

128 FERC ¶ 61,246
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Sudeen G. Kelly, Marc Spitzer,
and Philip D. Moeller.

California Independent System Operator Corporation Docket No. ER09-240-001

ORDER DENYING REHEARING

(Issued September 17, 2009)

1. On March 17, 2009, the California Department of Water Resources State Water Project (State Water Project) filed a request for rehearing of a February 19, 2009 Commission order conditionally accepting the California Independent System Operator Corporation's (CAISO) proposed tariff revisions modifying a tariff provision that required the CAISO's market clearing software to exhaust all economic bids before engaging in any adjustments to submitted self-schedules.¹ This order denies State Water Project's request for rehearing.

I. Background

2. As a result of market simulations conducted in preparation for the implementation of the CAISO's Market Redesign and Technology Upgrade (MRTU) tariff,² the CAISO concluded that tariff provisions requiring the exhaustion of economic bids to resolve every market optimization constraint were too rigid, and led to unnecessarily high system costs. According to the CAISO, it determined that, at certain times, it would be more economically and operationally efficient to achieve a feasible market solution by adjusting certain inputs, called "non-priced quantities," rather than exhausting all economic bids. The adjustment of non-priced quantities, such as self-scheduled load or limits on transmission constraints, gives the CAISO greater flexibility to achieve feasible

¹ *Calif. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,147 (2009) (February 19 Order).

² The CAISO's MRTU tariff became effective on March 31, 2009.

market solutions. However, market mechanisms for establishing the value of non-priced quantities themselves presently do not exist.³

3. On November 4, 2008, the CAISO filed revisions to its MRTU tariff to include administratively determined values for the parameters that are associated with certain non-priced quantities. The parameter values would supplement economic bids in that they would allow the market optimization software to determine when the non-priced quantities would be used instead of economic bids, and how their use would affect market clearing prices.

4. In order to implement this parameter tuning proposal, the CAISO introduced the concept of “ineffective economic bids.” Ineffective economic bids are those bids that, while available, are deemed to be an inefficient means of relieving a constraint because the incremental cost of using such bids exceeds the parameter value for adjusting a non-priced quantity. The CAISO proposed monetary values for a series of new scheduling and pricing parameters. These parameters establish a threshold cost above which the CAISO’s market optimization software will forego ineffective economic bids and instead adjust a non-priced parameter which would limit the increase in overall system costs.⁴

5. The parameter tuning proposal provided for the adjustment of non-priced quantities without the requirement of exhausting all economic bids, based on the specific parameters established therein. It did not alter the relative priorities, as previously established in the initial MRTU tariff filing, that would be enforced in the event non-priced quantities or self-schedules needed to be modified.⁵

6. The February 19 Order conditionally accepted the CAISO’s tariff revisions to implement the CAISO’s parameter tuning proposal, effective upon the implementation of MRTU. The Commission found that the purpose of the CAISO’s proposed tariff revisions was to maintain the balance between ensuring maximum utilization of economic bids and prudent operation of the CAISO’s grid and that it would be unreasonable to continue to require the exhaustion of all economic bids before adjusting non-priced quantities.⁶

³ February 19 Order, 126 FERC ¶ 61,147 at P 3.

⁴ *Id.* P 8, 12.

⁵ *See Id.* P 71, 77, 79.

⁶ *Id.* P 43.

II. State Water Project's Request for Rehearing

A. Introduction

7. State Water Project was the only party to request rehearing. Its request for rehearing states seven specifications of error, essentially arguing that, as applied to State Water Project, the February 19 Order fails to ensure accurate day-ahead CAISO schedules, is not supported by substantial evidence, was not adequately noticed, does not result in just and reasonable rates, does not adequately explain inconsistencies regarding the treatment of State Water Project's load, does not adequately address State Water Project's arguments in the underlying proceeding, and is unduly discriminatory.

8. State Water Project objects to the Commission approving the CAISO's proposed treatment of participating load⁷ in the day-ahead market under parameter tuning. Specifically, State Water Project objects to its participating load being subjected to potential schedule adjustment based on its status as nodally-settled load, which it claims is unduly discriminatory. By way of comparison, State Water Project notes that load aggregation point loads are only subjected to potential schedule adjustment based on the results over the entire load aggregation area. It also notes that the nodally-settled self-schedules of existing transmission rights customers are protected in the day-ahead market by having a parameter value assigned to them that is higher than that assigned to the relaxation of internal transmission constraints.⁸

B. Feasibility and Reliability of the CAISO's Day-ahead Schedules

1. State Water Project's Objections

9. On rehearing, State Water Project states that the February 19 Order does not represent reasoned decision making because, in State Water Project's opinion, the February 19 Order is premised on unrealistic day-ahead adjustments for self-scheduled

⁷ Participating load resources operate under a Participating Load Agreement. While generally appearing as users of the CAISO's transmission grid, participating load resources are also capable of acting in a manner similar to generators on the grid, in effect providing capacity for which they receive payment consistent with the locational marginal price assigned to their service. Participating load is characterized as a demand response resource because of this unique operating characteristic.

