

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator)
Corporation)

Docket No. ER08-1113-04
Docket No. ER08-1113-05

**REPLY COMMENTS OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION ON THE AUGUST 20, 2009 TECHNICAL CONFERENCE**

The California Independent System Operator Corporation (“the ISO”) submits these reply comments pursuant to the Notice of Technical Conference Comment Dates issued on August 21, 2009, and the Notice of Extension issued on September 9, 2009, in connection with the technical conference held on August 20, 2009 in the above-referenced proceeding. The Commission’s approval of the Integrated Balancing Authority Area (“IBAA”) structure allows the ISO to calculate accurate Locational Marginal Price (“LMP”) based on the location of resources supporting interchange transactions between the ISO and IBAA. The Commission has approved a just and reasonable default price for these interchange transactions and has provided the opportunity for entities to negotiate Market Efficiency Enhancement Agreements (“MEEAs”) to obtain alternative pricing.

The post-technical comments submitted by IBAA entities¹ and others reargue positions already addressed by the Commission and demonstrate why it is necessary to apply default pricing to portions of interchange transactions when a MEEA signatory cannot demonstrate the location of the resource. The Commission should approve the ISO’s proposed tariff provisions

¹ The ISO refers to the following entities as IBAA entities: the Transmission Agency of Northern California (“TANC”), Sacramento Municipal Utility District (“SMUD”), Turlock Irrigation District (“Turlock”), Modesto Irrigation District (“Modesto”), the City of Redding (“Redding”), Western Area Power Administration (Western”), the City of Palo Alto and the City of Santa Clara.

with the additional modifications proposed in the ISO's September 15, 2009 comments relating to application of MEEA pricing.

I. Consistent with the Commission's prior orders alternative pricing is available to a MEEA signatory if the ISO can verify that resources identified in a MEEA supported an interchange transaction with the ISO.

As set forth the in the ISO's proposed tariff provisions and explained in its opening comments, alternative pricing is available to entities that own and control supply resources within the IBAA. Under the ISO's proposed MEEA structure, entities that demonstrate that the location and operation of resources identified in a MEEA supported interchange transactions between the ISO and IBAA will obtain MEEA pricing for those verified amounts.

In their comments, several IBAA entities argue that to obtain MEEA pricing for imports into the ISO, the Commission should only require a MEEA signatory to represent that it is operating sufficient generation within the IBAA to support an interchange transaction. Based on the discussions at technical conference and the record of this proceeding, this level of information alone is insufficient to demonstrate that a MEEA resource is supporting an interchange transaction with the ISO. Absent additional information concerning a MEEA signatory's other supply and demand resources, there is no way to determine whether the MEEA resource is actually operating to support the interchange transaction as opposed to supporting some other purpose.

The IBAA entities assert that the imports from the Pacific Northwest allow generation from their local IBAA supply resources to support sales into the ISO's markets and that this fact is sufficient to demonstrate that the local IBAA generation is supporting a MEEA import into the ISO.² However, the primary purpose of the IBAA entities' generation is to serve its own native load. By providing only meter data reflecting that a MEEA signatory is operating generation

² TANC Comments at p.8; City of Santa Clara and Palo Alto at p. 11.

internal to the IBAA, the MEEA signatory cannot demonstrate and the ISO cannot verify that the internal generation is operating to support the interchange transaction with the ISO. Unless the MEEA signatory can demonstrate that internal generation is operating to support interchange transaction volumes with the ISO, it should not receive MEEA pricing for those volumes.

A. Under the Commission’s Orders the ISO must verify that the MEEA resources operated to support an interchange transaction as opposed to some other purpose.

Under the Commission’s IBAA orders, power supplied to the ISO through interchange transactions with the IBAA will qualify for the relevant MEEA price only if the ISO can verify that a MEEA signatory is operating a resource identified in the MEEA that is dispatched to implement, *i.e.*, to support, an interchange transaction with the ISO. In its September 2008 Order conditionally approving the IBAA structure, the Commission stated that a MEEA signatory may obtain “a more favorable pricing structure if it is willing to provide the CAISO with information allowing the CAISO to verify the location and operation of resources used to implement interchange transactions between the CAISO-controlled grid and the IBAA.”³ In its March 6, 2008 Order on Compliance, the Commission determined that “if the MEEA signatory can verify the location of and operation of an import or export then it should receive actual pricing for interchange transactions.”⁴ In its July 2009 Order on Rehearing and Clarification, the Commission again stated that MEEA pricing would be available “in exchange for the information necessary to verify the location of the external resources that are used to support . . .

