

143 FERC ¶ 61,101
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation Docket No. ER08-760-002

ORDER ON COMPLIANCE

(Issued May 06, 2013)

1. On June 30, 2008, the California Independent System Operator Corporation (CAISO) submitted a filing (Compliance Filing) to comply with the Commission's May 30, 2008 Order conditionally accepting the Transitional Capacity Procurement Mechanism (TCPM).¹ As discussed below, we accept CAISO's Compliance Filing, effective June 1, 2008 through May 31, 2009.

I. Background

2. The TCPM was conditionally accepted as an interim backstop capacity procurement mechanism to enable CAISO to acquire generation capacity to maintain grid reliability if: (1) load serving entities failed to meet resource adequacy requirements;² (2) the procured resource adequacy resources were insufficient; or (3) unexpected conditions created the need for additional capacity.³ The TCPM proposal built upon the

¹ *Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,229 (2008) (TCPM Order).

² A resource adequacy resource is a generator that has been procured by a load serving entity in response to resource adequacy requirements implemented by either the California Public Utilities Commission (CPUC) or other local regulatory authority. Resource adequacy resources operate under a capacity contract, which provides these resources with an additional opportunity to recover fixed costs vis-à-vis resources that lack these contracts. For the purpose of this proceeding, non-resource adequacy resources refer to resources that are not operating under a capacity contract (i.e., resource adequacy or reliability must-run contract).

³ *See* TCPM Order, 123 FERC ¶ 61,229 at 1.

Reliability Capacity Services Tariff (RCST)⁴ and, like the RCST, the TCPM was designed to operate with the must-offer obligation⁵ in the pre-MRTU markets. The TCPM tariff provisions were superseded by the Interim Capacity Procurement Mechanism (ICPM) upon implementation of MRTU,⁶ and the ICPM tariff provisions were subsequently replaced by the Capacity Procurement Mechanism (CPM).⁷

3. In the TCPM Order, the Commission conditionally accepted CAISO's proposed TCPM tariff provisions. Notably, the Commission approved an increase in the TCPM yearly price for capacity services from \$73/kW-year, which was the price under the RCST, to \$77.89/kW-year, but rejected an additional ten percent adder. The Commission also required the CAISO modify its proposal to designate all generators for a minimum term of 30-days upon the first must offer waiver denial⁸ in order to limit CAISO's discretion and ensure non-discriminatory treatment between both resource adequacy resources and units under reliability must-run contracts.⁹ The Commission also conditionally accepted CAISO's proposal to use the TCPM to address unexpected short-term reliability needs, i.e. Significant Events.¹⁰ However, the Commission required CAISO to clarify any criteria used to designate resources for Significant Event reliability

⁴ The history of the RCST and must-offer obligation is well documented. See TCPM Order, 123 FERC ¶ 61,229; *Dynegy Moss Landing, LLC v. Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,280 (2008). The must-offer obligation required most generators serving CAISO to offer all of their capacity in the real-time market and during all hours if the capacity was available and not already scheduled through bilateral agreements. A generating unit could request a waiver of its must-offer obligation; however, CAISO could deny the waiver request (must-offer waiver denial) and require the generator to remain in operation.

⁵ See *supra* n.4.

⁶ The ICPM was accepted by the Commission, subject to modification, and became effective upon implementation of MRTU. *Cal. Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,053 (2008), *order on reh'g*, 134 FERC ¶ 61,132 (2011) (ICPM Order).

⁷ *Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,211 (2011) (accepting and suspending certain features subject to the outcome of a technical conference). The CPM was ultimately accepted in an Order on Uncontested Settlement. *Cal. Indep. Sys. Operator Corp.*, 138 FERC ¶ 61,112 (2012).

⁸ See *supra* n.4.

⁹ TCPM Order, 123 FERC ¶ 61,229 at PP 31-32.

¹⁰ *Id.* P 31.

needs. The Commission did not specify how CAISO should allocate costs relating to the TCPM designations resulting from must-offer waiver denials. On June 30, 2008, CAISO submitted the Compliance Filing to comply with the TCPM Order.

4. On May 6, 2013, the Commission issued an order on the requests for rehearing and clarification of the TCPM Order.¹¹ Among other things, the Commission granted clarification directing allocation of capacity costs associated with TCPM designations under the must-offer obligation in a manner consistent with the methodology for allocating must-offer minimum load compensation and the must-offer obligation daily capacity payment under the RCST.¹² The Commission also denied rehearing of the requirement to designate a resource for a minimum of 30-days upon the first issuance of a must-offer waiver denial, and reiterated its finding that the designation requirement is just and reasonable.¹³

5. This order focuses on aspects of the Compliance Filing that have been contested. The proposed TCPM tariff provisions that are not contested and not specifically discussed in this order are hereby accepted as compliant with the Commission's directives in the TCPM Order, effective June 1, 2008 through May 31, 2009.

