

111 FERC ¶ 61,452
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator
Corporation

Docket Nos. ER05-849-000 and
ER05-849-001

ORDER CONDITIONALLY ACCEPTING IN PART AND
REJECTING IN PART AMENDMENT NO. 68

(Issued June 22, 2005)

1. In this order, we conditionally accept in part and reject in part proposed tariff revisions the California Independent System Operator Corporation (CAISO), filed as Amendment No. 68 to its open access transmission tariff (Tariff), and order the CAISO to make a compliance filing. In its filing, the CAISO proposes tariff revisions relating to the procurement and delivery of station power, as directed by the Commission in a November 19, 2004 Order.¹
2. This order will benefit market participants by providing for the procurement and delivery of station power in the CAISO consistent with the Commission's station power precedent as established in earlier orders addressing station power provisions in other ISOs.

¹ *Duke Energy Moss Landing LLC v. California Independent System Operator Corp.*, 109 FERC ¶ 61,170 (2004) (November 19 Order).

Background

1. Commission Station Power Precedent and Moss Landing Complaint

3. In a series of orders involving PJM Interconnection, LLC (PJM),² New York Independent System Operator (NYISO),³ and Midwest Independent Transmission System Operator, Inc.,⁴ the Commission set forth its policies relating to station power procurement and delivery.⁵ The Commission has defined “station power” as “the electric energy used for the heating, lighting, air-conditioning, and office equipment needs of the buildings on a generating facility’s site, and for operating the electric equipment that is on the generating facility’s site.”⁶

4. In a September 1, 2004 complaint, Duke Energy Moss Landing LLC (Moss Landing) challenged the treatment of station power by the CAISO’s Tariff. The CAISO acknowledged in its answer that its Tariff did not conform to the Commission’s station power precedent, and requested a stakeholder process to develop tariff revisions to reflect

² *PJM Interconnection, LLC*, 94 FERC ¶ 61,251 (2001) (*PJM II*), *clarified and reh’g denied*, 95 FERC ¶ 61,333 (2001) (*PJM III*); *PJM Interconnection LLC*, 95 FERC ¶ 61,470 (2001) (*PJM IV*). In an earlier order, *PJM Interconnection, LLC*, 93 FERC ¶ 61,061 (2000), the Commission acknowledged questions concerning treatment of station power, but deferred its decision, consolidating PJM’s proceeding with others raising the same issue.

³ *KeySpan-Ravenswood, Inc. v. New York Independent System Operator, Inc.*, 99 FERC ¶ 61,167 (2002), *order on reh’g*, 100 FERC ¶ 61,201 (2002) *KeySpan-Ravenswood, Inc. v. New York Independent System Operator, Inc.*, 101 FERC ¶ 61,230 (2002), *reh’g denied*, 107 FERC ¶ 61,142 (2004) (*KeySpan IV*), *clarified*, 108 FERC ¶ 61,164 (2004) (*KeySpan V*).

⁴ *Midwest Independent Transmission System Operator, Inc.*, 106 FERC ¶ 61,073 (2004), *order on reh’g*, 110 FERC ¶ 61,383 (2005) (*MISO II*).

⁵ In *Niagara Mohawk Power Corp. v. Huntley Power, LLC, et al.*, 109 FERC ¶ 61,169 at P 20 - 35 (2004), *reh’g denied*, 111 FERC ¶ 61,120 (2005), we provide a summary of our station power precedent to the date of issuance of that order.

⁶ *PJM II*, 94 FERC at 61,251.

such policies. The November 19 Order 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.⁷

2. CAISO Compliance Filing

5. On April 18, 2005, as amended on May 3, 2005, the CAISO filed Amendment No. 68 to its Tariff, which proposes revisions intended to conform to the Commission's station power precedent. Amendment No. 68 would authorize eligible generators to engage in the on-site self-supply of station power requirements and remote self-supply from facilities owned by the same entity. The CAISO also proposes that third-party supply be allowed to the extent permissible under state law. The CAISO station power proposal would extend to any generating unit that is subject to the CAISO Tariff, including non-merchant generators.

6. The CAISO proposes a monthly netting interval, which is the same netting interval used in PJM, the NYISO and the Midwest ISO, to determine whether a generator's net output is negative or positive for the month. The CAISO also retains an existing Tariff provision that allows contemporaneous, on-site netting of generation; the CAISO proposes that station power that is self-supplied through contemporaneous, on-site generation need not be scheduled and will not be subject to any transmission charges. In contrast, station power supplied by remote self-supply and third party supply must be scheduled. Load associated with such schedules would be assessed all charges applicable to metered demand under the CAISO tariff, including ancillary services charges. Unscheduled deviations associated with station power would be settled at the applicable zonal prices. The CAISO also proposes administrative charges for submitting a station power application and for shifting meter data to a unique load identifier pursuant to the CAISO's proposed station power protocol.

7. The CAISO requests that the tariff revisions implementing the station power protocol be made effective upon fewer than 10 days' notice by the CAISO that the necessary software modifications have been implemented. The CAISO anticipates that the necessary modifications can be completed by the end of the first quarter of 2006, coincident with implementation of the CAISO's new Settlement and Market Clearing System.

⁷ Requests for rehearing of the November 19 Order are being addressed in an order issued contemporaneous with this order, *Duke Energy Moss Landing LLC v. California Independent System Operator Corporation*, 111 FERC ¶ 61,451 (2005).

