125 FERC ¶ 61,015
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
and Jon Wellinghoff.

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| California Independent System Operator Corporation | Docket Nos. | ER01-313-009 |
| | | ER01-313-010 |
| Pacific Gas & Electric Company | | ER01-424-009 |
| | | ER01-424-010 |

ORDER ON COMPLIANCE FILING

(Issued October 6, 2008)

1. The California Independent System Operator Corporation (CAISO) submitted a filing in compliance with the Commission's directive in Opinion No. 463-B[1] on October 23, 2006, as revised on February 8, 2007. In this order, we accept the CAISO's revised filing as in compliance with Opinion No. 463-B.

## Background

2. In Opinion No. 463,[2] the Commission resolved a number of issues concerning the CAISO's proposed unbundled Grid Management Charge (GMC). As relevant here, Opinion No. 463 held that the Control Area Services (CAS)[3] component of the GMC should generally be allocated on the basis of Control Area Gross Load (CAGL), but created an exception for customers who primarily rely on behind-the-meter generation to meet their energy needs. The Commission determined that those customers should be allocated CAS charges based on their highest monthly demand on the grid "to take into account the more limited impact such customers have on the ISO's grid."[4]

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[1] *California Indep. Sys. Operator Corp.*, 113 FERC ¶ 61,135 (2005) (Opinion No. 463-B), *order denying reh'g*, 116 FERC ¶ 61,224 (2006) (Opinion No. 463-C).

[2] *California Indep. Sys. Operator Corp.*, 103 FERC ¶ 61,114 (2003).

[3] Control Area Services costs are those incurred by the CAISO in connection with ensuring the safe, reliable operation of the transmission grid within its control area.

[4] *Id.* P 23.

3. On rehearing, in Opinion No. 463-A,[5] the Commission affirmed the basic concept of CAGL cost allocation for the CAS charge with an exception for behind-the-meter generation. However, the Commission determined that the exception developed in Opinion No. 463 would create implementation problems and was not supported by record evidence.[6] Therefore, the Commission refined the exception by directing that only load served by behind-the-meter generators "which are not modeled by the ISO in its regular performance of transmission planning and operation should be exempted from the CAGL charge."[7]

4. In Opinion No. 463-B, the Commission reaffirmed its determination on the behind-the-meter exception based on modeling, but determined that some parties' concerns regarding the accuracy of the CAISO's Exh. ISO-55, the record evidence demonstrating which generating facilities it modeled, were well-founded. Specifically, the Commission cited evidence presented by Pacific Gas & Electric Company (PG&E) that showed that at least some generating facilities were excluded from the list of modeled generators when they should have been included. Accordingly, the Commission directed the CAISO "to correct the deficiencies of Exh. ISO-55 and make a compliance filing reflecting the total universe of modeled generation for the locked-in period."[8]

5. On October 23, 2006, the CAISO submitted a filing in compliance with the Commission's directive to correct any deficiencies in Exh. ISO-55. The CAISO stated that, in response to the Commission's directives, it compiled a list of generators that were incorporated into the base case scenarios used for transmission planning and operations between 2001 and 2003 and submitted them to PG&E, Southern California Edison Company, and San Diego Gas & Electric Company (together, the Participating Transmission Owners or PTOs) for their review to ensure the accuracy of the list. The CAISO reported that it received confirmation of the list's accuracy from all three PTOs by October 19, 2006.

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[5] *California Indep. Sys. Operator Corp.*, 106 FERC ¶ 61,032 (2004).

[6] *Id.* P 19.

[7] *Id.* P 20.

[8] Opinion No. 463-B at P 81. The "locked-in period" covers January 1, 2001 through December 31, 2003. The Commission had approved a revised GMC effective January 1, 2004. *See California Indep. Sys. Operator Corp.*, 105 FERC ¶ 61,406 (2003), *order on reh'g and clarification*, 107 FERC ¶ 61,048 (2004); *California Indep. Sys. Operator Corp.*, 110 FERC ¶ 61,090 (2005) and *California Indep. Sys. Operator Corp.*, 112 FERC ¶ 61,329 (2005) (orders approving uncontested settlements).

