

UNITED STATES OF AMERICA 105 FERC 61, ¶ 278
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, and Joseph T. Kelliher.

California Independent System
Operator Corporation

Docket No. ER02-1656-016

ORDER DISMISSING REHEARING

(Issued December 12, 2003)

1. On October 28, 2003, the Commission issued a guidance order in which it approved in principle many of the conceptual market design elements submitted by the California Independent System Operator Corporation (CAISO) to progress and further develop the implementation of its Comprehensive Market Redesign Proposal 2002 (MD02).¹ In the October 28 Order, the Commission also provided guidance and sought additional information and explanation for some elements of the MD02 proposal; and established a technical conference to address other issues raised by the filing.
2. Duke Energy North America, LLC and Duke Energy Trading and Marketing, L.L.C (Duke) has filed a request for rehearing; California Energy Resources Scheduling Division of the California Department of Water Resources (CERS) has filed a request for rehearing or clarification; the California Department of Water Resources State Water Project (CDWR) has filed a request for clarification or rehearing; and the Sacramento Municipal Utility District (SMUD) has filed a request for clarification of the October 28 Order. We will dismiss these requests. In addition, Californians for Renewable Energy, Inc. (CARE) has submitted comments, some of which relate to the October 28 Order.

¹ California System Operator Corporation, 105 FERC ¶ 61,140 (2003) (October 28 Order).

I. Background and Request for Rehearing

3. On July 22, 2003, the CAISO filed a conceptual proposal, rather than detailed and comprehensive tariff revisions, that set forth proposed market design elements for inclusion in its MD02 proposal. The CAISO filed the proposal as a conceptual filing only so that it could gain a clearer view from the Commission as to whether its proposed market design elements would be approved, prior to incurring significant costs and spending time developing the more detailed tariff language that will be required. The CAISO's stated intention was that once the Commission had indicated whether it would be prepared to approve the design elements of MD02, it would then proceed to the next step of developing the detailed tariff provisions, and commissioning the development of the software required to implement the changes, resulting in the submission of a formal filing under Section 205 of the Federal Power Act (FPA).²

4. The Commission's October 28 Order provided, on an advisory basis, guidance on issues raised in the CAISO filing.

5. Duke, CERS, CDWR and SMUD now seek rehearing or clarification of the October 28 Order. CARE has submitted comments related to the October 28 Order. Duke requests that the Commission direct the CAISO to modify that part of the MD02 proposal that deals with the Residual Unit Commitment Process (RUC Process). Specifically, Duke believes that the RUC Process should include in-state gas transportation charges. CERS seeks confirmation that the CAISO may not implement locational marginal pricing (LMP) "unless and until a means of protecting the [long-term power contracts that CERS has entered], and other similarly-situated zonal contracts, from exposure to potentially significant increases in congestion and counterflow charges has been identified and implemented,"³ and further that the Commission's statement that CDWR "knew such changes in market design were possible, perhaps even probable,"⁴ does not amount to a determination by the Commission. CDWR claims that the October 28 Order failed to address certain outstanding issues, as it did not take into consideration the characteristics of CDWR's State Water Project and it did not support a market for transmission and related products that would "provide correct price signals to both generation and load and support and promote bilateral contracting."⁵ SMUD requests clarification on the allocation of congestion revenue rights and the application of

² 16 U.S.C. § 824d (2000).

³ CERS Request for Clarification or, Alternatively, Rehearing filed on November 26, 2003, at page 4.

⁴ October 28 Order at P 58.

⁵ CDWR Request for Clarification or Rehearing filed on November 26, 2003 at page 2.

the CAISO's existing transmission contracts proposal to grid facilities that are not within the CAISO control area. CARE has expressed concerns about the authority of the Commission to approve market-based rates, and the impact of such rates on certain groups in California.

II. Discussion

6. The October 28 Order stated that as it "provides guidance only and the matters discussed are subject to further proceedings and orders, [it] is advisory in nature and not subject to rehearing. However, parties may revisit these issues de novo after the CAISO files a comprehensive tariff."⁶ Given that the parties will have an opportunity to file for rehearing after the Commission issues an order on any proposed comprehensive tariff revisions that the CAISO may file, we find that no part of the October 28 Order is subject to rehearing.

The Commission orders:

(A) Duke's request for rehearing is hereby dismissed, as discussed in the body of this order.

(B) CERS's request for clarification or, alternatively, rehearing is hereby dismissed, as discussed in the body of this order.

(C) CDWR's request for clarification or rehearing is hereby dismissed, as discussed in the body of this order.

(D) SMUD's request for clarification is hereby dismissed, as discussed in the body of this order.

(E) CARE's comments relating to the October 28 Order are hereby dismissed, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁶ Id. at P 2.