Notice and Comment

8. Notice of the CAISO's filing was published in the *Federal Register*, 70 Fed. Reg. 22,860 (2005), with interventions and protests due on or before May 9, 2005. Notice of the CAISO's amended filing was published in the *Federal Register*, 70 Fed. Reg. 25,817 (2005), with interventions and protests due on or before May 24, 2005. Timely motions to intervene were filed by the California Electricity Oversight Board; Mirant Americas Energy Marketing, LP, Mirant California, LLC, Mirant Delta, LLC, and Mirant Potrero, LLC; and the Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency. Timely motions to intervene and comments were filed by the California Department of Water Resources State Water Project (SWP), the Northern California Power Agency (NCPA), Williams Power Company, Inc. (Williams), Calpine Corporation (Calpine), and Pacific Gas and Electric Company (PG&E). Timely motions to intervene and protests were filed by Southern California Edison Company (SoCal Edison), Moss Landing, Independent Energy Users Association (IEP), the Cogeneration Association of California and the Energy Producers and Users Coalition,⁸ and Constellation Generation Group, LLC (Constellation). In addition, the Public Utilities Commission of the State of California (CPUC) filed a notice of intervention and protest.

9. On May 24, 2005, Moss Landing filed further comments. In addition, on that date, the CAISO filed an answer to the comments and protests. On May 31, 2005, Moss Landing filed a response to the CAISO's answer.

Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

11. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004) prohibits answers to protests unless authorized by the Commission. Because the answers provide information that aids us in our decision-making, we will accept the answers.

⁸ The Cogeneration Association of California and the Energy Producers and Users Coalition represent numerous Qualifying Facilities (collectively, QF Parties).

B. Jurisdictional Issues

12. SoCal Edison and the CPUC argue that the Commission should reject the CAISO's station power filing in its entirety as beyond the Commission's authority under the Federal Power Act (FPA). They contend that, because a California law authorizes 15 minute netting, the CAISO's proposal to permit monthly netting would, in effect, overrule the state with regard to when a retail sale occurs.

13. SoCal Edison and the CPUC also argue that the CAISO's filing would overrule state law determining who has the authority to furnish energy to end-users and, ultimately, usurp the state's authority over what entities may furnish power to end-users. In particular, the CPUC objects to the CAISO's proposal that, at the end of each netting period, the CAISO would calculate the net output of each generator to determine whether it self-supplied its station power requirements. The CPUC argues that the CAISO's proposal would violate the state law suspending direct access because it would permit a party other than the local utility distribution company to supply power.

14. SoCal Edison argues that the CAISO's proposal permitting remote self-supply would violate section 212(h) of the FPA,⁹ which prohibits mandatory retail wheeling. SoCal Edison also objects to the proposed tariff language stating that the CAISO, after consultation with the UDC or Metered Subsystem Operator and the local regulatory authority, will determine "the factual question of whether distribution facilities are involved in the requested self-supply of Station Power." It contends that this contradicts a statement in Order No. 888 that "states nevertheless have jurisdiction in all circumstances over the service of delivering energy to end users."¹⁰

⁹ 16 U.S.C. § 824k(h) (2000).

¹⁰ See *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 Fed. Reg. 21540 (May 10, 1996), FERC Stats. & Regs. & 31,036 at 31,783 (1996), *order on reh'g*, Order No. 888-A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. & 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC & 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC & 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

Commission Determination

15. SoCal Edison and the CPUC seek to revisit the question of whether netting over a reasonable period of time (here, one month) necessarily allows the generator to engage in retail purchases of electricity. They assert that the concept of netting encroaches on California's jurisdiction because, in their view, "retail sales" of station power may occur at some time during the one-month netting period when the generator undergoes momentary instances of negative output.

16. We have addressed, and dismissed, these claims in our earlier station power cases. As we explained in *PJM II*, netting is simply the traditional accounting for station power as net, or negative, generation, that is, calculating the output of a particular generating facility net of station power requirements. We quoted PJM's transmittal letter for a succinct description of the historical treatment of station power as net, or negative, generation:

In general, vertically-integrated utilities in the PJM control area historically have treated station power as "negative generation." That is, the energy output of a generation facility typically was treated as its gross output less the power consumed at the facility. Station power used during periods when the generator was not operating likewise was treated as negative generation. To the extent that a generation facility's station power needs were not met with on-site power production, the facility received the necessary energy from the utility's transmission and/or distribution facilities. In the case of an integrated utility, such energy typically was supplied by its other generation stations or, if the utility was part of a centrally dispatched power pool such as PJM, by the pool's then available energy supplies.^[11]

We further noted that "[t]he parties have not cited, and we are not aware of, an instance in which we have treated the self-supply of station power through netting as a sale," and we found unpersuasive a claim that a company "sells itself" station power when it self-supplies station power.¹² Since then, the Commission has consistently held that the self-

¹¹ *PJM II*, 94 FERC at 61,889-90. SoCal Edison offers no evidence suggesting that the traditional accounting treatment of station power differed in the West.

