

**111 FERC ¶61,193**  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation                      Docket Nos. ER04-1087-001 and  
ER04-1087-002

ORDER ON REHEARING AND CLARIFICATION AND  
ACCEPTING COMPLIANCE FILING

(Issued May 9, 2005)

1. In this order, we grant in part, and deny in part, requests for rehearing and clarification of an October 1, 2004 Order, in which the Commission accepted in part and rejected in part proposed tariff revisions of the California Independent System Operator Corporation (CAISO) filed as Amendment No. 62 to its open access transmission tariff (Tariff).<sup>1</sup> In addition, we accept the CAISO's November 1, 2004 compliance filing, submitted in response to the October 1 Order. This order benefits customers by ensuring appropriate cost compensation for generators operating under the requirements of the must-offer obligation and clarifying certain provisions of the CAISO Tariff.

**Background**

2. Through a series of orders issued since April 2001, the Commission has addressed the CAISO's implementation of the temporary must-offer obligation, including application and compensation issues.<sup>2</sup> On August 3, 2004, pursuant to section 205 of the Federal Power Act,<sup>3</sup> the CAISO filed Amendment No. 62, which proposed additional tariff revisions that relate to Phase 1B of MD02.<sup>4</sup> The CAISO stated that its proposal would modify the CAISO Tariff provisions regarding the implementation of a Real-Time

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<sup>1</sup> *California Independent System Operator Corp.*, 109 FERC ¶ 61,006 (2004) (October 1 Order).

<sup>2</sup> See, e.g., *San Diego Gas & Electric Co.*, 102 FERC ¶ 61,285 (2003); *San Diego Gas & Electric Co.*, 101 FERC ¶ 61,112 (2002).

<sup>3</sup> 16 U.S.C. § 824d (2000).

<sup>4</sup> MD02 was subsequently renamed Market Redesign and Technology Upgrade.

Market Application and application of Uninstructed Deviation Penalties previously approved by the Commission. Among other things, the CAISO proposed to modify the definition of “Start-Up Costs” to provide compensation to generating units, operating pursuant to the must-offer obligation, during start-up and shut-down.

3. The October 1 Order rejected the CAISO’s proposal with regard to compensation for Start-Up Costs because it would allow the netting of energy revenues for Imbalance Energy against Start-Up Costs, which was inconsistent with prior Commission rulings.<sup>5</sup> The Commission accepted the CAISO’s alternative proposal, which the CAISO characterized as maintaining the status quo.

4. Williams Power Company, Inc. (Williams) filed a timely motion for clarification, or in the alternative request for rehearing. Duke Energy North America, LLC., and Duke Energy Trading and Marketing, L.L.C. (collectively Duke) filed a timely motion for clarification and request for rehearing.

## **Discussion**

### **A. Docket No. ER04-1087-001, Requests for Rehearing and Clarification**

#### **1. Compensation of Must-Offer Generators From Synchronization To Minimum Operating Level**

5. In Amendment No. 62, the CAISO, among other things, proposed to change the definition of Start-Up Costs to include the costs incurred by a generating unit from the time boiler fires are lit until the time the generating unit reaches its minimum operating level so that generation owners that operate their units pursuant to the must-offer obligation could recover costs incurred between synchronization and the time such units reach their minimum operating level. In support of its proposed change, the CAISO stated that a generating unit produces energy from the moment the unit is synchronized to the grid, even though the unit may not be available for dispatch until it reaches its minimum operating level. In addition, the CAISO proposed to modify CAISO Tariff section 2.5.23.3.7.7, which provides that the CAISO will pay scheduling coordinators for Start-Up Costs, to state that the CAISO would deduct from Start-Up Costs, all CAISO payments for Imbalance Energy produced between the time the unit was synchronized with the grid to and the time the unit reaches its minimum operating level from any invoiced amounts for that same start-up. The CAISO stated that this provision was necessary to ensure that unit owners are not paid twice for the same costs, once by invoicing the CAISO for costs incurred from synchronization to the minimum operating

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<sup>5</sup> October 1 Order, 109 FERC ¶ 61,006 at P 26.

level, and a second time by suspending Uninstructed Deviation Penalties during the start-up sequence, thereby allowing payment for Imbalance Energy produced in excess of the tolerance band during this phase of start-up.

