

110 FERC ¶ 61,082

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation

ER05-277-000

ORDER ON TARIFF AMENDMENT NO. 64

(Issued January 28, 2005)

1. On November 30, 2004, the California Independent System Operator Corporation (CAISO or ISO) filed Amendment No. 64 to the CAISO open access transmission tariff (ISO Tariff). In this Amendment, the CAISO proposes to indefinitely suspend settlement of Uninstructed Deviation Penalties (UDP) specified in section 11.2.4.1.2 of the ISO Tariff effective December 1, 2004. The Commission conditionally accepts the proposed ISO Tariff revisions. This order benefits customers by ensuring that the ISO's modifications have been properly implemented prior to requiring settlement of UDP.

Background

2. On July 8, 2003, the CAISO submitted Amendment No. 54 to the ISO Tariff, which provided details for the implementation of Real Time Economic Dispatch as well as UDP to be imposed on generators that fail to respond to dispatch instructions outside of a reasonable range (Phase 1B). On October 22, 2003, the Commission accepted most of the Amendment No. 54 tariff revisions, but required the CAISO to further revise its tariff language.¹

3. On March 2, 2004, the CAISO submitted Amendment No. 58 to the ISO Tariff, which among other things clarified how UDP would be implemented. In an August 5, 2004 Order, the Commission accepted in part and rejected in part Amendment No. 58.²

¹ *California Independent System Operator Corporation*, 105 FERC ¶ 61,091 (2002).

² *California Independent System Operator Corporation*, 108 FERC ¶ 61,141 (2003).

4. On August 3, 2004, the CAISO filed Amendment No. 62 to the ISO Tariff. Amendment No. 62 proposed several modifications, in support of a Real-Time Market Application (RTMA),³ including, *inter alia*, tariff changes to suspend UDP until the first day for the month that begins two months after the RTMA and UDP are put in service. On September 10, 2004, the CAISO filed a Motion for Leave to File Answer Two Days Out of Time and Answer to Motions to Intervene, Comments, and Protests of Amendment No. 62. In its answer, the CAISO made several modifications including: modification of the ISO's proposal to suspend UDP during start-up and subtract the Uninstructed Imbalance Energy Payment; an extension of the proposed exemption from UDP for units that are unable to shut down in 20 minutes; and suspension of UDP for deviations that are attributable to automatic response to a system disturbance. On October 1, 2004, we accepted in part and rejected in part Amendment No. 62.⁴ In addition to accepting each of the above-noted changes proposed in the CAISO's answer to Amendment No. 62, the October 1, 2004 Order accepted the tariff revisions proposed by the CAISO to suspend UDP for two months.

5. On November 30, 2004, the CAISO filed Amendment No. 64, which proposes to revise the ISO Tariff to indefinitely defer financial settlement of UDP specified in section 11.2.4.1.2 of the ISO Tariff effective December 1, 2004.

CAISO's Filing

6. The CAISO states that since Phase 1B was implemented, it has experienced data and system issues that have rendered it unable to provide timely and accurate advisory results to market participants on what deviations would have been subject to UDP. Further, the advisory results that were produced have not been of the high quality that the CAISO intended, and due to several errors, their value in assisting scheduling coordinators with system and performance validation after the Phase 1B changes has been reduced. The CAISO believes that no significant financial consequences will result from an extension of the suspension of UDP. Due to its inability to provide timely and accurate advisory results, and the lack of significant financial consequences, the CAISO

³ The CAISO's RTMA calculates the Energy expected in each 5-minute Dispatch Interval from resources based on Hour-Ahead Schedules and CAISO Dispatch Instructions.

⁴ *California Independent System Operator Corporation*, 109 FERC ¶ 61,006 (2004).

contends indefinite suspension is appropriate. If Amendment No. 64 is accepted, the CAISO states that it will submit another tariff amendment ten days in advance of the proposed effective date for the implementation of UDP.

7. The CAISO further requests that the Commission waive the notice requirement under section 35.11 of the Commission's regulations, 18 C.F.R. § 35.11, and allow Amendment No. 64 to be effective as of December 1, 2004.

Notice and Further Filings

8. Notice of the CAISO's filing was published in the *Federal Register*, 69 Fed. Reg. 74516 (2004), with interventions, comments, and protests due on or before December 21, 2004. Timely motions to intervene were filed by the City of Redding, CA, the City of Santa Clara, CA, and the M-S-R Public Power Agency (collectively, Cities/M-S-R); and the Modesto Irrigation District (Modesto). Timely motions to intervene and comment were filed by the California Electricity Oversight Board (CEOB); Pacific Gas and Electric Company (PG&E); Duke Energy North America, LLC and Duke Energy Marketing America, LLC (collectively, Duke Energy); Powerex Corp.; the California Department of Water Resources State Water Project (CDWR); and jointly by West Coast Power LLC, El Segundo Power LLC, Long Beach Generation LLC, Cabrillo Power I LLC, and Cabrillo Power II LLC (collectively, West Coast Power) and Williams Power Company (Williams) (and collectively with West Coast Power, West Coast Power/Williams). Calpine Corporation (Calpine) filed a motion to intervene out-of-time. On January 5, 2005, the CAISO filed an answer to the motions to intervene and comments.