II. Notice, Intervention, and Responsive Pleadings

6. Notice of the Compliance Filing was published in the *Federal Register*, 73 Fed. Reg. 40,561 (2008), with motions to intervene, comments and protests due on or before July 21, 2008. Southern California Edison Company (SoCal Edison) filed a protest. The California Department of Water Resources State Water Project (SWP); the City of Santa Clara, California and M-S-R Public Power Agency (City of Santa Clara); and Dynegy Morro Bay, LLC, Dynegy Moss Landing, LLC, El Segundo Power LLC, and Reliant Energy, Inc. (collectively, California Generators) filed comments. On August 5, 2008, CAISO filed an answer.

III. Discussion

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest unless otherwise ordered by the

¹¹ *California Indep. Sys. Operator Corp.*, 143 FERC ¶ 61,100 (2013) (TCPM Rehearing Order).

¹² *Id.* P 30.

¹³ *Id.* P 45.

decisional authority. We are not persuaded to accept CAISO's answer and, therefore, reject it.

A. Cost Allocation and Pro-Rating TCPM Payments

1. Compliance Filing

8. CAISO states that the TCPM Order does not specify how CAISO should allocate the costs associated with a 30-day TCPM designation resulting from a must-offer waiver denial.¹⁴ Thus, CAISO provides the following options: (1) allocating the costs in accordance with the approved methodology for allocating the costs of TCPM Significant Event designations;¹⁵ or (2) allocating the costs in a manner consistent with the methodology for allocating must-offer minimum load compensation and the must-offer obligation daily capacity payment under the RCST.¹⁶ CAISO prefers the latter approach.¹⁷

9. CAISO states that in the Amendment No. 60 proceeding, the Commission approved allocation of minimum load costs based on the underlying reason why a unit was committed for dispatch, that is, to address system-wide, zonal, or local reasons.¹⁸ CAISO adds that the Commission previously found that it was just and reasonable to allocate must-offer capacity payment costs in the same manner as minimum load costs because must-offer capacity payment costs are incurred for the same reasons as minimum load costs.¹⁹ Because the TCPM Order did not specify a particular method for allocating

¹⁴ Compliance Filing at 7-8.

¹⁵ *Id.* at 7. According to section 43.8(5) of the TCPM tariff, if any TCPM Significant Event designations are made under section 43.4 of the tariff, then CAISO would allocate the costs of such designations to all scheduling coordinators for load serving entities in the transmission access charge area(s) in which the TCPM Significant Event caused or threatened to cause a failure to meet reliability criteria. California Independent System Operator Corporation, FERC Electric Tariff, Third Replacement Volume No. 1, Section 43.8(5).

¹⁶ *Id.* at 19-20 & n.25 (citing *Cal. Indep. Sys. Operator Corp.*, Opinion No. 492, 117 FERC ¶ 61,348, *order on reh'g*, 121 FERC ¶ 61,193 (2007) (Amendment No. 60)).

¹⁷ Compliance Filing at 8.

¹⁸ *Id.* (citing *Cal. Indep. System Operator, Inc.*, Opinion No. 492, 117 FERC ¶ 61,348, *order on reh'g*, 121 FERC ¶ 61,193 (2007)).

¹⁹ *Id.* (citing *Indep. Energy Producers Ass'n v. Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,096, at P 125 (2007)).

capacity costs associated with TCPM designations that result from must-offer waiver denials, CAISO proposes to use the Amendment No. 60 approach for TCPM designations that result from must-offer waiver denials.²⁰

10. CAISO submits that the cost allocation methodology approved in the Amendment No. 60 proceeding is appropriate for allocating the costs of automatic 30-day TCPM designations resulting from must-offer waiver denials. CAISO asserts that this methodology meets the Commission's cost causation principles.²¹