¹² *Id.* at 61,890.

supply of station power is not a sale and that netting over a reasonable period of time is an accepted means of determining whether a generator has, in fact, self-supplied station power rather than purchased station power.¹³

17. Our station power precedent does not conflict with state law or state tariffs relating to the rates, terms or conditions of retail sales because, as we discussed above, when a generator is self-supplying, no sale has occurred.¹⁴ Indeed, to the extent that a self-supplying generator has a negative net output during a netting period, and thus a third party sale has in fact occurred, state law and the relevant retail tariff would apply and, to the extent any state law limits the choice of supplier, that state law would apply.¹⁵ Thus, for a self-supplying generator with a negative net output during a netting period, and thus where a third party sale has in fact occurred, in a state where retail choice is not available or restricted, the actual supplier would be governed by state law; it could well be that the generators' host utility is deemed by state law to have made that third party sale to that generator.¹⁶

¹³ *E.g., Nine Mile Point Nuclear Station, LLC v. Niagara Mohawk Power Corporation*, 110 FERC ¶ 61,033 at P 23 (2005); *AES Somerset, LLC v. Niagara Mohawk Power Corporation*, 110 FERC ¶ 61,032 at P 28 (2005).

¹⁴ *Id.*

¹⁵ We note that we previously approved station power provisions in MISO, where not all states have enacted retail choice. Therefore, the fact *per se* that California law limits retail choice is not an obstacle to our approval of the CAISO's proposal. *See MISO II*, 110 FERC ¶ 61,383 at P 40, 46.

¹⁶ In this regard, the CAISO's proposed new Station Power Protocol (SPP) at section SPP 1.1 expressly provides that "Third Party Supply may supply Station Power only to the extent permissible under the rules and regulations of the applicable Local Regulatory Authority." The latter phrase is not to be interpreted to prevent an otherwise eligible generator from utilizing, at its option, the station power provisions we approve herein. Rather, this phrase is properly to be interpreted to refer to the applicable state law governing the generator's choice of a retail supplier when that generator has not self-supplied its station power requirements. This interpretation is, as well, consistent with SPP 1.3.2, which states (consistent with language we directed to be included in the Midwest ISO's station power provisions) that, in the event of a conflict between state and federal tariff tariffs, the federal tariff will control.

18. SoCal Edison argues that the CAISO's proposal permitting remote self-supply would violate section 212(h) of the FPA. As we explained in *KeySpan IV*,¹⁷ since self-supply of station power does not involve a retail sale in the first place, there is no retail wheeling involved, mandatory or otherwise.¹⁸ In addition, a Commission finding that generators may avail themselves of the station power provisions proposed by the CAISO does not run afoul of the restrictions of section 212(h). The Commission has not required transmission of electric energy directly to any generator, as an end user, which is what is prohibited by that section.

19. Finally, in the context of the CAISO tariff filing, SoCal Edison argues that our station power policy is inconsistent with Order No. 888. According to SoCal Edison, the CAISO's proposed tariff provision requiring a determination "whether distribution facilities are involved in the requested self-supply of Station Power" contradicts a statement in Order No. 888 that "states nevertheless have jurisdiction in all circumstances over the service of delivering energy to end users."

20. In the *AES Somerset* and *Nine Mile Point* orders, we addressed this issue and concluded that, when a utility is neither selling station power nor providing local distribution service to a merchant generator, Order No. 888 does not authorize the imposition of any charges other than transmission rates.¹⁹ In *AES Somerset*, for example, we stated: "[W]hen a merchant generator is not using the local distribution facilities of another party to receive station power, Order No. 888 cannot be relied on to justify the

¹⁷ See *KeySpan IV*, 107 FERC ¶ 61,142 at P 51. Cf. *Suffolk County Electrical Agency*, Opinion No. 467, 106 FERC ¶ 61,157 at P 9, *reh'g denied*, Opinion No. 467-A, 108 FERC ¶ 61,173 at P 10 (2004) (Commission may order wholesale transmission services, and determine rates, terms and conditions for such services; See also *City of College Station, Texas*, 76 FERC ¶ 61,138 at 61,743 (1996), *final order*, 86 FERC ¶ 61,165 (1999), *order on reh'g*, 97 FERC ¶ 61,152 (2001), *order on reh'g*, 98 FERC ¶ 61,222, *reh'g denied*, 99 FERC ¶ 61,163 (2002) (Commission has authority to order wholesale transmission services).

¹⁸ This issue is also addressed on rehearing of Moss Landing's complaint. See *Duke Energy*, 111 FERC ¶ 61,451 at P 31. See also *KeySpan IV*, 107 FERC ¶ 61,142 at P 50-51; *PJM III*, 95 FERC at 62,185; *PJM II*, 94 FERC ¶ 61,251 at 61,890-92 & n. 60, 63.

