charge Market Usage-Forward Energy Charge."¹² The CAISO explains that physical and financial types of Inter-Scheduling Coordinator Trades should be treated in the same manner upon MRTU implementation.¹³

7. Notice of the CAISO's filing was published in the *Federal Register* with comments due on or before April 21, 2009.¹⁴ On April 21, 2009, the Western Power Trading Forum (WPTF) filed a "Motion to Intervene Out of Time and Protest" and the Sacramento Municipal Utility District filed a motion to intervene. On May 4, 2009, NCPA filed an answer to WPTF's protest, and on May 6, 2009, the CAISO filed a motion for leave to answer and answer. On June 17, 2009, the Financial Institutions Energy Group (Financial Institutions) filed a motion to intervene out-of-time and comments. On July 2, 2009, the CAISO filed an answer to Financial Institutions' motion and comments. On July 10, 2009, Sacramento Municipal Utility District filed an answer to CAISO's July 2 answer.

¹⁰ *Id.*

¹¹ March 2009 Order, 126 FERC ¶ 61,289 at P 7.

¹² CAISO March 31, 2009 filing at 2.

¹³ *Id.*

¹⁴ 74 Fed. Reg. 17,189 (2009).

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), timely motions to intervene make the entities that filed them parties to this proceeding.¹⁵ Also, the Commission will accept Financial Institution's motion for late intervention. Under Rule 214(d) of the Commission's Rules of Practice and Procedure, when deciding whether to grant late intervention, the Commission may consider whether (i) the movant had good cause for failing to seek to intervene within the time prescribed; (ii) any disruption of the proceeding might result from permitting intervention; (iii) the movant's interest is not adequately represented by other parties in the proceeding' and (iv) any prejudice to, or additional burdens upon, the existing parties might result from permitting the intervention.¹⁶ Financial Institutions states in its motion to intervene that its members are participants in markets administered by the CAISO and will likely be affected by the outcome of this proceeding. Further, Financial Institutions states that it will take the record in this proceeding developed to date¹⁷ and, therefore, will not prejudice or unduly burden any party. On this basis, the Commission grants Financial Institution's motion for late intervention.¹⁸

9. We will not accept the answers filed by NCPA and the CAISO. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept NCPA's, the CAISO's, or SMUD's answers and will, therefore, reject them.

B. Protest

10. WPTF protests the CAISO's compliance filing for several reasons. First, it argues that the CAISO failed to conduct a stakeholder process before proposing modifications to the GMC tariff provisions. Second, WPTF contends that the CAISO's proposed revisions affect the calculation of the Market Usage-Forward Energy Charge rate rather than the application of that rate to certain volumes, and that such revisions neither reflect

¹⁵ WPTF mistakenly characterizes its motion to intervene as out of time; its intervention submitted on April 21, 2009 in this sub-docket was timely.

¹⁶ 18 C.F.R. § 385.214(d) (2008).

¹⁷ 18 C.F.R. § 385.214(d)(3)(ii) (2008).

¹⁸ See *PJM Interconnection. L.L.C.*, 123 FERC ¶ 61,037, at P 10 (2008).

NCPA's concerns nor how the CAISO allocates its Market Usage-Forward Energy Charge. Third, it claims that the CAISO's allocation of the Market Usage-Forward Energy Charge to financial Inter-Scheduling Coordinator Trades, not just to "net purchases or sales in the Day-Ahead Market," is unjust and unreasonable.¹⁹ Fourth, it explains that the revised allocation distorts cost causation and creates adverse consequences. Such adverse consequence include shifting costs to financial Inter-Scheduling Coordinator Trades, thus increasing the costs of conducting such trades, and changing the cost of conducting trades pre-MRTU to post-MRTU.²⁰ Fifth, WPTF argues that the CAISO has failed to provide any analysis or adjustment to its Market Usage-Forward Energy Charge that will probably result in the CAISO over-collecting its costs. As a result, WPTF requests that the Commission reject the CAISO's compliance filing, immediately set for refund any allocation of Market Usage-Forward Energy Charge currently being assessed to Inter-Scheduling Coordinator Trades from the date of MRTU implementation, direct the CAISO to convene a stakeholder process for the proper treatment of the Market Usage-Forward Energy Charge, and direct the CAISO to submit further revised tariff sheets.