⁸ Existing transmission rights customers are identified as including existing transmission contract customers, transmission ownership rights customers and converted rights customers, each of whom possesses contractual rights recognized by the CAISO and approved by the Commission. *See* February 19 Order, 126 FERC ¶ 61,147 at P 21.

participating load. State Water Project states that the result is a departure from the premise that MRTU is supposed to ensure accurate day-ahead schedule results.⁹

10. On rehearing, State Water Project is concerned that if its participating load self-schedules are adjusted in the day-ahead market, but are able to appear in real-time, the result will have been unrealistic day-ahead schedules. State Water Project states that these unrealistic day-ahead schedules are contrary to the purpose of MRTU,¹⁰ are potentially infeasible¹¹ and present potential reliability problems on the CAISO grid.¹²

2. Commission Determination

11. State Water Project's comments in this proceeding prior to its rehearing request were primarily concerned with the possibility of involuntary dispatch of its resources or denial of transmission service in real-time, rather than any concern related to the day-ahead market.¹³ As a result, State Water Project expressed concern that if it were unable to decline an involuntary dispatch or denial of transmission service, State Water Project would be subjected to an increased risk of damage to its water management structures.¹⁴

12. The CAISO's answer pointed out that State Water Project's objections were primarily based on the possibility of curtailment in real-time. The CAISO stated that, under the MRTU tariff, load is only curtailed in real-time in the case of a system emergency. As a result, the February 19 Order found that State Water Project's fears of involuntary curtailment of its firm transmission service were unfounded.¹⁵ However, on rehearing, State Water Project apparently concedes that its earlier objections regarding potential involuntary curtailment were not problematic under the parameter tuning proposal. Instead, State Water Project now argues for the first time that unrealistic day-ahead schedules are possible and present potential reliability problems on the CAISO grid.

⁹ State Water Project request for rehearing at 10-16.

¹⁰ *Id.* at 11 (stating that one of MRTU's most essential purposes is to eliminate unrealistic day-ahead schedules).

¹¹ *Id.* at 12.

¹² *Id.* at 13-16.

¹³ *See* February 19 Order, 126 FERC ¶ 61,147 at P 100.

¹⁴ *Id.* P 87.

¹⁵ *Id.* P 93, 100.

13. State Water Project did not make this claim during the initial proceeding. A request for rehearing is not the appropriate pleading in which to raise issues for the first time. The Commission has held that raising issues for the first time on rehearing is disruptive to the administrative process and denies parties the opportunity to respond.¹⁶ Accordingly, given that State Water Project did not previously raise this concern, it cannot do so now.

14. Regardless, even if the Commission considered these newly-raised concerns, we would deny these aspects of State Water Projects rehearing request. The Commission sees no reason to expect that parameter tuning will result in unrealistic day-ahead schedules. The CAISO's purpose in adjusting self-schedules is to prevent market solutions that are not founded in good economics or good utility practice.¹⁷ The adjustments resulting from parameter tuning are used to find feasible and reasonable market solutions, and State Water Project offers no evidence from the record to support the claim on rehearing that the resulting day-ahead schedules are unrealistic.

15. Even if there were a concern that the adjustment of State Water Project's self-scheduled participating load in the day-ahead market might cause unrealistic day-ahead schedules, the record supports our finding that the risk of such an adjustment is low.¹⁸ More importantly, as we noted in the February 19 Order, an adjustment in the day-ahead market would at most result in the participating load having to procure a portion of its submitted self-scheduled load through the real-time market¹⁹ and reliability of the CAISO's operation of its grid would be unaffected. State Water Project provides no evidence to dispute these findings, instead simply noting that it has very little in the way of existing contract rights in the Southern California Edison service territory and that there are limitations on the existing transmission rights at a certain point in the Pacific Gas & Electric service territory.²⁰

¹⁶ See *PJM Interconnection L.L.C.*, 126 FERC ¶ 61,030, at P 15, n.10 (2009) and cases cited therein.