¹⁹ *Nine Mile Point Nuclear Station, LLC v. Niagara Mohawk Power Corp.*, 105 FERC ¶ 61,336 (2003) (*Nine Mile*), *reh'g denied*, 110 FERC ¶ 61,033 (2005); *AES Somerset, LLC v. Niagara Mohawk Power Corp.*, 105 FERC ¶ 61,337 (2003) (*AES Somerset*), *reh'g denied*, 110 FERC ¶ 61,032 (2005).

imposition of any delivery charge other than transmission charges subject to this Commission's jurisdiction."²⁰ We explained at length that the language from Order No. 888 on which SoCal Edison relies for its position applies to the situation where a retail customer exits the utility's system or becomes a wholesale customer (a "retail-turned-wholesale" customer), and sunk costs associated with serving that retail customer may otherwise not be recovered. We said:

First, by the use of the term "stranded costs," the Commission throughout Order No. 888 was referring to *generation*-based stranded costs: that is, the costs associated with generating units built to serve customers, which costs may become stranded if, as a result of open access, these customers left the utility's system to take power service from a competing power supplier.^[21]

21. We explained that the references in Order No. 888 to "no identifiable local distribution facilities" addressed the situation:

where large industrial or commercial customers took bundled retail electric service at relatively high voltages so that local distribution facilities (which typically are lower voltage facilities) may not be readily identifiable as among the facilities used to provide service to them. The loss of these large industrial and commercial customers to competing power suppliers may be associated with legitimate stranded generation-based costs, and the possible inability to identify local distribution facilities involved in the utility's service to such customers should not be an obstacle to the inclusion of stranded costs in rates charged to those customers.^[22]

22. That is simply not the case here. A state may approve whatever rate level it deems appropriate, including allowing for the recovery of stranded costs and benefits, when a utility is selling station power at retail or is using local distribution facilities for the delivery of station power. When neither of those services is being provided, however, then the rates for those services likewise would not apply but rather the charges specified in the CAISO Tariff apply to the exclusion of any retail tariff.²³

²⁰ *AES Somerset*, 105 FERC ¶ 61,337 at P 43.

²¹ *Id.* at P 45 (footnote omitted and emphasis in original).

²² *Id.* at P 46 (footnotes omitted).

²³ *AES Somerset*, 110 FERC ¶ 61,032 at P 45-51; *Nine Mile*, 110 FERC 61,033 at P 40-46. While those cases were decided in the context of a retail choice state, where generation had been divested, the same logic and analysis and the same conclusions apply
(continued...)

23. The CPUC opposes, on jurisdictional grounds, language in Station Power Protocol (SPP) 2.2.1 that authorizes the CAISO, in consultation with other affected parties, to address the factual question of whether distribution facilities are in fact involved in the self-supply of station power. The CPUC complains that it alone has the authority to make such a determination, and that the Commission lacks authority to make that determination, or to delegate that authority to the CAISO.

24. We find that SPP 2.2.1 does not abrogate any state authority. This provision provides that one of the parties with whom the CAISO must consult when addressing the question of what facilities are involved is the Local Regulatory Authority. More importantly, this Commission “has jurisdiction, in the first instance, to determine its jurisdiction.”²⁴ Thus, the Commission has authority to determine whether transactions involving station power (including determining whether a generator has self-supplied station power or whether the generator has instead purchased station power at retail and thus, more importantly, in turn, whether the generator has used transmission facilities or local distribution facilities to move station power to it) are subject to Commission jurisdiction pursuant to section 201(b)(1) of the Federal Power Act.²⁵ Our authority to make this determination does not depend on the ultimate outcome of this determination.²⁶

25. Accordingly, SoCal Edison’s and the CPUC’s protests in which they request that the Commission reject the CAISO’s station power protocols are denied.

C. Administrative Charges

26. The CAISO proposes to assess an administrative charge of \$500 for an application to establish a station power portfolio or to change the configuration of the station power meters of an existing portfolio, and a charge of \$200 each time the CAISO is required to shift meter data to a unique load identifier pursuant to the station power protocol. The

here. The discussion in Order No. 888 addressed a particular scenario; that scenario was not present in New York and that scenario is equally not present here. There was no sale of station power at retail and no use of local distribution facilities in New York, and hence no state-jurisdictional, retail rate could appropriately be charged in New York. The same is equally true here.

²⁴ *Western Massachusetts Electric Co.*, 61 FERC ¶ 61,182 at 61,661 (1992), *aff’d*, 165 F.3d 922, 926 (D.C. Cir. 1999); *accord*, *AES Somersset*, 100 FERC ¶ 61,033 at P 33 & n.41; *Nine Mile*, 100 FERC ¶ 61,033 at P 30 n.31.

²⁵ 16 U.S.C. § 824(b)(1) (2000).

²⁶ *See supra* note 24.

CAISO states that the purpose of these charges is to reimburse the CAISO for the additional costs associated with station power, including processing initial applications and establishing the appropriate meter identifications and other accounts, verifying the sources of station power on a month-to-month basis, and billing for any shortfalls. The CAISO states that the revenue collected pursuant to administrative charges will be considered “Other Revenues” and applied as a credit to the Grid Management Charge (GMC) revenue requirement.

27. Moss Landing, Williams, Calpine, and IEP argue that the proposed administrative charges are unsupported and should be rejected. Moss Landing states that, if the charges are not rejected, the CAISO should be required to clarify how such charges are intended to apply where multiple units are connected behind a single meter. Williams contends that the CAISO has not shown why the administrative charges are not already covered by the GMC, and complains that the proposed charges are simply too speculative to be approved. Williams states that, if the CAISO finds that the station power protocol adds costs that are otherwise not recoverable (even under the GMC), it should propose a specific charge at that time with the appropriate cost support.

28. In response, the CAISO explains that it has based the charges on estimates since it does not know at this time the precise level of participation or the actual costs that it will incur in reviewing applications and reassigning meter data each month. The CAISO states that these are new tasks that the CAISO does not now perform and that the associated costs were not included in the CAISO’s 2005 budget and are not reflected in the existing GMC. The CAISO adds that the level and design of the administrative charges can be further reviewed in the next GMC rate proceeding.