³ *California Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,271 at P 6 (2008) (“September 2008 Order”).

⁴ *California Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,207 at P 61 (2009) (“Order on Compliance”). See also, *California Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,278 at P 25 (2009) (“Order on Emergency Motion for Clarification”).

interchange transactions with the CAISO.⁵ The unifying theme of these orders is that in order for an interchange transaction to qualify for alternative pricing under a MEEA, the ISO must be able to verify based on the information provided by the MEEA signatory that a MEEA signatory operated MEEA to support the interchange transaction with the ISO. The Commission's prior findings indicate that alternative MEEA pricing is inappropriate if the MEEA signatory cannot demonstrate and the ISO cannot verify that the MEEA resource was operated (*i.e.*, dispatched) to implement or support the interchange transaction with the ISO under the MEEA and was not operated or dispatched to support a purpose other than that ISO interchange transaction.

In their comments, IBAA entities argue that the ISO's after-the-fact data requirements are designed to deny alternative MEEA pricing by netting otherwise eligible volumes when an IBAA entity is operating various supply resources, including resources that are not identified in a MEEA. IBAA entities argue that the Commission rejected the ISO's proposed after-the-fact data requirements on grounds that they are "designed" to limit volumes otherwise eligible for MEEA pricing. The parties repeatedly refer to the Commission's prior order stipulating the Commission's rejection of any netting. This is incorrect.

The Commission's order explicitly provides that the ISO may alternatively explain and support its data requirements and does not outwardly reject this approach.⁶ Indeed, the parties overlook a crucial element of the Commission's order. Specifically, the Commission stated:

Given that the Commission has directed the CAISO to eliminate its limitations on eligible quantities to receive MEEA pricing, the CAISO is directed to eliminate those data requirements proposed in section 27.5.3.2.2 of the CAISO tariff or explain and support

⁵ *California Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,103 at P 186 (2009) ("Order on Rehearing and Clarification").

⁶ *Order on Compliance* at P 81. See also May 12, 2009, ISO's Compliance Filing in response to the Order on Compliance.

them to the Commission and file revised data requirements in a compliance filing within 60 days of the date of this order. [emphasis added]

The ISO does not consider its verification process to be a netting process. The ISO's data requirements are designed to allow the ISO to verify that the resources identified in a MEEA are operating to support an interchange transaction. To the extent that the ISO cannot verify that the resources identified in a MEEA are operating to support an interchange transaction, the ISO should not pay the alternative MEEA price for the power supplied by the interchange transaction. The ISO recognizes that its verification process can result in the application of the MEEA price to only a portion of a scheduled interchange transaction. Since the Commission's ruling on the ISO's prior compliance filing, the ISO has repeatedly explained why this verification is important and why unverifiable portions of an interchange transaction should not receive the MEEA price.⁷

After-the-fact verification is essential to application of MEEA pricing, without which there would be a complete unraveling of the Commission's prior approval of the IBAA structure. Without the ability to verify that the location of supply supporting the interchange is within the IBAA, it is not just and reasonable for the ISO's markets to pay a MEEA price. However, to the extent the ISO can verify that the MEEA entity's interchange transaction is supported by the MEEA resources, the MEEA price would be applicable. By way of example, if Santa Clara (located within the ISO's balancing authority area) has scheduled a 100 MW interchange transaction from the IBAA to the ISO, which is supported by 60 MW from Western generation within the IBAA and 40 MW from a Pacific Northwest import, the ISO's data requirements permit Santa Clara to demonstrate the location and operation of its supply resources and allow

⁷ See e.g., May 12, 2009, ISO's Compliance Filing in response to the Order on Compliance; ISO Comments filed September 15 Comments; ISO Technical Conference Presentation.

the ISO to apply MEEA pricing to 60 MW sourced by the Western generation under the control of Santa Clara. The ISO's data requirements allow the ISO to evaluate that a portion of the interchange transaction, 40 MW, is sourced from the Pacific Northwest. The appropriate price for such power is the IBAA default price. The verifiable portion, the remaining 60 MWs is compensated appropriately at the MEEA price because the after-the-fact data has enabled the ISO to verify that the IBAA generation is in fact supporting the transaction.⁸