9. All entities that filed comments support the indefinite suspension of UDP financial settlements effective December 1, 2004, as proposed by the CAISO in Amendment 64. However, several commenters assert that the CAISO's proposal to file another amendment 10 days prior to implementation of UDP is unreasonable. The CEOB, Duke Energy, and West Coast Power/Williams state that the CAISO should extend the UDP suspension period for an additional 60 days following the CAISO's next filing, consistent with Amendment No. 62 in order to provide market participants with accurate advisory data.

10. PG&E asserts that a grace period in which advisory UDP results are provided to market participants should be required to ensure a credible, robust, fair, and equitable UDP system and to detect any additional problems. PG&E states that while a full sixty-day grace period may not be necessary, thirty days of valid UDP advisory results would be the minimum that the CAISO and market participants would need to identify and correct any problems that the results may reveal.

11. West Coast Power/Williams state that the two-month suspension period is not a testing period for Phase 1B, rather it allows market participants to review how their generating units and market software systems perform with the new CAISO software in place, and to explore any necessary changes to their market software systems prior to UDP becoming financially binding. To ensure that the intended purpose of the two months of UDP advisory data prior to implementation as discussed in Amendment No. 62 is not lost, West Coast Power/Williams request that the Commission direct the CAISO to provide at least two months of advisory data prior to UDP becoming effective once the Phase 1B issues that prompted the instant filing are resolved.

12. The CEOB states that the CAISO has not shown any changed circumstances that would override the CAISO's prior conclusion that scheduling coordinators and operators require a 60-day trial period within which to receive data to harmonize their scheduling systems with the CAISO's Phase 1B software.

13. Duke Energy requests that the Commission require the CAISO to submit a compliance filing demonstrating that it has resolved all of the software and connectivity problems that have precluded it from successfully implementing UDP.

14. The CAISO argues that there is no need for an additional suspension period once it files to initiate financial settlement of the UDP, because the principal reason it filed Amendment No. 64 was to ensure that market participants would have two full months of high-quality advisory results. The CAISO states that since it filed Amendment No. 64, it has republished advisory results for the UDP based on high-quality data for each trading day in October 2004. Further, the CAISO stated that it does not anticipate seeking a date earlier than February 1, 2005 to initiate financial settlement of the UDP, by which time it will have published two full months of high-quality advisory UDP results.

15. The CAISO argues that the Commission should not impose additional filing requirements or take action in advance of the CAISO's upcoming section 205 filing through which the CAISO will seek to establish a date certain for UDP to go into effect. The CAISO states that it has isolated the apparent root cause of the connectivity problems, and is testing a fix. The CAISO states that it will provide a full explanation of the connectivity issues in the upcoming section 205 filing. Also, the CAISO states that in the section 205 filing it will explain how it has fully complied with the Commission's prior direction in the October 1, 2004 Order accepting Amendment No. 62. The CAISO concludes by stating that the proper forum for addressing the matters raised by commenters will be in the proceeding initiated by the Commission in response to the CAISO's upcoming section 205 filing seeking to make UDP effective. As that filing has not been made, the CAISO states that it is inappropriate for any party to prejudge that filing.

Discussion**Procedural Matters**

16. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the notices 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) (2003), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the CAISO's answer because it has provided information that assisted us in our decision-making process.

Amendment No. 64

17. Due to issues that have arisen following the implementation of the Phase 1B software and the CAISO's resulting inability to provide timely, settlement-quality advisory UDP results to market participants, the Commission agrees that it is appropriate that the CAISO suspend implementation of the UDP section of its tariff (section 11.2.4.1.2) until such time as the CAISO has resolved all software and connectivity issues. However, the Commission's review indicates that the CAISO's proposed tariff revisions do not accomplish what the CAISO is trying to achieve, which is an indefinite suspension of the UDP provision. Read literally, the section 11.2.4.1.2 tariff revisions allow the CAISO to implement UDP upon acceptance of the instant filing. Accordingly, the Commission will conditionally accept the tariff revisions in the CAISO's Amendment No. 64, subject to the Commission's acceptance of a CAISO compliance filing to make section 11.2.4.1.2 conform with the CAISO's intent to indefinitely suspend the UDP provision. The CAISO should make clear in this compliance filing that it will not implement section 11.2.4.1.2 until it has resolved software and connectivity issues and received Commission approval. Furthermore, the Commission agrees that it is in the public interest to grant waiver of the Commission's section 35.11 notice requirements, and conditionally accepts the Amendment No. 64 tariff revisions effective December 1, 2004, as proposed.

18. The Commission agrees with the CAISO that the section 205 filing, which will be made to implement UDP, is the proper forum for addressing the data and software testing issues raised by commenters, rather than the instant filing. The instant filing is being conditionally accepted to allow the indefinite suspension of UDP, effective December 1, 2004. However, this order should not be construed as approval of ISO Tariff section 11.2.4.1.2 or any part of the CAISO's future filings, particularly its proposal to implement financial settlement of UDP ten days after its filing for implementation.

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The Commission orders:

(A) Waiver of the notice requirements is granted and the Amendment No. 64 tariff revisions are conditionally accepted effective December 1, 2004, subject to modification, as discussed in the body of this order.

(B) Within 15 days of the date this order issues, the CAISO must make a compliance filing.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.