**Protests to the Initial Filing**

6. The initial filing was protested by the Sacramento Municipal Utility District (SMUD), the Modesto Irrigation District (MID), and the City of Santa Clara through its electric utility division Silicon Valley Power (SVP). MID asserted that the CAISO's initial compliance filing did not explain what deficiencies it found in Exh. ISO-55 and why certain changes were made to the list of generators. MID asked that the Commission reject the filing and require the CAISO and the PTOs to provide written documentation supporting changes made to the version of Exh. ISO-55 that was entered into evidence during the litigation phase of the proceeding. In addition, MID requested that the Commission require that the CAISO track changes made between the older version of Exh. ISO-55 and the updated version contained in the compliance filing.

7. SVP also protested the lack of explanation or data contained in the compliance filing. In addition, SVP argued that four generators that the CAISO identified as behind-the-meter generation should be excluded from the list of generators modeled by the CAISO. SVP claims that because the generators are part of a metered subsystem and wholly responsible for their own load and resources, they are not modeled by the CAISO. SVP acknowledged that this argument had already been rejected by the Commission in Opinion Nos. 463-B and 463-C, but submitted its protest so that it would not appear that it now agrees with the Commission's decision.

8. SMUD argued that its generators should not be included in the list of generating facilities included in the compliance filing since the generation was not explicitly modeled by the CAISO. SMUD explained that its generation is either behind SMUD's meters with the CAISO or delivered directly into the "SMUD bubble" over non-CAISO controlled grid lines.[9] SMUD argued that this generation merely appears as fixed constants in base case studies collected and submitted to the CAISO, and that the CAISO would not incur any modeling costs because of them.

9. In response to these protests, the CAISO filed an answer on November 27, 2006. In its answer, the CAISO stated that it would correct deficiencies in the initial compliance filing that were identified by MID. However, the CAISO argued that the Commission should deny SMUD's and SVP's arguments concerning which categories of generation are modeled by the CAISO as an attempt to relitigate issues already decided in prior Commission orders. The CAISO pointed out that the Commission had already rejected the arguments raised by SMUD and SVP in Opinion No. 463-B (which it reaffirmed in Opinion No. 463-C, which was issued after the CAISO submitted its compliance filing).

[9] The "SMUD bubble" is the SMUD transmission system, "which was never a part of the CAISO Controlled Grid." SMUD Protest at n.5.

The CAISO emphasized that the only issue before the Commission in this filing is whether it is consistent with the prior orders. The CAISO stated that SMUD's and SVP's arguments did not provide a valid basis for rejecting its compliance filing.

## The Revised Filing

10. On February 8, 2007 the CAISO submitted a revised compliance filing, stating the original October 23, 2006 filing was drawn from an incorrect computer file. It requested that the original filing be replaced with the updated one. The CAISO also explained that the new compliance filing contained black-line versions of the filing so that entities could clearly see what changes were made as well as explanations that described why it made each change.

11. In its protest to the revised filing, SVP reprises its previous argument that the CAISO failed to explain how it determined the set of generators supplied by the original Exh. ISO-55 was incorrect and what criteria was used to decide whether to delete or add generators to the list. SVP also complains that the CAISO had not filed supporting testimony along with the compliance filing to support the list. SVP states that it was not clear how CAISO determined the accuracy of the list and if PTOs vetted the list. Finally, SVP reprises its previous argument that certain generators have been wrongly included on the list.

12. In its answer to SVP's protest, the CAISO claims that it does not need to support the standard used for an exemption to the CAS; rather, it merely had to comply with the Commission's requirements set forth in Opinion No. 463-B. The CAISO states that it has complied with that order by providing a list of generators working with the PTOs and consistent with the process described in Exh. S-81. The CAISO also states that it has complied with the standards of Opinion No. 463-B by producing a black-lined version of the changes made to the generator list and by giving entities an opportunity to dispute their inclusion on the list. Finally, the CAISO claims that SVP's argument about the generators that it believes should be excluded is a relitigation of issues that have already been decided.

## Commission Determination

### A. Procedural Matters

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the CAISO's answers to protests of both the initial and revised compliance filings in this proceeding because they have aided us in the decision-making process.

### B. Substantive Matters

14. In Opinion No. 463-B, the Commission directed the CAISO, "in cooperation with the Participating Transmission Owners, to correct the deficiencies of Exh. ISO-55 and make a compliance filing reflecting the total universe of modeled generation for the locked-in period."[10] The CAISO has filed an updated list of generators that has been vetted by the PTOs in compliance with our order. Additionally, the CAISO has provided a redline strikeout version to allow an inaccuracies to be reviewed and noted by the Commission and interested parties.