11. According to CAISO, a TCPM designation due to a must-offer waiver denial may have been the result of a local factor. CAISO explains that the local issue may be resolved quickly – potentially in less than a day and, therefore, during the remainder of the designation term the resource may be committed to resolve local, zonal, or even CAISO system-wide needs. Thus, CAISO asserts that a designation resulting from a must-offer waiver denial is distinguishable from a TCPM Significant Event designation. CAISO expects a Significant Event designation to have a more long-lasting underlying cause, such that it would be appropriate to allocate the costs to the transmission access charge area in which the Significant Event occurred and is expected to continue to occur.²² CAISO explains that this is not the case with a TCPM designation resulting from a must-offer waiver denial, where the unit potentially could be used for a number of different reliability reasons during the 30-day designation period. According to CAISO, during this 30-day period, it will have to track the reasons why the unit is committed in order to allocate the un-recovered minimum load costs resulting from such commitments. CAISO argues that it should allocate the resulting TCPM capacity costs in a manner similar to how it will allocate these un-recovered minimum load costs, namely, a pro rata allocation of capacity costs based on the number of hours that the resource was denied a must-offer waiver for local, zonal, and/or system reasons during the designation.²³ Accordingly, CAISO requests that the Commission find that the cost allocation methodology approved in the Amendment No. 60 proceeding is appropriate for allocating the capacity costs from TCPM designations.

²⁰ *Id.*

²¹ *Id.* at 9.

²² *Id.* at 8.

²³ *Id.* at 8-9.

2. Comments and Protest

12. SoCal Edison objects to CAISO's proposal to use the Amendment No. 60 cost allocation method. SoCal Edison explains that the capacity associated with a TCPM contract, regardless of the basis for designation, is a backstop capacity product acquired to be available to meet resource adequacy-type reliability needs. Further, SoCal Edison asserts that backstop capacity costs incurred via a TCPM contract are equivalent to, and should be allocated comparably to, capacity costs incurred via a resource adequacy contract. For capacity associated with a TCPM unit that is designated to meet a local reliability requirement, SoCal Edison asserts that capacity costs should be allocated to scheduling coordinators with load in the Transmission Access Charge Area in which the deficiency is located.²⁴

13. SoCal Edison supports allocating single event TCPM capacity contract costs in line with the proposed method of Significant Event costs allocation, i.e., to scheduling coordinators with load in the affected Transmission Access Charge Area. SoCal Edison argues that it is not reasonable to revert back to the Amendment No. 60 cost allocation method.²⁵

14. SoCal Edison states that the RCST *daily* capacity costs were a compensatory payment for generators without a capacity contract. SoCal Edison explains that the single-event TCPM capacity costs are by definition associated with *at least a 30-day* capacity contract.²⁶ SoCal Edison asserts that once a 30-day TCPM capacity contract has been awarded, regardless of whether the trigger was a Significant Event or a single event must-offer waiver denial, the value and usefulness of the contract is the same. Therefore, SoCal Edison argues that it is appropriate to allocate single-event TCPM capacity contract costs in the same manner as Significant Event TCPM capacity contract costs. Accordingly, SoCal Edison asks the Commission to direct CAISO to make another compliance filing that would require allocation of single-event TCPM capacity contract costs in the same manner as Significant Event TCPM capacity contract costs.²⁷

15. SWP asks the Commission to accept CAISO's proposals to pro-rate TCPM payments in the event that a generator becomes TCPM-ineligible through designation as

²⁴ SoCal Edison July 21, 2008 Protest at 3 (SoCal Edison Protest).

²⁵ *Id.*

²⁶ *Id.* at 4 (citing *Indep. Energy Producers Ass'n v. Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,096, at P 125 (2007)).

²⁷ *Id.* at 5.

a resource adequacy unit midway through the 30-day period for TCPM payments. SWP explains that pro-ration is necessary to avoid duplicative capacity payments.²⁸

3. Commission Determination

16. In the TCPM Rehearing Order, the Commission granted clarification, finding that it was appropriate for CAISO to allocate capacity costs associated with TCPM designations under the must-offer obligation in accordance with the methodology accepted in the Amendment No. 60 proceeding.²⁹ Therefore, we accept as just and reasonable CAISO's proposal to allocate capacity costs resulting from a 30-day must-offer capacity designation consistent with the Amendment No. 60 cost allocation methodology. For the reasons discussed below, we disagree with SoCal Edison's contention that such costs should be allocated in the same manner as the capacity costs associated with a Significant Event.

17. The Commission previously accepted the Amendment No. 60 methodology for allocating costs associated with must-offer capacity. Specifically, the Commission found that it was reasonable to allocate must-offer capacity costs in the same manner as minimum load costs because must-offer capacity costs are incurred for the same reasons as minimum load costs.³⁰ We are not persuaded that requiring a minimum 30-day must-offer capacity designation renders the Amendment No. 60 cost allocation methodology an inappropriate means to allocate costs relating to commitment of must-offer resources. Additionally, because the reason for committing a resource under the must-offer obligation may be short-term, must-offer capacity resources may provide different capacity services during their 30-day designation term. Therefore, tracking the reliability services that these resources provide will enable CAISO to allocate the corresponding costs consistent with cost causation principles. CAISO proposes to identify and record each reason for committing a must-offer capacity resource during its 30-day designation term. Under this approach, CAISO will be able to establish whether must-offer capacity is being used to address system, zonal, and/or local reliability needs. The Amendment No. 60 cost allocation methodology provides CAISO with the flexibility to allocate capacity costs within the area that is benefiting from the must-offer capacity services. In contrast, the Significant Event cost allocation methodology fails to provide such

²⁸ SWP July 21, 2008 Comments at 1 (SWP Comments).

