97 FERC ¶ 61, 149
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, Linda Breathitt,
and Nora Mead Brownell.

California Independent System Operator Corporation — Docket No. ER01-3047-000

ORDER ACCEPTING FILING CONCERNING SUMMER 2001
DEMAND RELIEF PROGRAM

(Issued November 7, 2001)

In this order, we accept the California Independent System Operator Corporation's (ISO) Summer 2001 Demand Relief Program (Summer 2001 Program) filing.[1] The acceptance of the ISO's Summer 2001 Program filing benefits the public interest because the Program will help minimize rolling blackouts during periods in which the ISO's resources are insufficient to ensure reliability.

Background

On April 14, 2000, in Docket No. ER00-2208-000, the ISO requested a tariff revision to provide a mechanism for the recovery of costs it would incur following its implementation of two trial programs. This requested tariff revision, Amendment No. 28, initiated two trial programs designed to obtain additional resources for the summer peak season: (1) the Summer 2000 Market Participating Load Trial Program (also referred to as the Ancillary Service Load Program); and (2) a Demand Relief

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[1] Under the Summer 2001 Program, the ISO proposes to pay customers a reservation payment of $20,000/MW/month and an additional $500/MWh when the ISO calls upon the customer to curtail demand at times between 11:00 a.m. and 7:00 p.m. on weekdays from June 1, 2001 through September 30, 2001.

Program. On June 14, 2000, the Commission issued an order that conditionally accepted the ISO's April 14 filing.[2]

On July 14, 2000, various parties[3] filed requests for clarification, or, in the alternative, rehearing of the June 14 Order. These parties requested that the Commission clarify its acceptance of Tariff Amendment No. 28 in two respects. First, the parties requested clarification that the Demand Relief Program was temporary in nature and, absent a further filing by the ISO, would terminate on October 15, 2000. Second, the parties requested clarification that the June 14 Order was not precedential with respect to any substantive matters on which it opined.

On April 12, 2001, the Commission issued an order granting the clarifications the parties requested, dismissing as moot the requests for rehearing.[4] In addition, the Commission directed that, should the ISO seek to implement a similar program for a later period, the ISO would have to make an appropriate filing with the Commission under section 205 of the Federal Power Act (FPA).

Current Filing - Summer 2001 Program

On September 12, 2001, the ISO filed, under section 205 of the FPA, a Summer 2001 Program, which commenced June 1, 2001 and was to conclude September 30, 2001.[5] The ISO proposes an effective date of June 1, 2001.

The ISO contends that the Summer 2001 Program was developed based on the ISO's evaluation of the feedback from Market Participants concerning the Summer 2000 Program and the results of the Summer 2000 program. With regard to the evaluation of feedback, the ISO states that the first participant workshop for the Summer 2001 Program was held in September 2000. The ISO states that its Governing Board approved

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[2]91 FERC ¶ 61,256 (2000) (June 14 Order).

[3]M-S-R Public Power Agency and the Cities of Santa Clara and Redding, California (jointly), Metropolitan Water District of Southern California, Modesto Irrigation District, and the Transmission Agency of Northern California. (collectively, the parties).

[4]95 FERC ¶ 61,037 (2001) (April 12 Order).

[5]Unlike the Summer 2000 Program, the Summer 2001 Program does not include a separate Ancillary Service Load Program.

a new design for the Summer 2001 Program during its November meeting. In evaluating the Summer 2000 Program, the ISO determined that changes were needed to improve the operation of the Summer 2001 Program. As a result, the Summer 2001 Program was designed to incorporate such changes.

In addition, the ISO states that more details concerning the development and specifics of the Summer 2001 Program is on the ISO's Internet Website. Further, the ISO states that additional information will be provided in its forthcoming filing to be made in compliance with the Commission directive that the ISO submit, by September 14, 2001 (and every three months thereafter), "a report on the conditions in the California market" as described in the Commission's April 26, 2001 order in Docket Nos. EL00-95-012, et al.[6]

Notice and Interventions

Notice of the ISO's filing was published in the Federal Register, 66 Fed. Reg. 48,869 (2001), with motions to intervene and protests due on or before October 3, 2001. Timely motions to intervene, comments, and protests were filed by San Diego Gas & Electric Company (SDG&E); The Metropolitan Water District of Southern California (Metropolitan); Modesto Irrigation District (MID); Transmission Agency of Northern California (TANC); The Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency (Cities/M-S-R); Reliant Energy Power Generation, Inc. and Reliant Energy Services, Inc. (Reliant); and Turlock Irrigation District. On October 18, 2001, the ISO filed an answer (October 18 Answer) to the motions to intervene and protest.

Positions of the Parties

TANC, Cities/M-S-R, and MID object to the ISO waiting to file the Summer 2001 Project until shortly before the project was to conclude. These parties contend that the late ISO filing disregards the Commission's April 12 Order to timely file the 2001 Program before the Program was implemented. Additionally, the parties contend that pro rata assignment of costs is improper since it assigns costs to entities that were not instrumental in costs being incurred. The parties believe that the ISO's system-wide cost

[6] See San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service into Markets Operated by the California Independent System Operator and California Power Exchange, et al., 95 FERC ¶ 61,115, at 61,366 (2001). The ISO submitted its compliance filing on September 14, 2001.

allocation creates an incentive for irresponsible behavior, by forcing responsible parties to subsidize the actions of parties that fail to obtain sufficient reserves. Consequently, the parties seek a nominal suspension to preserve a refund obligation.