29. The CAISO further argues that the Commission approved another administrative charge in the CAISO’s Amendment No. 42, filed in Docket No. ER02-922-000. The CAISO states that, in that filing, it proposed an administrative charge based on estimates to defray the cost of developing forecasts for participants in the CAISO’s Participating Intermittent Resource Program. The CAISO states that neither the level of participation in that program nor the actual costs of the forecasting services were known, yet the Commission accepted the ISO’s proposed forecast fee of \$0.10 per MWh.²⁷

²⁷ *California Independent System Operator Corp.*, 98 FERC ¶ 61,327 (2002). In that proceeding, the proposed forecast fee was not contested, and the Commission did not address it. Therefore, it is not appropriate precedent.

Commission Determination

30. The Commission agrees that the CAISO will incur costs associated with the station power protocol, and that there is no way to know the exact level of these costs at this time. However, rates are often set based on estimates of a utility's costs,²⁸ and the proposed charges do not appear on their face to be unrelated to the costs that the CAISO is likely to incur. Furthermore, as the CAISO states, the revenue collected pursuant to administrative charges will be credited against the GMC revenue requirement. However, the Commission shares the interveners' concerns about the CAISO's cost support. Accordingly, the Commission will conditionally accept the proposed administrative charges, suspend them for a nominal period and make them effective, subject to refund, and direct the CAISO to file with the Commission, within 30 days after six months after the commencement of the station power protocol, cost support for the administrative charges based on actual experience so that more precise administrative charges may be determined prospectively and, if appropriate, refunds be made for the locked-in period. In the event of any refunds, the CAISO must account for any revenue credits already made to the GMC associated with the administrative charges.

31. Finally, in response to Moss Landing's request for clarification of how the charges would apply where multiple units are connected behind a single meter, the CAISO has clarified that the verification process described in SPP 3.1 would occur at the meter, which is the level of aggregation used for scheduling, metering and settlement.²⁹ The Commission finds that the CAISO's response satisfactorily addresses the concern.

D. Transmission Revenue Credits

32. The CAISO proposes to revise the definition of Transmission Revenue Credit in its Tariff to allow Participating Transmission Owners (PTOs) to recover any potential shortfall in their retail transmission revenues as a result of the CAISO's station power protocol. Specifically, the CAISO proposes to revise the definition to add that a PTO may receive "any differences in retail transmission revenues resulting from changes in the terms of ISO service for Station Power between the effective date of Amendment No. 68 and the PTO's first rate case following the filing of Amendment No. 68." The CAISO

²⁸ See e.g., 18 C.F.R. § 35.13 (2004).

²⁹ As an example, the CAISO states, if the output of two units is aggregated as a Physical Scheduling Plant behind a single meter, then Net Output would be defined based on data aggregated by that single meter, and the CAISO would use the meter data for validation in the same way that it would if only a single unit were behind the meter.

states that this is necessary so that the PTOs will not be subject to a regulatory lag due to the potential shortfall in their retail transmission revenue collections when generators elect to participate in the station power protocol.

33. Moss Landing argues that this proposed revision should be rejected. First, Moss Landing claims that, since the on-site self-supply of station power may not involve transmission service, there would be no transmission revenues foregone. Second, Moss Landing argues that, if the revenues refer to those which would have been charged for delivery of station power if it had been taken at retail, the proper ratemaking approach would be for PTOs to address any cost under-recovery by making new retail rate filings.

34. NCPA notes that the proposed credit is not limited to the revenue shortfall associated with any foregone Transmission Access Charge collections attributable to on-site self-supply (which NCPA states would be quite small), but rather broadly encompasses any or all retail transmission revenues. NCPA argues that the Commission should require a description and identification of what revenues are to be included in the credit.

Commission Determination

35. The Commission rejects the CAISO's proposed language revising the definition of Transmission Revenue Credit. The purpose of the CAISO's revised Transmission Revenue Credit language appears to be to address the PTOs' concern over a short term regulatory lag resulting from a loss of retail revenue currently received by the PTOs associated with the generators' station power. The Commission finds that the retail rates or any purported retail revenue shortfall are not an issue before this Commission. The PTOs should seek a remedy before the appropriate state regulatory authority for any overall retail revenue shortfall.³⁰ The Commission does not find it appropriate to transfer any purported retail revenue shortfall to wholesale customers.

36. However, to the extent that the PTOs believe there is a change warranting a new complete general rate case before this Commission proposing new prospective wholesale revenue requirements, they are free to file such a case, and we would consider its merits at that time. Pursuant to the rule against retroactive ratemaking, a public utility is not

³⁰ As discussed later in this order, the CAISO's proposal to allow generators to self-supply station power is not projected to be effective until early next year, thus there also remains sufficient time for the PTOs to make any necessary application to the state authority for relief.

permitted to set rates to recoup past losses nor is the Commission permitted to prescribe rates to recoup past losses.³¹ As a result we will reject any language here that would transfer any past retail revenue losses to the CAISO's transmission service rates.