11. Financial Institutions submitted comments similar to the protests of WPTF. Financial Institution asserts that assessing the Market Usage-Forward Energy Charge to Inter-Scheduling Coordinator Trades is inconsistent with the stated assumptions of the CAISO's rate calculation, and was not discussed and could not have been foreseen by market participants until they received settlement statements, after the implementation of MRTU.²¹ Financial Institutions also asserts that the CAISO cannot justify applying the Market Usage-Forward Energy Charge to Inter-Scheduling Coordinator Trades on the basis of cost-causation and that doing so may result in an over-collection of revenues by the CAISO.²²

C. Determination

12. In the March 2009 Order, the Commission directed the CAISO to file revised MRTU Tariff provisions stating that, for purposes of the Market Usage-Forward Energy Charge, physical and financial Inter-Scheduling Coordinator Trades are to be treated similarly. The CAISO's revised tariff sheet satisfactorily complies with the

¹⁹ WPTF Protest at 8-11 citing CAISO Tariff Appendix F, Schedule 1, Part E.

²⁰ *Id.* at 11-12.

²¹ Financial Institutions Comments at 2-3

²² *Id.* at 6-7.

Commission's directive in its March 2009 Order, and is accepted for filing effective March 31, 2009.

13. However, we find that the issues raised in WPTF's protest and Financial Institutions' comments are beyond the March 2009 Order limited directive that required the CAISO to submit a compliance filing "to include language stating that both types of inter-scheduling coordinator trades [physical and financial] will be treated in the same manner."²³ When we review a compliance filing, we must determine "whether the changes proposed comply with the Commission's previously stated directives."²⁴ Therefore, our consideration of this compliance filing is limited in scope to reviewing whether the CAISO made the proposed tariff revision as directed by the March 2009 Order. We find that CAISO's revised tariff sheet satisfactorily complies with the Commission's directive in its March 2009 Order.

14. Moreover, WPTF's protest and Financial Institutions' comments regarding the application of the Market Usage-Forward Energy Charge to financial Inter-Scheduling Coordinator Trades are essentially impermissible attempts to seek review of the March 2009 Order.²⁵ If WPTF or Financial Institutions objected to the Market Usage-Forward Energy Charge, they should have sought rehearing of the March 2009 Order that found it was appropriate for the CAISO to assess this charge to both physical and financial Inter-Scheduling Coordinator Trades.²⁶ Because none of the issues raised by WPTF in its protest or Financial Institutions in its comments addresses whether the

²³ March 2009 Order, 126 FERC ¶ 61,289 at P 7.

²⁴ *New York Indep. Sys. Operator, Inc.*, 127 FERC ¶ 61,042, at P 28 (2009); *see also AES Huntington Beach, LLC*, 111 FERC ¶ 61,079, at P 60 (2005) (citing *Pacific Gas and Electric Company*, 109 FERC ¶ 61,226, 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 Company*, 80 FERC ¶ 61,376, at 62,271 (1997); *Delmarva Power & Light Company*, 63 FERC ¶ 61,321, at 63,160 (1993)).

²⁵ *See New York Indep. Sys. Operator, Inc.*, 127 FERC ¶ 61,042, at P 28 (2009); *Ameren Services Corp.*, 119 FERC ¶ 61,098, at P 21 (2007).

²⁶ March 2009 Order, 126 FERC ¶ 61,289. Moreover, the CAISO included the Market Usage-Forward Energy Charge in its original MRTU Grid Management Charge filing in February 2008; the Market Usage-Forward Energy Charge has only been clarified through the instant and previous compliance filings.

proposed tariff revisions comply with the March 2009 Order, we find that WPTF's protest and Financial Institutions' comments are beyond the scope of the March 2009 Order directive.²⁷

The Commission orders:

The CAISO's revised tariff sheet is hereby accepted for filing and made effective as of March 31, 2009, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

²⁷ We note that the CAISO represented that it would address alternative methods of cost recovery for the Inter-Scheduling Coordinator Trades in a future stakeholder process. We encourage any party with a concern about this allocation procedure to participate in the CAISO stakeholder process addressing this issue.