²⁹ TCPM Rehearing Order, 143 FERC ¶ 61,100 at PP 30-31 (“Amendment No. 60 cost allocation methodology provides CAISO with flexibility to allocate costs in a manner consistent with the actual use of capacity resources designated under the must-offer obligation. This approach is consistent with cost causation principles.”).

³⁰ *Indep. Energy Producers Ass'n v. Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,096, at P 125 (2007).

flexibility. Therefore, we find CAISO's proposed use of the Amendment No. 60 cost allocation methodology will appropriately reflect cost causation principles throughout the term of must-offer capacity designation, and accordingly, we accept the proposed approach to allocating must-offer capacity costs.

18. Finally, in the TCPM Rehearing Order, the Commission clarified that: (1) if a TCPM-designated resource becomes a resource adequacy resource during the TCPM designation term, the TCPM designation will expire on the date when the resource becomes a resource adequacy resource; and (2) the corresponding TCPM capacity payment will be pro-rated based on the number of days the resource was a TCPM resource.³¹ In light of this clarification, SWP's request that the Commission accept CAISO's proposals to pro-rate TCPM payments in the event that a generator becomes TCPM-ineligible through designation as a resource adequacy unit midway through the 30-day period for TCPM payments is moot.

B. Real-Time Dispatch of Non-Resource Adequacy Capacity from a Partial Resource Adequacy Generator

1. Comments

19. SWP asks the Commission to clarify that a TCPM payment will not be made for dispatch of non-resource adequacy capacity from a partial resource adequacy resource. SWP asserts that where the dispatch is made for economic reasons, if non-resource adequacy generation capacity is committed, no CAISO capacity payment should be required as a result of ordinary market operations for the non-resource adequacy portion of the partial resource adequacy unit. Rather, SWP argues that only non-market CAISO unit commitments made for reliability reasons should be eligible for capacity payments. SWP argues that otherwise, transmission customers would be burdened with non-market capacity payment surcharges as part of ordinary market operations. SWP asserts that such a result would not be just and reasonable.³²

20. California Generators note that in new section 43.6.2 (4) of the TCPM Tariff, CAISO expands its reporting obligation to include the reasons for a TCPM designation resulting from a must-offer waiver denial. The expanded reporting would include an assessment of whether any reliability-designated or TCPM-designated resources were available prior to the denial of the request to waive the must-offer obligation. California Generators ask the Commission to direct CAISO to expand the reporting required by section 43.6.2 to also include an explanation for denying waiver to a partial resource adequacy resource and the reason why such unit does not qualify for a TCPM

³¹ TCPM Rehearing Order, 143 FERC ¶ 61,100 at P 18.

³² SWP Comments at 2.

designation. California Generators support CAISO's proposal to conduct an after-the-fact review of any out-of-sequence dispatches from a partial resource adequacy unit and publish the results.³³

21. CAISO proposed, on compliance, to include a monthly TCPM charge for the must-offer generator's eligible capacity. CAISO proposed this change so that the software would recognize the additional monthly TCPM charge that would result if the software committed a non-resource adequacy unit. California Generators request that CAISO further revise proposed section 34.3 of the tariff to make clear that real-time dispatch will include the monthly TCPM charge only for those units that are not resource adequacy or partial resource adequacy units.³⁴

22. California Generators ask the Commission to direct CAISO to adopt its proposed measures to address the complexities of providing partial resource adequacy unit TCPM designations and publish the results on the CAISO website. These measures include not counting the non-resource adequacy capacity of a partial resource adequacy unit as available supply in considering whether a collective deficiency exists; determining whether any non-resource adequacy capacity from a partial resource adequacy unit is needed for reliability services at the time CAISO issues the must offer waiver denial to a partial resource adequacy unit, by indicating whether it needs only the previously identified resource adequacy capacity for reliability purposes; and checking to ensure that non-resource adequacy is not required for reliability by undertaking an after-the-fact review of manual out-of-sequence dispatch.³⁵

23. Finally, California Generators request that the analysis of the out-of-sequence dispatch of non-resource adequacy capacity be published on a weekly basis.³⁶

2. Commission Determination

24. We deny California Generators' and SWP's requests for clarification as moot. In the TCPM Rehearing Order, the Commission granted clarification regarding the designation of non-resource adequacy capacity to ensure that compensation is only received where the resource adequacy capacity is not sufficient to meet reliability needs. In particular, the Commission clarified that a 30-day TCPM designation will not be made where non-resource adequacy capacity from a partial resource adequacy unit was

³³ California Generators July 28, 2008 Comments at 2.