Reliant states that it is not protesting the specifics of the Demand Relief Program itself, which Reliant states would be hard to do since the ISO has not provided any specifics on the Program. However, Reliant expresses its disappointment with the ISO's disregard of directives in Commission orders, and its disregard of market participants' concerns.

SDG&E states that the ISO's Summer 2001 Program is a robust, useful program that potentially mitigates the shortage of generation capacity in California. However, SDG&E recommends that, if the ISO offers a Summer 2002 Program, the ISO should ensure that the ISO receives Settlement Quality Metering Data so that it may verify program compliance and pay incentives. Finally, SDG&E recommends that the ISO modify future summer programs to ensure that the ISO is able to collect all revenue that it is owed from State agencies involved in procuring retail energy or from others that fail to make payments.

Metropolitan, in general, supports the ISO's attempts to increase participation by load resources in the ISO's markets and to provide adequate reserves during the peak summer hours. However, Metropolitan asserts that the ISO's cost allocation methodology should be rejected by the Commission, or in the alternative, conditionally accepted, subject to Metropolitan's recommended changes. Metropolitan asserts that since the ISO has not completed its cost allocation study to justify allocating costs incurred under its Demand Relief Agreement to all metered demand, the Commission should order that costs under the Demand Relief Agreement be allocated solely to Peak Period Demand when the capacity is made available. Further, Metropolitan asserts that contract costs should not be allocated to the loads of those Scheduling Coordinators that self-provide sufficient reserves.

Position of the ISO

In its October 18 Answer, the ISO asserts that the cost allocation methodology employed in the Summer 2001 Program is reasonable, and that it satisfies Commission directives. The ISO contends that the rationale for the Commission's acceptance of the Summer 2000 Program is equally applicable to the Summer 2001 Program. The ISO states that the Commission accepted the cost allocation for the Summer 2000 Program for the following reasons:

(1) The proposed formula tracks the manner in which the obligation of each Scheduling Coordinator for Operating Reserve and Regulation is determined under the ISO tariff;

(2) Maintenance of grid reliability benefits all loads on the ISO grid, and therefore, that allocation of program costs on a system-wide basis (i.e., to all Scheduling Coordinators) is reasonable; and

(3) The proposal was the result of a collaborative effort between the ISO and various stakeholders, and is limited in duration to a trial period of four months.

The ISO contends that contrary to the assertions of the parties, it has provided sufficient notice and background information concerning the Summer 2001 Program. It explains that the first participant workshop regarding the Summer 2001 Program was held in September 2000, and the ISO worked in extensive collaboration with load participants, aggregators and the Investor-Owned Utilities to finalize the program design. It adds that the transmittal letter to its filing provides an introduction to the Summer 2001 Program and explains some differences between the Summer 2000 and 2001 Programs. The ISO asserts that additional information on the Summer 2001 Program is also on its Home Page, as well as in its first quarterly report submitted on September 14, 2001. According to the ISO, the first quarterly report provides additional details and, among other things, explains that the Summer 2001 Program was developed much earlier than was the Summer 2000 Program to allow sufficient time for the marketing, provision of bids, and finalization of the Summer 2001 Program. Thus, the ISO contends that no party can justifiably complain that it has not been provided with sufficient notice and information.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2001), the timely, unopposed motions to intervene serve to make those who filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) (2001) prohibits answers to protests unless otherwise permitted by the decisional authority. We find that good cause exists to allow the ISO's October 18 Answer because it has assisted us in our decision-making process.[7]

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[7] We will not address at this time SDG&E's recommendations concerning a Summer 2002 Program. It would be premature for the Commission to comment on a

(continued...)

We conclude, as we did with the Summer 2000 Program, that the costs of the Summer 2001 Program are properly allocated on a system-wide basis to all Scheduling Coordinators because the Demand Relief Program benefits all parties by providing a means to maintain grid reliability. Although the parties disagree with the ISO's allocation method, they have not offered any new allocation proposal that the Commission has not already considered.

While we share the concerns of the parties regarding the timing of the ISO's filing, the Commission recognizes the urgent need for demand reduction programs in California and is strongly committed to encouraging their implementation. Since we find the ISO's Demand Relief Program and related allocation methodology reasonable and no party has opposed the need for such a program,[8] we will accept for filing the ISO's Summer 2001 Program, without suspension, effective June 1, 2001, as requested. However, to the extent the ISO desires to implement a similar program in the future, we direct the ISO to timely file its proposal with appropriate support, prior to the commencement of any such program.

The Commission orders:

The ISO's Summer 2001 Program filing is hereby accepted for filing, without suspension, effective June 1, 2001, as requested.

By the Commission.

(S E A L)

David P. Boergers,
Secretary.

[7](...continued)
program that the ISO has not yet committed to implementing.

[8]See Order Removing Obstacles To Increased Electric Generation And Natural Gas Supply In The Western United States, 94 FERC ¶ 61,272 (2001).