E. Retention of Permitted Netting

37. Prior to the filing of Moss Landing's complaint, the CAISO Tariff permitted netting of load at times contemporaneous with plant generation (and prohibited netting at all other times). This was called Permitted Netting. Amendment No. 68 retains Permitting Netting, but, in addition, station power that is not eligible for Permitted Netting must be scheduled under the CAISO Tariff, and meter data must be collected. A generator self-supplying station power must be subject to a Meter Service Agreement for ISO Metered Entities, and separate metering is required for station power load.

38. Moss Landing contends that the references to both Permitted Netting and Prohibited Netting in the CAISO's proposed new Metering Protocol (MP) at sections MP 2.2.4.3 and MP 2.3.5 are inaccurate and confusing, and requests that the Commission require the CAISO to substitute the terms "Contemporaneous Netting" and "Non-Contemporaneous Netting" for "Permitted Netting" and "Prohibited Netting," respectively, throughout Amendment No. 68. Moss Landing argues that this modification is necessary to eliminate inconsistency and confusion created by the implication that monthly netting is prohibited by the metering protocols. Moss Landing also argues that section SPP 3.1, Self-Supply Verification, inappropriately refers to station load met at times contemporaneous with the generating unit's output as distinct and separate from on-site self-supply. Specifically, as to the portion of SPP 3.1 that states, "If the net output is positive, then all Station Power associated with that Generating Unit, other than load netted in accordance with the Metering Protocol, will have been served by On-Site Self-Supply"; Moss Landing requests that the CAISO revise this section to remove the phrase "...other than load netted in accordance with the Metering Protocol...."

39. QF Parties state that their concern is that the *status quo* under the CAISO Tariff be preserved to permit the contemporaneous self-supply of station power load without additional requirements for metering and scheduling. QF Parties state that there are several sections of Amendment No. 68 that seem inconsistent with that premise, and request that they be clarified. QF Parties state that SPP 1.1 attempts to distinguish Permitted Netting from On-Site Self-Supply, but that the definition of On-Site Self-Supply actually seems to include contemporaneous self-supply. QF Parties also argue that SPP 1.2.1, which requires the qualification of a Self-Supply Portfolio, and SPP 6.1,

³¹ See, e.g., *City of Piqua v. FERC*, 610 F.2d 950, 954 (D.C. Cir. 1979).

which requires the execution of a Meter Service Agreement and the installation of a separate meter in order to self-supply, should be revised to exclude Permitted Netting from these requirements.

40. In response to these concerns, the CAISO offers several revisions to clarify that Permitted Netting is in fact included in the definition of On-Site Self Supply, and further clarify that Permitted Netting would not be subject to any charges, or any new requirements. Specifically, the CAISO offers to: (1) revise the definition of On-Site Self Supply to include energy associated with service to station power load that is netted under the existing Metering Protocol; (2) revise SPP 1.1 to recognize that supply used to serve load that is subject to Permitted Netting is included in the definition of On-Site Self Supply; (3) revise SPP 1.2.1 and SPP 6.1 to exclude Permitted Netting from the new requirements, as requested by the QF Parties; and (4) revise SPP 3.1 to remove the phrase "...other than load netted in accordance with the Metering protocol....," as requested by Moss Landing.

Commission Determination

41. While the CAISO proposes modifications that may address some of the concerns raised by Moss Landing and the QF Parties, by retaining the current Tariff provisions that allow Permitted Netting, the CAISO has in fact allowed a fourth category of station power that is inconsistent with the Commission's station power precedent. In other words, the CAISO proposes to modify the definition of On-Site Self-Supply in a manner that is at odds with our precedent, *i.e.*, which allows netting over the entirety of the netting interval. While we recognize that the CAISO is attempting to satisfy the concerns of a wide variety of market participants, we cannot accept it. The CAISO has not justified its proposed departure from our precedent, and we are not persuaded that the departure would not interfere with the intended operation of the station power protocol.

42. Rather, the CAISO must remove all language about Permitted, Prohibited, and Contemporaneous Netting from its station power protocol. These categories and restrictions are inconsistent with our precedent, which recognizes only three forms of supply (on-site self-supply, remote self-supply and third-party self-supply), and allows the use of a monthly netting interval.³² However, on compliance, the CAISO may propose a separate station power protocol applying only to Qualifying Facilities to address their unique issues, including their concern that they need not qualify their portfolios and execute a metering agreement. We believe that there may be justification for treating Qualifying Facilities differently from other generators, and we wish to allow

³² *E.g.*, *PJM II*, 94 FERC at 61,889-91.

the CAISO to explore that possibility. The CAISO should consult with Qualifying Facilities prior to submitting any such Qualifying Facilities-specific station power protocol.

F. Consistency with Existing Tariff Provisions

43. Williams states that Amendment No. 68 does not address the potential impact of the station power protocol on other provisions in the CAISO Tariff. Specifically, Williams states that it is unclear whether a generator will be subject to an Uninstructed Deviation Penalty (UDP) for deviations between scheduled station power and actual station power. Williams also states that it is unclear what the impact of the station power protocol will be on generating units operating under the must-offer obligation. As an example, Williams offers a scenario in which a facility has been offline for an entire month, and in which the CAISO rescinds the must-offer waiver of one of the units at the facility on the last day of the month. Williams asks, in this scenario, whether the unit would be permitted to schedule enough power to ensure that net generation covers the station power load in order to avoid incurring costs for third-party supply of station power. Williams also asks whether, in this scenario, energy would settle in a manner similar to Reliability Must-Run (RMR) energy that is scheduled at the RMR Contract Energy Load Point, and whether Minimum Load Cost Compensation would be denied. Williams asks that the CAISO clarify these issues in its answer. Calpine and IEP concur with Williams' request.