¹⁷ See February 19 Order, 126 FERC ¶ 61,147 at P 11.

¹⁸ *Id.* P 96.

¹⁹ *Id.* P 100.

²⁰ State Water Project request for rehearing at 22-23.

C. **Cost Causation, Purported Factual Error and Undue Discrimination Claims**

1. **State Water Project's Objections**

16. State Water Project states that rehearing should be granted because the February 19 Order's treatment of its participating load imposes costs that are not caused by that load, that State Water Project did not receive notice of the rate consequences from parameter tuning, that the February 19 Order is unduly discriminatory in the manner of its treatment of participating load by comparison with its treatment of existing rights load and load aggregation point load, and that the February 19 Order is unduly discriminatory by virtue of finding a rate to be just and reasonable merely because it is the result of the CAISO's software.

17. State Water Project states that the additional costs it anticipates incurring occur solely as a result of its participating load status, not as a result of any benefit derived from selling participating load services. State Water Project claims that if it terminated its participating load status it would not be subject to the costs it anticipates. In particular, State Water Project states that the costs it anticipates are caused by the CAISO's market optimization software's treatment of its nodally-settled load. State Water Project notes that the operation of the CAISO's market optimization software would not yield similar results for existing rights loads that are also nodally-settled.²¹ State Water Project argues that the February 19 Order fails to satisfy principles of cost causation as a result.

18. State Water Project also states that the February 19 Order rests on factual error. State Water Project asserts that the February 19 Order is predicated on the notion that when it sought nodal pricing for participating load, State Water Project agreed to parameter tuning costs. State Water Project states that it was unaware of possible effects on participating load self-schedules in the day-ahead market that might result from having sought nodal pricing.²²

19. State Water Project further states that the February 19 Order does not justify treating participating load differently from load aggregation point load and existing rights load. State Water Project states that the sole justification for the treatment is that the CAISO software yields differing results for participating load, which State Water Project asserts constitutes undue discrimination. State Water Project states that the February 19 Order offers no justification for protecting nodally-settled existing rights loads or load

²¹ State Water Project request for rehearing at 28.

²² *Id.* at 17-18.

aggregation point loads from adjustment in the day-ahead market, while not providing similar protection to participating load.

20. Additionally State Water Project asserts that the February 19 Order rests on a factually inaccurate assumption that the purported injury to participating load from parameter tuning results from prior MRTU design features, as opposed to parameter tuning results. State Water Project further asserts that the February 19 Order is erroneous in relying on State Water Project's contracts with existing transmission rights holders to minimize the exposure of participating load to self-schedule adjustments in the day-ahead market and that the February 19 Order is deficient in that it fails to inform customers of their rate exposure.²³

21. Finally, State Water Project states that there is no credible basis upon which the February 19 Order could determine that the impacts on participating load schedules are beyond the scope of this proceeding and that the February 19 Order is unduly discriminatory because, according to State Water Project, the February 19 Order finds the CAISO's rates to be just and reasonable solely because of the operation of the CAISO's market optimization software.²⁴

2. Commission Determination

22. The Commission denies State Water Project's request for rehearing. Prior to the tariff revisions accepted by the February 19 Order, the CAISO's MRTU tariff required that all submitted economic bids be exhausted before utilizing other options to relieve system congestion.²⁵ The CAISO's market software testing proved that this inflexible reliance on economic bids could lead to potentially extreme dispatch results and concomitant high prices, in that economic bids that are largely ineffective at relieving congestion would be used before the CAISO had the ability to adjust non-priced quantities (including self-schedules of any customer).²⁶ State Water Project's request for rehearing does not dispute these findings and State Water Project has presented no evidence from which the Commission could conclude otherwise.

23. The tariff revisions accepted in the February 19 Order were designed to ensure that the CAISO's market optimization software would (1) implement just and reasonable

²³ *Id.* at 19-27.

²⁴ *Id.* at 31-39.

²⁵ February 19 Order, 126 FERC ¶ 61,147 at P 3, citing MRTU Tariff Section 31.3.1.1.

²⁶ *Id.* P 3-4.

MRTU scheduling priorities, including utilizing economic bids to the maximum extent practicable before adjusting self-schedules, (2) ensure that the scheduling parameters necessary to implement those scheduling priorities do not unduly impact settlement prices, (3) facilitate the creation of feasible and operationally prudent schedules and dispatch, and (4) ensure a least-cost solution by avoiding unnecessarily expensive re-dispatch solutions when an adjustment of a non-priced quantity can result in a lower cost to the system. We find these to be reasonable objectives and State Water Project's request for rehearing provides no reason to believe that parameter tuning fails to meet these objectives. Furthermore, we expect that overall system costs and prices will be lower and the system will be more efficiently and effectively operated as a result of the February 19 Order.

