

114 FERC ¶ 61, 176
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation Docket No. ER05-849-002

ORDER GRANTING REHEARING IN PART

(Issued February 17, 2006)

1. In this order, we grant in part requests for rehearing of Duke Energy Moss Landing LLC (Moss Landing) and Constellation Generation Group, LLC (Constellation) of a June 22, 2005 Order conditionally accepting in part and rejecting in part the California Independent System Operator Corporation's (CAISO) proposed revisions to its open access transmission tariff (Tariff), intended to implement the Commission's policies related to the procurement and delivery of station power.¹ Our order here addresses just the issue of the effective date of the station power protocol.²

Background

2. In a September 1, 2004 complaint, Moss Landing challenged the treatment of station power by the CAISO in its Tariff. The CAISO acknowledged in its answer that the Tariff did not conform to the Commission's station power policies, and requested a stakeholder process to develop Tariff revisions to reflect such policies. In an order issued November 19, 2004, the Commission found that the CAISO Tariff did not conform to the Commission's station power policies and directed the CAISO to make a compliance filing that contains revised Tariff sheets conforming to such policies.³

¹ *California Independent System Operator Corporation*, 111 FERC ¶ 61,452 (2005) (June 22 Order).

² Two other parties requested rehearing and clarification of other issues, and their requests will be addressed in a later order.

³ *Duke Energy Moss Landing LLC v. California Independent System Operator Corp.*, 109 FERC ¶ 61,170 (2004) (Complaint Order), *reh'g denied*, 111 FERC ¶ 61,451 (2005).

3. On April 18, 2005, as amended on May 3, 2005, the CAISO filed Amendment No. 68 to its Tariff, which proposed revisions intended to conform to the Commission's station power policies. The CAISO proposed that eligible generators be allowed to engage in on-site, self-supply of station power and remote self-supply from facilities owned by the same entity, and proposed a monthly netting interval to determine whether a generator's net output is negative or positive for the month. The CAISO requested that the effectiveness of its station power protocol be deferred until the implementation of its new Settlement and Market Clearing System (SaMC), expected at that time to be by the end of the first quarter of 2006.

4. Several parties, including Moss Landing and Constellation, objected to the CAISO's request to delay implementation, arguing that such a delay would cause significant financial harm to generators by requiring them to continue to incur high station power charges.

5. The CAISO responded that implementing its station power protocol in advance of the implementation of SaMC would require the CAISO to implement redundant manual settlement processes to accommodate station power settlements during parallel operations,⁴ and that requiring earlier implementation would be duplicative, overly burdensome, costly, and could delay the rollout of the SaMC system.⁵

June 22 Order

6. The June 22 Order conditionally accepted in part and rejected in part the CAISO's Amendment No. 68, and, as relevant here, allowed the CAISO to defer the effective date of its station power protocol until the implementation of SaMC, then expected to be operating by the end of the first quarter of 2006.⁶ While the Commission agreed that immediate implementation would be duplicative, overly burdensome and costly, we also emphasized the importance of having a date certain for implementation of the station

⁴ The period of parallel operations is designed to assist Scheduling Coordinators and the CAISO in achieving a smoother and more orderly transition to the new SaMC system by allowing the CAISO and others to compare statements from both the old and new settlement systems, and to test metering and charge type alignments.

⁵ CAISO May 24, 2005 Answer at 6-8.

⁶ June 22 Order, 111 FERC ¶ 61,452 at P 62.

power protocol to prevent indefinite delay. Thus, the June 22 Order required that, in the event that SaMC is not ready by July 1, 2006, the CAISO must nonetheless implement the station power protocol at that time using manual tools.⁷

Requests for Rehearing

7. Moss Landing and Constellation argue on rehearing that the Commission erred by allowing the CAISO to defer implementation of the station power protocol until July 1, 2006. They contend that the Commission has not offered a rational basis for allowing the existing Tariff restrictions on netting to remain in effect for 19 months after the Commission, in the Complaint Order, found the existing provisions to be unjust and unreasonable. They claim that the harm caused to affected generators outweighs any benefits to the CAISO by the deferral. Further, they contend that, since the CAISO represented that it expected to implement SaMC by the end of the first quarter of 2006, there is no support in the record for the Commission's decision to allow a deferral until July 1, 2006.

8. Moss Landing explains that its retail station power service contract automatically renews on June 30 of each year unless it gives 30-days' notice of intent to terminate. Moss Landing states that, because the July 1, 2006 implementation date prevents it from giving timely notice of termination, it will have to renew its retail station power service contract for another year, effectively preventing it from availing itself of the new station power protocol until June 30, 2007.

9. Constellation complains that the CAISO never indicated until its initial filing in this proceeding that it intended to delay the effectiveness of the station power protocol to this extent. Constellation notes that the CAISO stated in its Answer that implementation by November 1, 2005 was possible, and contends that the continuing financial harm to generators that are prevented from self-supplying station power is greater than the cost of the CAISO's manual workarounds. Thus, Constellation requests that the Commission grant rehearing and direct the CAISO to implement the station power protocol using its existing settlement system by November 1, 2005, or, at a minimum, no later than March 31, 2006.

Commission Determination

10. We will grant the requests for rehearing and direct an effective date of April 1, 2006. We find Moss Landing's argument that it will be harmed if it cannot terminate its retail station power service contract to be compelling in the circumstances here. In this regard, we note that an April 1, 2006 effective date is the date that the CAISO requested

⁷ *Id.*

in its original filing. Upon further consideration, a delay in implementation of more than 11 months past the date of the initial filing in this proceeding (April 18, 2005) is enough time to allow the CAISO to prepare to implement its station power protocol.⁸

11. Moreover, the CAISO has recently indicated that SaMC may now be delayed until late in 2007.⁹ At the time we issued the June 22 Order, the Commission did not see a need to require that the CAISO develop manual tools given the imminent implementation of the SaMC. At this time, we now see that that redundancy cannot be avoided; even if the station power protocol were to be implemented on July 1, 2006 as provided in our June 22 Order, the CAISO will still have to put in place redundant manual settlement processes for a significant period of time.

12. Accordingly, given the now distant SaMC production date, and the potential harm to generators of allowing a delay beyond the original station power protocol implementation date expected by the CAISO, we will grant rehearing of the June 22 Order in part and require the CAISO to implement the station power protocol by April 1, 2006.

The Commission orders:

The requests for rehearing of Moss Landing and Constellation are hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁸ We do not agree that the length of time that has elapsed since issuance of the Complaint Order is relevant here; allegations that the preexisting station power arrangements are unjust and unreasonable are beyond the scope of this proceeding, which addresses a new proposed station power protocol filed pursuant to section 205 of the Federal Power Act. 16 U.S.C. § 824d (2000).

⁹ In a status report filed February 6, 2006 in Docket Nos. ER02-1656-009 and EL01-68-017, the CAISO explains that it anticipates that its Market Redesign and Technology Upgrade (consisting of seven projects, one of which is the SaMC) will be implemented in November 2007.