6. The October 1 Order rejected the CAISO's proposal to net energy revenues for Imbalance Energy against Start-Up Costs, explaining that the Commission has consistently determined that must-offer generators must be compensated for their actual minimum load costs.<sup>6</sup> Instead, the Commission accepted an alternative proposal by the CAISO to maintain the status quo with respect to Start-Up Costs and directed the CAISO to modify its tariff sheets to:

(1) restore the existing definition of Start-Up Costs as those costs incurred from first fire to synchronization; (2) pay the Imbalance Energy price for energy delivered from synchronization to minimum operating level; and (3) suspend Uninstructed Deviation Penalties from synchronization to (a) the time the generating units reaches its minimum operating level or (b) the maximum start-up time specified for that generating unit elapses, whichever ever comes first. [<sup>7</sup>]

7. Williams asks the Commission to clarify that generators operating under the must-offer obligation qualify for actual cost recovery during the period between synchronization and a unit's minimum operating level. It contends that the CAISO's current payment mechanism where the generator receives an Imbalance Energy price during the period between synchronization and the generators' minimum operating level may not provide for actual cost recovery during the period. Williams states that consistent with prior orders that guarantee full cost recovery to generators operating under the must-offer obligation, the CAISO should pay, at a minimum, a unit's actual costs throughout the entire start-up period. It argues that the CAISO's alternative proposal, accepted by the October 1 Order, potentially deprives must-offer generators of their actual costs during the period between synchronization and minimum operating level. Therefore, Williams requests clarification that a generator operating under the must-offer obligation are eligible to receive their actual cost during this start-up period including the period between synchronization and minimum operating level or, in the alternative, Williams requests rehearing.

8. Similarly, Duke seeks clarification that a generator operating pursuant to the must-offer obligation will receive both its minimum load costs and the imbalance energy price for the amount of energy generated during the period from synchronization until the unit

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

arrives at its minimum operating level. Duke contends that clarification is necessary because the October 1 Order might be read to suggest that the CAISO must only pay a must-offer generator the imbalance energy price during the period from synchronization until the unit arrives at its minimum operating level. According to Duke, such a result would be inconsistent with previous orders directing the CAISO to compensate a generator for the actual costs during each hour when it is running pursuant to the must-offer obligation.

### **Commission Determination**

9. We grant Williams request for rehearing, which will also resolve Duke's request for clarification. Our rejection in the October 1 Order of the CAISO's proposal to revise the definition of Start-Up Costs to include the period between synchronization and minimum operating level, and our acceptance of the CAISO's alternative proposal (which it characterized as maintaining the status quo), was based on our objection to the CAISO's proposal to net revenues received for imbalance energy against these same Start-Up Costs. In rejecting the compensation as inconsistent with prior orders, we also rejected the CAISO's revised definition of Start-Up Costs as including the costs incurred by a generating unit from the time boiler fires are lit until the time the generating unit reaches its minimum operating level.

10. Pursuant to the CAISO's alternative proposal to maintain the status quo, which was accepted in the October 1 Order, a must-offer generator receives a payment for Start-Up Costs reflecting those costs incurred by the generating unit from first fire to synchronization to the grid. A generator receives a separate payment for energy delivered to the grid by the generator between synchronization and the unit reaching its minimum operating level. Williams argues, and the CAISO recognizes that, under this payment mechanism, must-offer generators may not recover their actual costs during the period between synchronization and minimum operating level.<sup>8</sup> The Commission agrees with this assessment. For this reason, we reverse our prior determination and accept the CAISO's revised definition of Start-Up Costs to include those costs incurred by a generating unit from the time boiler fires are lit until the time the generating unit reaches its minimum operating level.