44. In response to these concerns, the CAISO states that "...any scheduled or instructed Generation in the Netting Period is eligible to attribute toward the self-supply of station power, so there is no need to undertake uninstructed deviations. There is no justification for uninstructed deviations to self-supply Station Power, or any need for a Station Power exception from the UDP."³³ The CAISO also clarifies that its proposed

station power protocol does not change any existing rights or obligations related to the "must-offer obligation" or Minimum Load Cost compensation, and does not have any effect on the Day Ahead or Hour Ahead scheduling processes, or on real time Dispatch.

Commission Determination

45. We agree with the CAISO that, when it has implemented the software so that UDPs are in effect, the UDP provisions of the CAISO tariff will apply. While Williams provides example of a generator that is not on-line except for the last day of the month

³³ The CAISO notes that it does not yet have the authority to implement a UDP, and will not have such authority until a tariff amendment specifying an effective date is filed and accepted by the Commission.

when the CAISO revokes the unit's must-offer waiver; that would be a very atypical scenario. Thus, we do not find a need for a station power exception to the UDP provisions of the CAISO Tariff or tariff revisions regarding the potential interplay between the station power protocol and the must-offer obligation. We also agree with the CAISO that the proposed station power protocol appropriately does not change any existing rights or obligations related to the "must-offer obligation" or Minimum Load Cost compensation. Accordingly, we will deny Williams' request.

G. Application Process

46. SPP 2.1 and SPP 2.2 describe the application process for station power, including the various requirements that generators must meet to establish a station power portfolio, and what actions the CAISO will take, such as providing the appropriate entities with one-line diagrams and information regarding the generator and verifying metering schemes.

47. The CPUC argues that a one-line diagram is insufficient to provide the CPUC with the information necessary to monitor and review the way a generator is using or providing station power. The CPUC states that generators should also provide diagrams that show the appropriate power flows, open circuit breakers, visual disconnects, switch gear and/or transfer switches, and service entrances, and that the CAISO should provide the generator and bus identifiers.

48. The CAISO responds that the proposed application requirements stated in SPP 2.1 are sufficient.

Commission Determination

49. The application process provided in SPP 2.1 provides for one-line diagrams clearly showing the location and ownership of all generating units and station power meters, their connection to the CAISO system, and the status of breakers and switchgear for normal system operation. While the CPUC believes that a greater amount of detail is required, the CAISO disagrees. Given the expertise of the CAISO in this matter, and the CPUC's failure to justify why more and different information is necessary, we find that the level of detail contained in SPP 2.1 is adequate, and that the additional information requested by the CPUC is not necessary. Accordingly, the Commission will deny the CPUC's request.

H. Milestones

50. Moss Landing argues that specific milestones for action by the CAISO under the application process are essential, and recommends that the Commission direct that the

protocols be amended to impose a 30-day deadline for completion of the application process.

51. In response, the CAISO agrees that some specificity on the timing in the application process is reasonable, and it offers revisions to provide that it will (1) notify an applicant within 10 business days that the application is complete, or list any deficiencies and/or additional information that is needed, and (2) use all reasonable efforts to allow the applicant to begin self-supplying station power within 20 business days after a completed application (including any additional information requested by the CAISO) is submitted and any metering changes required by SPP 6 are completed.

52. In its response, Moss Landing states that the CAISO's response appears to adequately address its earlier concerns.

Commission Determination

53. The CAISO's proposed modifications satisfactorily address the Commission's concerns regarding the establishment of reasonable milestones for completion of the application process. The Commission will direct the CAISO to incorporate the modifications into its station power protocol.

I. Energy Pricing

54. The CAISO proposes that any unscheduled deviations associated with station power will be settled at the applicable zonal price. Specifically, SPP 5 states:

All deviations between scheduled and metered Generation or Station Power will be settled at the applicable zonal price. The determination of Net Output and attribution of On-Site Self Supply, Remote Self-Supply and Third Party Supply to serving Station Power under this SPP shall apply only to determine whether Station Power was self-supplied during the Netting Period and will have no effect on the price of Energy sold or consumed by any facility in the Station Power Portfolio.

55. The CPUC is concerned that this provision does not take into account the potential pricing differences, due to congestion and/or differences in peak and off-peak rates, between power exported from the grid to the generator, and power injected into the grid by the generator. The CPUC argues that generators might intentionally under-generate during high-cost hours and "make it up" by over-generating during low-cost hours, thereby creating congestion and reliability concerns. In other words, the CPUC is concerned that generators may have an economic incentive to "game the system."

