

156 FERC ¶ 61,135  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;  
Cheryl A. LaFleur, Tony Clark,  
and Colette D. Honorable.

California Independent System  
Operator Corporation

Docket Nos. ER16-1649-001  
ER16-1649-002

ORDER ON CLARIFICATION AND COMPLIANCE

(Issued August 26, 2016)

1. On June 1, 2016, the Commission issued an order accepting, subject to condition and further compliance, revisions to the California Independent System Operator Corporation (CAISO) tariff to address limitations in the natural gas delivery system in southern California that could adversely impact the reliability of CAISO's electric grid and market operations during the summer of 2016.<sup>1</sup> On June 29, 2016, CAISO filed a timely request for clarification or, in the alternative, rehearing of the June 1 Order in Docket No. ER16-1649-001 (Clarification Request). On June 30, 2016, CAISO submitted its compliance filing in response to the June 1 Order in Docket No. ER16-1649-002 (Compliance Filing). For the reasons discussed below, we grant CAISO's request for clarification, dismiss as moot its alternative request for rehearing, and accept the Compliance Filing.

**I. Background**

2. In the June 1 Order, the Commission directed CAISO to submit a compliance filing to: (1) clarify the unit of gas applicable to the \$2.50 cap for the gas adder;<sup>2</sup> (2) specify the type of information that CAISO will make available regarding enforcement of the gas constraint and how and when it will make the information available;<sup>3</sup> (3) provide a procedure to provide a scheduling coordinator with its respective

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<sup>1</sup> *Cal. Indep. Sys. Operator Corp.*, 155 FERC ¶ 61,224 (2016) (June 1 Order).

<sup>2</sup> *Id.* P 35.

<sup>3</sup> *Id.* P 49.

connectivity node data;<sup>4</sup> (4) clarify the circumstances under which CAISO may suspend virtual bidding;<sup>5</sup> and (5) specify the timeline for after-the-fact cost recovery from the Commission and extend those tariff provisions to participants in the Energy Imbalance Market (EIM).<sup>6</sup> With regard to after-the-fact cost recovery, the Commission found that proposed tariff section 30.11 – which establishes procedures for after-the-fact recovery of gas costs not recoverable through CAISO’s tariff mechanisms – did not, as drafted, apply to participants in the EIM. The Commission thus directed CAISO to submit a compliance filing expressly extending these provisions to EIM participants.<sup>7</sup> CAISO’s Compliance Filing proposed tariff revisions to comply with the five directives noted above.

3. In its Clarification Request, CAISO agrees with the Commission that the after-the-fact cost recovery provisions in section 30.11 should apply to EIM participants, but argues that this section already applies to EIM participants, consistent with sections 29.1(b) and 29.30(a) of its tariff.<sup>8</sup> CAISO further requests that if the Commission grants rehearing, it direct CAISO to delete the change to section 30.11 proposed in its Compliance Filing.<sup>9</sup>

## **II. Notice of Filing and Responsive Pleadings**

4. Notice of CAISO’s Compliance Filing was published in the *Federal Register*, 81 Fed. Reg. 44,853 (2016), with interventions and protests due on or before July 22, 2016. None was filed.

5. On July 5, 2016, the Public Utilities Commission of Nevada (PUCN) filed an out-of-time motion to intervene in Docket No. ER16-1649-001. PUCN argues that as a regulator of an EIM entity, CAISO’s Clarification Request may have tariff implications for NV Energy; therefore, PUCN seeks intervention at this time.<sup>10</sup>

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<sup>4</sup> *Id.* P 51.

<sup>5</sup> *Id.* P 80.

<sup>6</sup> *Id.* PP 94-95.

<sup>7</sup> *Id.* P 94.

<sup>8</sup> Clarification Request at 3-5.

<sup>9</sup> Compliance Filing at 5.

<sup>10</sup> PUCN Motion to Intervene at 2.

### III. Commission Determination

#### A. Procedural Matters

6. When late intervention is sought after the issuance of a dispositive order, the prejudice to other parties and burden upon the Commission of granting the late intervention may be substantial. Thus, movants bear a higher burden to demonstrate good cause for granting such late intervention. PUCN has not met this higher burden of justifying its late intervention and we therefore deny its motion to intervene out of time.<sup>11</sup>

#### B. Substantive Matters

7. We grant CAISO's Clarification Request. CAISO is correct that section 30.11 already applies to EIM participants under the terms of CAISO's tariff. Specifically, we agree with CAISO's explanation that: (1) section 29.30(a) of the CAISO tariff provides that certain provisions of section 30 applicable to the Real-Time Market – including section 30.11 – will apply to EIM participants; and (2) section 29.1(b)(2)(C) requires EIM participants to comply with provisions in CAISO's tariff that are not limited in applicability to CAISO markets other than the Real-Time Market.<sup>12</sup> We therefore clarify that proposed section 30.11, as filed, would apply to EIM participants, and that the Commission's directive in the June 1 Order to extend applicability of section 30.11 is not needed. Because we are granting CAISO's Clarification Request, its alternative request for rehearing is moot.

8. Finally, we find that CAISO's Compliance Filing satisfies the compliance directives in the June 1 Order, and therefore accept it, effective consistent with the dates established in the June 1 Order. In addition, as we are dismissing CAISO's alternative rehearing request as moot, we need not direct CAISO to remove the proposed change to section 30.11 of the tariff explicitly stating that EIM participating resource scheduling coordinators are eligible to file with the Commission for after-the-fact cost recovery.

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<sup>11</sup> See, e.g., *Midwest Independent Transmission System Operator, Inc.*, 102 FERC ¶ 61,250, at P 7 (2003).

<sup>12</sup> Tariff section 30.11 applies to the Real-Time Market.

The Commission orders:

(A) CAISO's request for clarification is hereby granted, as discussed in the body of this order.

(B) CAISO's request for rehearing is hereby dismissed as moot, as discussed in the body of this order.

(C) CAISO's compliance filing is hereby accepted, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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