

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;
William L. Massey, and Linda Breathitt.

San Diego Gas & Electric Company,
Complainant,

v.

Docket Nos. EL00-95-031
and EL00-95-034

Sellers of Energy and Ancillary Services
Into Markets Operated by the California
Independent System Operator and the
California Power Exchange,
Respondents.

Investigation of Practices of the California
Independent System Operator and the
California Power Exchange

Docket No. EL00-98-033

ORDER PROVIDING CLARIFICATION AND PRELIMINARY GUIDANCE
ON IMPLEMENTATION OF MITIGATION AND MONITORING PLAN
FOR THE CALIFORNIA WHOLESALE ELECTRIC MARKETS

(Issued May 25, 2001)

This order provides clarification and preliminary guidance on implementation of the mitigation and monitoring plan (Mitigation Plan) for the California wholesale electric markets that we adopted on April 26, 2001.¹ Today's order is limited to clarifying four critical issues prior to the Mitigation Plan's May 29, 2001 effective date: (1) treatment of generators who did not supply heat and emission rates; (2) calculation of a natural gas proxy price; (3) price mitigation in the ISO's spot markets other than Imbalance Energy; and (4) creditworthiness. We will issue separate orders to address all rehearing requests and compliance filings made in response to the April 26 Order.

¹San Diego Gas & Electric Company, et al., 95 FERC ¶ 61,115 (2001), reh'g pending (April 26 Order).

Background

On December 15, 2000, the Commission issued an order in which it found that the market structures and rules for wholesale sales of electric energy in California were seriously flawed at certain times and that these structures and rules, in conjunction with an imbalance of supply and demand in California, have caused, and continue to have the potential to cause, unjust and unreasonable rates for short-term energy under certain conditions.² The December 15 Order established various remedies, including the interim application of a \$150/MWh breakpoint in the ISO's Ancillary Services³ and real-time Imbalance Energy markets,⁴ pending development of longer term mitigation measures. The Commission subsequently developed the Mitigation Plan described in the April 26 Order, and directed that the Mitigation Plan replace the interim \$150/MWh breakpoint methodology on May 29, 2001.

Among its various features, the Mitigation Plan provides that during the time the ISO declares a reserve deficiency, a market clearing price will be set based on a proxy price for natural gas inputs and emission allowances, as well as the heat and emission rates for the least efficient generator needed to meet demand. If the market does not clear at this price, California generators, and marketers, bidding at a higher price will be paid their as-bid prices, but will then be required to provide justification for their prices and will be subject to refund.⁵ The April 26 Order required that all California-located generators (both public utilities and non-public utilities) submit heat and emission rates for each gas-fired unit to

²San Diego Gas & Electric Company, et al., 94 FERC ¶ 61,294 (2000) reh'g pending (December 15 Order).

³The ISO administers Hour-ahead and Day-ahead markets for certain Ancillary Services – i.e., Regulation, Spinning Reserve, and Non-spinning Reserve – and for Replacement Reserves.

⁴Prior to the December 15 Order, these markets operated as single-price auctions, in which all sellers, regardless of their actual bids, received the highest price bid that was needed to clear the market. Under the breakpoint methodology imposed by the December 15 Order, the single price auctions have remained in use for all sale offers at or below \$150/MWh. However, in auctions that do not clear at or below the \$150/MWh bid level, suppliers who bid above \$150/MWh have been paid their as-bid price for the quantity that they bid, but their bids have not set the market clearing price. Furthermore, bids above \$150/MWh have been reported to the Commission subject to refund.

⁵The price mitigation in the April 26 Order does not apply to bilateral sales.

the ISO and the Commission (on a confidential basis) for the ISO's use in calculating market clearing prices under the Mitigation Plan.

The Mitigation Plan includes additional provisions, operating during all hours, designed to address the imbalance between the supply and demand for electrical power in California. One such provision is a requirement that all generators in California (with the exception of hydroelectric power), including non-public utility generators that make sales through the ISO's markets or that use the ISO's interstate transmission grid, must offer any power they have available (i.e., power not already scheduled to run through bilateral agreements) in real time to the ISO. This "must-offer" requirement also applies to marketers which control generation in California. Other provisions: (1) obligate public utilities buying from the ISO to identify the price at which they are willing to curtail power purchases; (2) enhance the ability of the ISO and the Commission to coordinate and monitor generator outages; and (3) enhance the ability of the Commission to prevent economic or physical withholding of power. The Commission also initiated an investigation into wholesale prices in other parts of the West.

Numerous pleadings have been filed in response to the April 26 Order. Many parties have requested rehearing. On May 11, 2001, the ISO made a compliance filing of tariff amendments designed to implement the Mitigation Plan (May 11 Compliance Filing), and other parties have, in turn, filed comments on the ISO's filing. Also, on May 18, 2001, the ISO made a filing that reported on its progress toward implementing the April 26 Order and requested guidance on various aspects of its implementation (May 18 Status Report). A number of parties have filed comments on the May 18 Status Report.

This order does not resolve the rehearing requests. Nor does this order accept or reject the ISO's proposed tariff amendments for filing. These pleadings are still under review and we will address them in a separate order. However, we have concluded that four particular issues warrant guidance prior to May 29, 2001, to enable initial implementation of the Mitigation Plan as required by the April 26 Order. Therefore, this order provides guidance on the following issues: (1) treatment of generators who did not supply heat and emission rates; (2) calculation of a natural gas proxy price; (3) price mitigation in the ISO's spot markets other than Imbalance Energy; and (4) creditworthiness.