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<sup>8</sup> The CAISO states that a generating unit would be paid the uninstructed imbalance energy price for energy between the time of synchronization and when a generating unit reaches its stable minimum operating level, and recognizes that while this price may not be sufficient for a generating unit to fully recover its cost during this period of operation, it does provide some payment for such energy. CAISO transmittal letter at 5, Docket No. ER04-1087-000 (August 3, 2004).

11. However, as stated in the October 1 Order, we reject the CAISO's proposal to modify the CAISO Tariff section 2.5.23.3.7.7 to state that the CAISO would deduct from Start-Up Costs, all CAISO payments for Imbalance Energy produced between the time the unit was synchronized with the grid to and the time the unit reaches its minimum operating level from any invoiced amounts for that same start-up as impermissible netting. The Commission has consistently determined that must-offer generators must be compensated for their actual minimum load costs, and that netting under the existing must-offer process compromises this recovery.<sup>9</sup>

12. The revised definition of Start-Up Costs will be effective as of October 1, 2004, the same effective date originally requested and the same effective date as the tariff revisions accepted in the October 1 Order.<sup>10</sup> However, the CAISO must submit within 30 days of the date of this order a compliance filing that includes a revised definition of Start-Up Costs, consistent with the above discussion.

## **2. Criteria for Suspending Uninstructed Deviation Penalties**

13. Duke argues that the Commission erred in failing to specify appropriate criteria for suspending uninstructed deviation penalties for a must-offer generator between synchronization and its minimum operating level. It asks that the Commission grant rehearing and modify Paragraph 26 of the order to indicate that uninstructed deviation penalties will be suspended from synchronization to: "(a) the time the generating unit reaches its minimum operating level or (b) the maximum time specified for that generating unit to ramp from synchronization to its minimum operating point elapses, whichever comes first." According to Duke, the revision is needed because the CAISO tariff definition of "Start-Up" does not include the period following synchronization and, thus, a generator may be unreasonably subjected to penalties prior to the time when the unit can realistically move from synchronization to its minimum operating point.

### **Commission Determination**

14. We reject Duke's requested modification. As noted above, we accept the CAISO's proposed definition of Start-Up Costs to include those costs incurred by the generating unit from first fire until the time the generating unit reaches its minimum operating level. Under the CAISO's proposal, Uninstructed Deviation Penalties will not apply to positive uninstructed imbalance energy below the generating unit's minimum operating level from the time the generating unit synchronizes to the grid to the earlier of:

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<sup>9</sup> *E.g., San Diego Gas & Electric Co.*, 99 FERC ¶ 61,158 at 61,631 (2002); *San Diego Gas & Electric Co.*, 99 FERC ¶ 61,159 at 61,641 (2002).

<sup>10</sup> October 1 Order, 109 FERC ¶ 61,006 at P 41.

(1) the time in which the generating unit reaches its minimum operating level or (2) the maximum start-up time specified for that unit specified in the master file. Accordingly, this proposal is consistent with the CAISO's definition of Start-Up Costs.

**B. Docket No. ER04-1087-002, Compliance Filing**

15. On November 1, 2004, the CAISO submitted a compliance filing as directed by the October 1 Order. The compliance filing includes revisions to CAISO Tariff section 11.2.4.1.2 relating to Uninstructed Deviation Penalties.

16. Notice of the CAISO's compliance filing was published in the *Federal Register*, 69 *Fed. Reg.* 67,343 (2004), with interventions and protests due on or before November 22, 2004. No interventions, comments or protests were filed.

17. Upon review, the Commission accepts the revisions to the CAISO Tariff set forth in the November 1, 2004 compliance filing, effective as of October 1, 2004.

The Commission orders:

(A) Williams' request for rehearing is hereby granted as discussed in the body of this order.

(B) Duke's request for clarification is hereby granted, and its request for rehearing is hereby denied, as discussed in the body of this order.

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

(D) The CAISO's November 1, 2004 compliance filing is hereby accepted, effective as of October 1, 2004, as discussed in the body of this order.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.