The ISO has fully complied with the former requirement in Paragraph 63 of the Commission's Order on Compliance by removing the simultaneous import/export rule.⁹ The ISO has also fully complied with the Commission's requirements in Paragraph 81 of the Commission's Order on Compliance by providing language that more clearly stipulates the verification requirements by having *explained and supported* the additional verification data requirements to the Commission and participants. The ISO has demonstrated how absence of such data would make it virtually impossible to verify that the IBAA resource was operated to support the interchange transaction, which is the principle requirement that has transcended all of the Commission's prior orders.

B. Default pricing is appropriate for IBAA Entities' scheduled use of the ISO grid that involves resources located north of the Captain Jack substation.

IBAA entities argue that in intervals in which they are importing from the Pacific Northwest and operating generation internal to the IBAA, the ISO should assume that the generation within the IBAA is operating to support any interchange transactions with the ISO while the imports are being used to meet IBAA load. As explained in the example above

⁸ *Order on Rehearing and Clarification* at P 186, citing *September 2008 Order* at P 181.

⁹ *See* May 12, 2009 ISO Compliance Filing p.8, deleting applicable language Section 27.5.3.2.2.

involving Santa Clara, the ISO's data requirements do not preclude application of MEEA pricing for all volumes under these circumstances.

For a MEEA signatory that is also load serving entity within the IBAA and relies on multiple sources of supply, including its own internal generation, it is necessary for the MEEA signatory to demonstrate and the ISO to verify that the resources identified in a MEEA were operated to support an interchange transaction as opposed to some other purpose. If a MEEA signatory can demonstrate that power flows from the Pacific Northwest are not supporting the interchange transaction and instead its internal generation is supporting the interchange transaction then MEEA pricing should apply.¹⁰ If a MEEA signatory cannot make this demonstration, default pricing should apply.¹¹ The fact that IBAA entities rely on multiple supply resources, including supply resources located north of the Captain Jack substation, does not make the MEEA option illusory. The ISO's data requirements provide a mechanism to identify these multiple supply resources, all of which create flows on the ISO grid. When a MEEA signatory schedules an interchange transaction with the ISO, it is appropriate to apply default pricing to the portion of an interchange transaction that is supported by supply resources that are north of the Captain Jack substation as opposed to those resources identified in a MEEA.

¹⁰ The ISO notes that the arguments of SMUD and Redding that application of default pricing to a portion of an interchange transaction during intervals in which the MEEA signatory is simultaneously importing from the Pacific Northwest will not necessarily cause a MEEA signatory to ramp down its generation. First, default pricing may be more than sufficient to compensate the MEEA signatory for running its generation. Second, the MEEA signatory may wish to ramp up its generation in some cases so that it can demonstrate that a greater portion of its interchange transaction is supported by resources identified in a MEEA and obtain MEEA pricing for that portion.

¹¹ The postulated scenario involves one of the two pricing restrictions proposed on MEEA pricing (*i.e.*, an IBAA entity would be selling (or importing) energy from the IBAA to the CAISO at the same time the IBAA Entity also is purchasing or importing to the IBAA from another BAA (*i.e.*, another BAA that is not the ISO BAA)). As noted previously, the ISO's intent is that the pricing restrictions could be overcome in an executed MEEA filed with the Commission if the ISO had the necessary information to verify that the resources identified in the MEEA were the resources dispatched to implement the interchange transaction notwithstanding the IBAA entity's transactions with other BAAs. *See* ISO's May 6, 2009 "Motion for Leave To Respond and Response to the Answer of the Transmission Agency of Northern California and Modesto Irrigation District" in this proceeding at 3.

These volumes are sourced from a location that aggravates congestion on the ISO grid and does not provide the benefits the MEEA was designed to provide in the first instance.

II. The ISO’s proposed meter data requirements to verify operation of MEEA resources supporting an interchange transaction are reasonable.

In response to concerns raised by the IBAA entities regarding the format of ISO’s data requirements, during the technical conference the ISO clarified that meter data submitted by a MEEA signatory need not meet all the requirements of Section 10 of the ISO Tariff.