Commission Determination

56. We have previously addressed concerns that generators may attempt to “game the system.” In *PJM IV*, the Commission addressed a similar argument.³⁴ There, the Commission summarized the concern:

Conectiv complains that PJM’s monthly netting proposal will allow the netting of low-value station power energy that PJM would supply to the generators during hours when prices are low, and the generators are typically off-line, against high-value energy that generators would supply to PJM during hours when prices are high, and generators are typically on-line. According to Conectiv, “the result is that PJM exchanges low-value energy for high-value energy, to the detriment of generators.”^[35]

The Commission then summarized PJM’s response to this concern:

In response to Conectiv’s assertion that monthly netting will result in the netting of low-value station power energy supplied by PJM against high-value energy supplied to PJM, PJM asserts that this proposal has “nothing whatsoever to do with the price or value of energy that generator either sells to others or consumes itself” and will not involve the netting of energy “imbalances” between high- and low-priced energy. PJM explains that, for each hour when the generator has positive net output and delivers energy into the PJM grid, it would be paid the locational marginal price (LMP) at its bus for all energy delivered to PJM in that hour. Conversely, for each hour when the generator has negative net output and has received station power from the grid, it would pay the LMP at its bus for all of that energy.^[36]

In its determination, the Commission explained:

Hourly PJM prices would still apply, and sales at those prices would be net of station power consumption. In effect, the costs for station power would be equivalent to the LMP at which the generator could sell energy at its bus during any hour, which would effectively eliminate any financial incentive

³⁴ See *PJM IV*, 95 FERC at 62,684-85.

³⁵ *Id.*

³⁶ *Id.*

to “game the system” and arbitrage across hours. PJM’s monthly netting would operate to determine whether there have been any retail sales and how much transmission service has been used, and would not have any inappropriate effect on the generator’s obligation to pay for transmission services.^{37]}

57. Similarly, under the CAISO’s zonal pricing, the generator will pay whatever the prevailing zonal price is for any deviations from its schedule. Hourly energy pricing is not affected by calculations of net output, which is used to determine whether the generator has placed a transmission load associated with station power on the CAISO-controlled transmission network. The Commission will deny the CPUC’s argument.

J. Request to Delay the Effective Date

58. The CAISO requests that the effectiveness of its station power protocol be deferred until the implementation of its new Settlement and Market Clearing System, expected to be by the end of the first quarter of 2006. The CAISO explains that it plans to include software for the station power protocol in the new system, and that requiring it to implement the station power protocol earlier would require changes to be made to the existing settlement system as well as the new one. The CAISO states that this is not economically feasible and that it is appropriate to defer implementation of the station power protocol until the new settlement system is in place.

59. SWP states that it supports the CAISO’s request to delay implementation of the station power protocol until the new settlement software is in place. However, Moss Landing, Williams, NCPA, Calpine, IEP, and Constellation object to the CAISO’s request to defer effectiveness of the station power protocol, and request that the Commission require that it be made effective after 60 days from the date of filing. These parties argue that the CAISO has not demonstrated that it is precluded from implementing the station power protocol under the present settlement system or specifically shown the potential cost savings to the CAISO, but only that it prefers not to engage in duplicative efforts. The parties argue that such a delay would cause significant financial harm to generators by requiring them to continue to incur high station power charges. Williams requests that, if the Commission does not reject the CAISO’s request for a delay, it require the CAISO to demonstrate that the costs to the CAISO of immediate implementation outweigh the continued costs to generators of further delaying implementation, and to require implementation by a date certain.

³⁷ *Id.*

60. The CAISO responds that implementing the station power protocol in advance of the implementation of the new settlement system would require the CAISO to implement redundant manual settlement processes to accommodate station power settlements during parallel operations.³⁸ The CAISO states that this may delay testing for the new settlement system and strain its limited resources, which are fully committed to several significant ongoing projects. The CAISO states that, if required, it could develop manual tools to allow for redundant implementation in both the existing and new settlement systems, but no earlier than November 1, 2005.

61. In response, Moss Landing requests that, if the Commission will not require immediate implementation of the station power protocol, it implement immediately at least the simplest form of self-supply (on-site self-supply at transmission voltage), by requiring the CAISO to eliminate existing provisions in MP 2.2.4.3 and MP 2.3.5 that prevent on-site self-supply and establishing 30 days as the appropriate netting period. Moss Landing adds that the CAISO could then implement the remaining elements of its station power protocol by November 1, 2005, as proposed in its answer.

Commission Determination

62. We find that the CAISO's explanation for delaying implementation of the station power protocol is compelling, given that the CAISO's limited resources that are already heavily committed to major projects, such as the new settlement and billing system and a new market design. We agree that requiring implementation now would be duplicative, overly burdensome, and costly. However, the Commission believes it is important to have a date certain for implementation of the station power protocol so that implementation is not indefinitely delayed. Accordingly, the Commission will require that, in the event that the new settlement system is not ready by the end of the second quarter of 2006, the CAISO must nonetheless implement the station power protocol at that time using the manual tools discussed in its answer.

63. We are not persuaded to require the CAISO to implement what Moss Landing refers to as the "simplest" form of station power self-supply prior to full implementation. All aspects of the proposed CAISO station power proposal are designed to work together, and the selective implementation of one aspect could result in unintended, and inequitable, consequences. Thus, we reject Moss Landing's request.

³⁸ 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 settlement system by allowing the CAISO and others to compare statements from both the old and new settlement systems, and test metering and charge type alignments.

The Commission orders:

(A) The CAISO's Amendment No. 68 is hereby conditionally accepted in part and suspended for a nominal period, and rejected in part, to become effective upon no less than 10 days notice by the CAISO that the necessary software modifications have been implemented, but no later than July 1, 2006, as discussed in the body of this order.

(B) The CAISO is hereby directed to submit a compliance filing within 30 days after six months after the commencement of the station power protocol, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.