³⁴ *Id.* at 4.

³⁵ *Id.* at 4-6.

³⁶ *Id.* at 6.

dispatched through the real-time dispatch process for economic reasons.³⁷ In light of the clarification, we do not find that additional clarity or reporting requirements are necessary. Furthermore, as noted above, the TCPM expired upon the advent of MRTU and ICPM implementation.³⁸ Consequently, in light of the implementation of MRTU and the Commission's acceptance of subsequent, revised, reliability backstop mechanisms, any additional reporting requirements are moot.

C. Significant Event Designation

1. Comments

25. City of Santa Clara states that the Commission directed CAISO to modify its proposal by incorporating objective criteria for the designation of Significant Event capacity and providing the units with a minimum 30-day designation upon the first commitment under the must-offer obligation.³⁹ City of Santa Clara states that CAISO failed to provide any objective criteria for designating a Significant Event. City of Santa Clara therefore requests that the Commission direct CAISO to make a filing that includes objective criteria for designating Significant Events.

26. City of Santa Clara opposes CAISO's deletion of proposed sections 40.15.3 and 40.15.4 of the tariff. City of Santa Clara states that these sections remain important despite the addition of the minimum 30-day TCPM designation. Section 40.15.3 requires CAISO to evaluate whether a TCPM Significant Event has occurred that justifies the TCPM designation of a given must-offer generator after every four separate days of any calendar year in which CAISO issues a must-offer waiver denial. Section 40.15.4 requires CAISO to publish and advertise weekly explanations of its decision to deny must-offer waiver requests and designate must-offer generators as TCPM resources, including explanations of whether any other resource adequacy resources were available to be called upon prior to the must-offer waiver denials and why non-generation solutions were insufficient to prevent the must-offer waiver denial. City of Santa Clara states that the reporting requirements are important for transparency.⁴⁰

³⁷ TCPM Rehearing Order, 143 FERC ¶ 61,100 at P 19-20.

³⁸ *See supra* n.6.

³⁹ City of Santa Clara July 21, 2008 Comments at 5 (citing TCPM Order, 123 FERC ¶ 61,229 at P 31).

⁴⁰ *Id.* at 4.

2. Commission Determination

27. We deny City of Santa Clara's request to direct CAISO to include objective criteria for designating Significant Events because this is no longer necessary. To limit CAISO's discretion in making backstop capacity designations, the Commission directed CAISO to modify its tariff to include objective designation criteria and also to provide units with a minimum 30-day capacity designation upon its first commitment under the must-offer obligation.⁴¹ The TCPM tariff provisions accepted in this order include the required minimum 30-day capacity designation upon first commitment under the must-offer obligation (i.e., upon first issuance of a must-offer waiver denial). Further, as noted above, the TCPM tariff provisions expired upon implementation of MRTU and the ICPM.⁴² Given the unique circumstances of this proceeding, we find the 30-day minimum designation provision constituted a sufficiently objective means to limit CAISO's flexibility and any additional objective criteria is no longer necessary.

28. We also find City of Santa Clara's request that the Commission require CAISO to "resurrect" and include the deleted tariff sections 40.15.3 and 40.15.4 to be moot. Under deleted tariff section 40.15.3, CAISO was required to evaluate the issuance of four consecutive must-offer waiver denials to determine whether a TCPM Significant Event designation was warranted. Similarly, under section 40.15.4, CAISO was required to report repeat must-offer waiver denials. As directed by the TCPM Order, a resource receives a TCPM designation for 30-days upon its *first* must-offer waiver denial. Therefore, consistent with this compliance requirement, CAISO correctly removed both of these tariff subsections because they are no longer relevant.

29. Finally, we reiterate that the TCPM tariff provisions expired upon implementation of MRTU and the ICPM.⁴³ Consequently, further compliance is moot in light of the implementation of MRTU and subsequent revised reliability backstop mechanisms.

⁴¹ TCPM Order, 123 FERC ¶ 61,229 at PP 31-32.

⁴² *See supra* n.6.

⁴³ *See id.*

The Commission orders:

CAISO's proposed TCPM tariff revisions are hereby accepted, as discussed in the body of the order, effective June 1, 2008 through March 31, 2009.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.