Subsequently, the ISO submitted comments confirming this clarification. The format of the ISO’s proposed data requirements are reasonable in that they allow participants to submit their meter data in whatever format they use for their own business purposes so long as they are also compatible with the ISO’s systems. In turn, TANC and Modesto assert that the ISO has not been sufficiently clear regarding the data format it requires and have again asserted that NERC Tag data should suffice.¹²

The type of data or the substantive nature of the data requested by the ISO is a different question than the *format* in which data is provided. The *format* of the data provided is the issue the Commission requested that the ISO address. The Commission stated:

With respect to protestors’ concerns about the timeline and format that would be required for data submissions, we agree that the CAISO has failed to provide sufficient detail. It is unclear what the CAISO means by “standard electronic format” and whether or not the WECC format would be accepted. We agree with TANC that providing information in a format that is consistent with WECC’s requirements is a reasonable approach and, therefore, we will require the CAISO to clarify that the WECC format is an acceptable form for data submissions. We will also require the CAISO to clarify and support, on further compliance, the timeline it will require for data submissions under a MEEA.

¹² Modesto Comments; TANC Comments.

The ISO has proposed a specific data format that is consistent with the Commission's order. Other than reiterating the assertions that the all the ISO needs for verification purposes are NERC Tags, the IBAA entities have failed to explain why the format requested is inappropriate or unavailable or even explained what format they are referring to when they refer to the "WECC format" or how this differs from what the CAISO has requested.

NERC Tags do not provide the required information, regardless of their format. Put simply, NERC Tags do not provide any evidence that generation internal to the IBAA was operated to support the interchange transaction. NERC Tags are not the *type* of data the ISO seeks for the purposes of establishing the MEEA and the verification process. The tags do not provide metered data. NERC Tags simply reflect which balancing authority has agreed to incorporate the specific interchange transaction into its overall interchange accounting, and do not necessarily show ultimate sources or sinks.

Even if the ISO was to stipulate that the *electronic format* of the tag is sufficient – the tag itself does not contain the metered data required. It is possible; however, that transaction data and applicable NERC Tags may be used to identify the quantity of simultaneous purchases and sales from other Balancing Authority Areas. However, this data reflects only part of the ISO's data requirements required to verify that IBAA generation supported the interchange transaction. Use of NERC Tags as a substitute for meter data would be a fundamental change to the standards and industry business practices for the use of NERC Tags, which cannot be accomplished through this proceeding. The Commission should reject the parties' attempts to require that the ISO to accept the NERC Tags as an acceptable data format. NERC Tags do not provide the requisite data for after-the fact verification of a MEEA transaction.

III. The Commission should not accept the Tariff proposed tariff language put forth by Palo Alto and Santa Clara as it eliminates any meaningful ability to verify that an interchange transaction is supported by IBAA generation.

Palo Alto and Santa Clara offer redlines to the ISO proposed tariff language that if accepted by the Commission would essentially nullify the Commission's prior acceptance of the IBAA structure. Palo Alto and Santa Clara state that the purpose of their revised tariff sheets establishes an after the fact verification requirement that is "merely affirmation that the MEEA Resource operated at a level sufficient to support the MEEA transaction."¹³ SMUD and other parties offer similar arguments that the ISO should accept an affidavit from the MEEA signatory to confirm that an interchange transaction is supported by IBAA generation.

To receive LMP pricing similar to internal transactions within the ISO balancing authority area, an IBAA Entity must provide sufficient information to verify the location of the resource subject to a MEEA and that the resources was dispatched to implement the interchange transaction. The arguments of SMUD and other parties essentially ask that the Commission approve and that the ISO accept that the external entities word that they are dispatching their resources in a manner that fully supports their interchange transactions. This proposal changes the criteria for demonstrating that a MEEA resource is operating to support an interchange transaction. The fundamental flaw is that if the ISO were to accept this approach the whole purpose of the IBAA would be called into question. The elimination of an actual after-the fact verification based on a MEEA signatory's supply and demand resources undermines any ability to ensure that the IBAA price continue to apply for interchange transactions that are in fact supported by power flows from the Pacific Northwest. Even if the IBAA parties provided a true and accurate representation based on the criteria they propose, the criteria to verify that an interchange transaction is supported by MEEA resources is not the criteria the ISO requires.

¹³ Palo Alto and Santa Clara Comments at p. 16.