Treatment of Generators Who Did Not Supply Heat and Emission Rates

In its May 18 Status Report, the ISO states that it has issued two market notices providing a uniform format for sellers to submit such heat and emission rates but has still not received such information from: (1) ten conventional gas-fired generating resources with 260 MW of installed capacity; and (2) 102 gas-fired QF resources representing 4,230

MW of capacity. In addition, twelve gas-fired Qualifying Facilities (QFs) representing 838 MW of capacity have explicitly refused to supply the requisite information.

In an effort to validate and enforce the requirements of the April 26 Order, the ISO has proposed the following procedures for sellers that have not provided the required data. For the generating units that have not provided the requisite data or whose data the ISO believes to be inadequate (the submitted data only covers one operating point), the ISO will use data from a viable alternative source (e.g., either current or pre-existing Reliability Must-Run Contracts). If an alternative source of data does not exist and the generating unit continues to refuse to supply the requisite information, the ISO will treat the non-compliant generators as price-takers, i.e., the ISO will assume a \$0/MWh bid for all available capacity from these units. These generators, if dispatched, will be paid the market clearing price. The ISO seeks confirmation that such treatment is appropriate for suppliers that fail to comply with the Commission's directives.

We will accept the ISO's proposal for generating units within California (including non-public utility generating units) that have not supplied heat and emission rates in compliance with the April 26 Order. To the extent a non-compliant seller does not wish to be treated as a price-taker, the ISO's approach will provide such entities with an incentive to provide the ISO and the Commission with the requisite data.⁶

Calculation of a Natural Gas Proxy Price

In its May 18 Status Report, the ISO indicates that when calculating the market clearing price, it intends to develop the proxy price for natural gas based on only three California delivery points. The ISO notes that Gas Daily cites five daily prices applicable for California delivery -- Malin, PG&E CityGate, Southern California Border (Kern River Station), SoCalGas large packages, and PG&E large packages. However, the ISO states that the two large package prices do not pertain to individual delivery points, per se. Therefore, the ISO proposes to calculate a proxy natural gas cost based upon the simple average of Gas Daily index prices for Malin, PG&E CityGate, and Southern California Border (Kern River Station).

The ISO is incorrect in dropping the two large package delivery points from the calculation of the natural gas proxy price. The April 26 Order is clear in directing the ISO

⁶Cf. San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, 95 FERC ¶ 61,226 at ___, slip op. at n.14 (2001) (addressing pricing for QF sales).

to use all California Delivery points published in Gas Daily.⁷ The ISO is directed to calculate the natural gas proxy price using the published daily prices for Malin, PG&E CityGate, Southern California Border (Kern River Station), SoCalGas large packages, and PG&E large packages. The Commission will consider whether any changes should be made to the California delivery points during rehearing of the April 26 Order.

Price Mitigation in the ISO's Spot Markets other than Imbalance Energy

In its May 11 Compliance Filing, the ISO interprets the April 26 Order as imposing price mitigation measures on sales in its Imbalance Energy market and eliminating existing price mitigation measures in all other markets. Thus, the ISO states that it does not intend to apply any price mitigation to its Ancillary Services spot markets or Adjustment Bids.⁸ The ISO requests that the Commission notify the ISO immediately if this interpretation of the April 26 Order is in error.

The ISO errs in its interpretation. Although the April 26 Order did not explicitly address the issue of price mitigation in any market other than that for Imbalance Energy, the order nonetheless noted that "this proceeding was established . . . to address whether a price mitigation plan was needed to replace the \$150/MWh breakpoint methodology."⁹ The \$150/MWh breakpoint methodology applied to the ISO's Ancillary Services markets. Therefore, the ISO must replace the \$150/MWh breakpoint methodology in those markets with the superseding methodology adopted in the April 26 Order. Further, we clarify that the April 26 Order did not replace the ISO's current methodology for mitigating Adjustment Bid prices.

With respect to calculating the market clearing price for Ancillary Services, we direct the ISO to use each relevant average hourly mitigated Imbalance Energy price. If the Ancillary Services markets clear below the average hourly mitigated Imbalance Energy price for that hour, then the ISO will pay the Ancillary Services clearing price for that market. If the Ancillary Services markets clear above the average hourly mitigated Imbalance Energy price, then the ISO will use that price to clear the market and will pay as-bid for all Ancillary Services that are needed above the mitigated price. Bids accepted above the mitigated price will be subject to refund and justification.

⁷April 26 Order, 95 FERC at 61,359.

⁸Adjustment Bids are modifications to Energy bids that are used to manage congestion.

⁹April 26 Order, 95 FERC at 61,361.

Creditworthiness

On May 16, 2001, the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California (collectively Cities) filed a motion for clarification of the April 26 Order. Noting that Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SoCal Edison) have both defaulted on payments to the ISO, the Cities argue that the Mitigation Plan's requirement that the ISO be offered all available real-time power should be applied to publicly owned generators only if they are assured of a creditworthy buyer.

We grant the Cities' request for clarification. We have previously ruled that generators are entitled to assurances of payment for all energy they provide through the ISO and have directed the ISO to ensure the presence of a creditworthy counterparty for all power that any third-party suppliers provide to PG&E and SoCal Edison.¹⁰ These orders cover all third-party generators for all transactions through the ISO. Therefore, as of May 29, 2001, we expect the ISO to ensure the presence of a creditworthy buyer for all transactions made with all generators who offer power in compliance with the must-offer requirement in the Mitigation Plan.

The Commission orders:

(A) The ISO is directed to implement the Mitigation Plan established by the April 26 Order in the manner discussed in the body of this order.

(B) The Cities' motion for clarification is granted, as discussed in the body of this order.

By the Commission.

(S E A L)

David P. Boergers,
Secretary.

¹⁰See California Independent System Operator Corporation, et al., 94 FERC ¶ 61,132 (2001); and California Independent System Operator Corporation, et al., 95 FERC ¶ 61,026 (2001), reh'g pending.