15. Only SVP and SMUD have taken issue with the specific generators listed in revised Exh. ISO-55 and have done so only to emphasize their disagreement with a matter already decided in Opinion No. 463-B.[11] Since the CAISO has adequately responded to our directive and no entity has alleged that the list is inaccurate based on the standards of Opinion No. 463-B, we find that the CAISO has complied with the Commission's directive in that order.

16. The Commission rejects SVP's arguments against the inclusion of certain generators on the list because they are part of the metered subsystem, and, therefore responsible for its own load and resources. As we explained in Opinion No. 463-B, SVP's responsibility for its own load and resources as part of a metered subsystem "does not in any way cancel out the ISO's provision of CAS services, as the Commission found in Opinion No. 463."[12] We reaffirmed this statement in Opinion No. 463-C.[13] SVP is therefore collaterally attacking those determinations via its protest of the CAISO's compliance filing.[14] Accordingly, we reject SVP's argument.

17. Similarly, we reject SMUD's protest of the CAISO's initial compliance filing as a collateral attack on Opinion No. 463-B.[15] In Opinion No. 463-B, we concluded that

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[10] *See* Opinion No. 463-B at P 81.

[11] *Id.* P 83.

[12] *Id.*

[13] *See* Opinion No. 463-C at P 27.

[14] *See, e.g.*, *PJM Interconnection, L.L.C.*, 124 FERC ¶ 61,059, at P 24 (2008) (rejecting collateral attacks on prior order); *California Indep. Sys. Operator Corp*., 119 FERC ¶ 61,240, at P 13 (2007) (finding that protest of a compliance filing was a collateral attack on a prior Commission order).

[15] SMUD did not file a protest of the revised compliance filing.

certain generating units, including the ones SMUD complains about, were modeled by the CAISO during the specified "locked-in" period.[16] Moreover, the Commission addressed this issue in Opinion No. 463-C.[17]

18. The Commission also rejects requests for additional detail and justification of the methodology by which the CAISO compiled the revised Exh. ISO-55.[18] In Exh. S-81, the CAISO described in detail the process by which it arrived at the original Exh. ISO-55.[19] In this proceeding, the CAISO notes that it is using the same procedure to compile the modified list of generators. The CAISO has also noted the additional review by the PTOs that was conducted prior to its filing of the revised list of modeled generators. Therefore, we find that the CAISO has already adequately explained the steps it took to provide an accurate list of generators on which to base the CAGL exemption.

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[16] *See* Opinion No. 463-B at P 61.

[17] *See* Opinion No. 463-C at P 32. Moreover, we note that the Court of Appeals for the District of Columbia Circuit recently issued a decision holding that the behind-the-meter exception based on modeling that the Commission crafted was not arbitrary, contrary to arguments raised by SMUD and others. *See Western Area Power Admin. v. FERC*, 525 F.3d 40, 57-58 (D.C. Cir. 2008).

[18] *See* SVP revised protest at 4-5.

[19] Specifically, Exhibit S-81 provides:

> [T]he ISO undertook a review of its internal databases to develop a list of generators modeled in planning studies over the period 2001 through 2003. As a starting point, the ISO extracted a list of all of the individual generators, from its data records, that have appeared in ISO studies. Next, the ISO's Operation Engineering and Grid Planning departments were asked to review the list to determine models including the listed generators were either made available to the ISO for use in an ISO Operations Engineering or Grid Planning study between January 1, 2001 and December 31, 2003. The list was then shared with each of the three IOU Participating TOs so that they could perform calculations necessary to comply with order [sic] No. 463-A and provide them an opportunity to reconcile the data with their records. None of the IOUs indicated to the ISO that the list either included generators that the IOUs had not modeled or excluded generators that the IOU had not modeled or excluded generators that the IOU had modeled. The final product was presented as ISO-55.

19. Furthermore, we emphasize that no entity is disputing the accuracy of the list of generators based on the already settled standard for exemption set out in Opinion No. 463-B (as opposed to the collateral attacks on Opinion Nos. 463-B and 463-C addressed above). Therefore, any additional explanations, data, or testimony would serve no purpose. Accordingly, we accept the CAISO's revised compliance filing without modification.

The Commission orders:

The CAISO's revised compliance filing is accepted for filing, as discussed in the body of this order.

By the Commission. Commissioner Moeller not participating.

( S E A L )

Kimberly D. Bose,
Secretary.