24. Given State Water Project's unique situation, its participating load is potentially subject to having self-schedules curtailed in the day-ahead market. As noted above, State Water Project concedes that it sought nodal treatment for its participating load, which State Water Project states enables its participating load to receive accurate price signals and receive compensation similar to a generator when providing demand response.²⁷ It is the attribute of nodal treatment which could cause the CAISO's market optimization software to identify State Water Project's participating load as more effective at relieving congestion than loads that are only identified across a broader default load aggregation point.²⁸ Thus, while State Water Project claims that the possibility of self-schedule adjustment is merely a function of the CAISO's market optimization software, we find that the possibility of self-schedule adjustment in the day-ahead market is appropriately a function of State Water Project's participating load being scheduled and settled nodally. We also find that fairness dictates that where State Water Project's participating load takes advantage of potential benefits in the pricing of its provision of demand response from the nodal settlement process, that same participating load should also bear the concomitant risks associated with possible adjustment in the day-ahead market from being treated nodally for purposes of determining feasible schedules in the day-ahead market.

25. Further, while State Water Project's participating load may be adjusted in the day-ahead market and State Water Project could face higher costs in the real-time market as a result thereof, as noted above, overall system costs and prices on the CAISO grid are expected to be lower as a result of parameter tuning than they would be otherwise, to the benefit of market participants, including State Water Project. State Water Project's request for rehearing based on cost causation arguments is denied.

²⁷ State Water Project request for rehearing at 16.

²⁸ See February 19 Order, 126 FERC ¶ 61,147 at P 94.

26. Similarly, contrary to State Water Project's argument, certain aspects of the impacts from parameter tuning tariff revisions on participating load are beyond the scope of this proceeding. The tariff revisions do not seek to change the determination of which loads would be settled nodally, as opposed to being settled as part of load aggregation point demand, nor do they alter the relative priorities among the categories of load that may require adjustment in order to clear the market. It is clear from the record that it is participating load's status as nodally-settled, in combination with participating load's relative priority as opposed to existing rights customer load that determines how participating load self-schedules will be considered for adjustment in the day-ahead market. The potential for participating load self-schedules being adjusted in the day-ahead market is based on participating load's position in the CAISO market, and the tariff revisions do not change this. Regardless, we find the CAISO's parameter tuning proposal to be just and reasonable and not unduly discriminatory. Therefore, State Water Project's request for rehearing is denied.

27. The Commission finds that our February 19 Order does not rest on factual error. The February 19 Order authorizes the CAISO to refine its market rules to allow the CAISO to operate its energy and ancillary services markets in a way that better comports with sound economics and good utility practice. Prices paid by all market participants result from the application of the CAISO market rules. The market rules that are changed by parameter tuning may have some limited financial consequences for some customers. However, the likelihood that the CAISO markets will experience lower overall system costs as a result of parameter tuning provides a sound and rational basis for the Commission's decision.

28. The Commission also rejects State Water Project's arguments regarding notice. This proceeding was initiated under section 205 of the Federal Power Act.²⁹ FPA section 205(d) requires that a public utility provide 60 days notice to the public and the Commission.³⁰ Notice is given by filing with the Commission new schedules stating the changes to be made and the time when those changes shall take effect. We find that the notice requirements were met and deny rehearing.

29. In summary, any impacts from parameter tuning on State Water Project's participating load are neither caused by factual error, nor unduly discriminatory. State Water Project's participating load is uniquely situated, relative to other loads. It is appropriately settled nodally, both for purposes of its participation as a demand response resource and for purposes of evaluating feasible schedules in the day-ahead market. Participating load is different than load aggregation point load in this regard.

²⁹ 16 U.S.C. § 824d (2006).

³⁰ 16 U.S.C. § 824d(d) (2006).

Participating load is also different than existing rights load because, while existing rights load is settled nodally, the priority given to customers with existing rights is based on contract and is established within the CAISO's tariff. The priority given existing rights customers is unchanged by the Commission's February 19 Order.³¹ Participating load is instead treated consistent with the participating load agreement under which it operates.

The Commission orders:

The Commission denies the request for rehearing by State Water Project, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

³¹ See February 19 Order, 126 FERC ¶ 61,147 at P 81.