Merely having MEEA generation on-line does not suffice to qualify an interchange transaction for alternative MEEA pricing.

The ISO recognizes that in other instances the ISO has accepted verification mechanisms. However, an important distinguishing feature from the necessary verification in the context of the IBAA as compared to these other procedures is that the after-the-fact verification process is essential to ensure that MEEA resources actually operated to support the interchange transaction. With respect to Congestion Revenue Rights (“CRRs”), the ISO accepted affidavits to verify the load metrics and the source verification, categories historical information that are not dependent on actual use. For the purposes of CRRs the ISO conducts similar verifications for internal entities as it does for external entities based on such affidavits.¹⁴ In contrast, for the purposes of actually settling energy internally, the ISO also requests that its internal entities provide meter data or telemetry that is measurable and enables the ISO to ensure the settlements of generation and load is actually based on the power actually delivered and consumed. The ISO does not run its LMP-based market on a series of affidavits and representations that the parties actually supported their scheduled transactions. Here, the ISO is asking no more of external entities scheduling interchange transactions with the ISO and seeking a more favorable LMP than default pricing.

The IBAA entities argue that they have a municipal obligation to maximize the purchase of cheaper power to serve their load. Based on this assertion, SMUD argues that the ISO can assume as a tenant of *good utility practice* that supply resources not identified in a MEEA (e.g. imports from the Pacific Northwest) are used to serve native load within the IBAA and that MEEA resources are operated to support interchange transaction. Of course, the ISO has the obligation, with the move to LMP pricing, to ensure that ISO ratepayers are not subject to unjust

¹⁴ See Section 36.8.3.4.1 of the ISO Tariff.

and unreasonable pricing and inappropriate costs. The suggestion of the IBAA Entities completely ignores the importance of the knowing the location of the resources dispatched in an LMP pricing regime. Moreover, the IBAA entities' confirmed that the COTP is not fully loaded in most hours, which means that it is at times less expensive to operate IBAA generation or reliability needs require the operation of IBAA generation. In either case, the operation of generation within the IBAA would not be available to support an interchange transaction with the ISO. Accordingly, a MEEA signatory's affidavit is insufficient to demonstrate that resources identified in a MEEA operated to support an interchange transaction with the ISO.

SMUD and other IBAA entities essentially are asking the Commission to assume the location of the resources used to implement interchange transactions between the ISO balancing authority area and the IBAA. This suggestion may be convenient for settling interchange transactions in a MEEA signatory's favor but ignores the congestion impacts on the ISO grid that result from the IBAA entities' schedules. Moreover, SMUD and other IBAA entities are inviting the Commission to require them to produce cost data regarding their supply resources. The ISO developed the MEEA data requirements to avoid this outcome given the level of protest raised by IBAA entities to sharing information with the ISO. Under the ISO's proposed MEEA structure, it is not possible to verify that sufficient generation was operating to support an interchange transaction with the ISO without hourly information that reflects a MEEA signatory's supply resources and demand obligations.

Palo Alto and Santa Clara also offer revisions to the sample MEEA the ISO posted for review and comment. The ISO understands that Palo Alto and Santa Clara offer these changes to illustrate how the sample MEEA may evolve where the Commission to accept the elimination of

the ISO proposed verification process.¹⁵ However, these proposed changes are entirely outside the scope of this proceeding. The ISO has posted a sample MEEA to provide market participants an example of the MEEA. The ISO did not file the sample MEEA nor did the Commission require that such sample MEEA be filed. It is not appropriate for Palo Alto and Santa Clara to attempt to require specific changes to the sample MEEA through this process. Moreover, the ISO is well aware that despite the current form of the sample MEEA, any actual MEEA will be filed with the Commission after it is negotiated, at which time the Commission and any intervening party may comment or object to the proposed provisions. Finally, it is also important to consider that despite the fact that the ISO has had the sample MEEA posted since June 15, 2009, Palo Alto and Santa Clara, or any other party for that matter, have not previously commented on the provisions.

V. CONCLUSION

The Commission should accept the ISO's proposed tariff language as further modified by the ISO's September 15, 2009 comments and encourage the parties to commence MEEA negotiations.

Respectfully submitted,

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¹⁵ Palo Alto and Santa Clara Comments at p. 16.

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 22nd day of September 2009.

/s/ Jane Ostapovich
Jane Ostapovich