

111 FERC ¶ 61,009
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Expedited Tariff Revisions for Regional
Transmission Organizations and
Independent System Operators

Docket No. PL05-2-000

GUIDANCE ORDER ON
EXPEDITED TARIFF REVISIONS FOR
REGIONAL TRANSMISSION ORGANIZATIONS
AND INDEPENDENT SYSTEM OPERATORS

(Issued April 7, 2005)

1. From time to time, the tariffs and market rules of independent system operators (ISOs) and regional transmission organizations (RTOs)¹ have proven to be flawed due to unforeseen aspects of implementation or as a result of market participant behavior. In general, these flaws may be corrected in the normal course. However, we are concerned that certain rules and tariff flaws may require prompt revision to assure that prices in RTO markets continue to be just and reasonable. Thus, by this Guidance Order and the companion order we are issuing concurrently,² we announce a process to provide a structure by which we can promptly revise the affected tariff provision.

¹ For purposes of this Guidance Order, the term “RTO” refers to both RTOs and ISOs.

² *California Independent System Operation Corporation*, Docket No. ER05-718-000.

2. When an RTO discovers³ a tariff provision or market rule, or market participant activity in compliance with the RTO tariff or market rules, meeting the criteria outlined below, the RTO should develop a proposal to remedy the tariff or rule flaw and make a section 205 filing proposing a revision. To qualify for the expedited tariff revision procedures outlined here, the tariff or rule flaw should meet the following criteria:

- i) materially adversely impact the market (due to the unanticipated workings of the tariff or unanticipated actions by market participants);
- ii) require prompt action to prospectively revise the tariff to remove the ability to cause such material adverse impacts; and
- iii) be susceptible to a clear-cut revision or interim tariff provision or market rule,

The RTO filing should clearly demonstrate that a rule change is required due to a flaw, why action is necessary in the market and that the proposed tariff revision will correct the flaw. The RTO filing should note that it is being made pursuant to this Guidance Order and request expedited treatment. In order to assure that market participants are promptly notified of the filing, the RTO should post the filing on the RTO website and send an e-mail notification to each market participant.

3. Alternatively, where an RTO MMU identifies a flawed tariff provision or rule meeting the criteria above, it should: develop a proposal to remedy the tariff or rule flaw; advise the RTO of its finding; and request that the RTO make a section 205 filing proposing a revision. If, however, the RTO does not choose to follow the MMU's advice and file the proposal with the Commission, the MMU should make its views known to the Commission and RTO stakeholders.

4. Upon receipt of such information, the Commission will expeditiously determine whether the reasons presented warrant expedited treatment. If warranted, the Commission will promptly issue a notice; establish an expedited

³ If a market participant believes that it has identified a flawed rule that meets the criteria set forth in this Guidance Order, it should bring the matter to the attention of the RTO market monitoring unit (MMU). Of course, this process does not supplant a market participant's right to file a complaint pursuant to section 206 seeking a rule or tariff change; rather it should bring focus to changes that require expedition.

comment period from the date of notice;⁴ and process a request for a corrective rule change as soon as practicable after the receipt of comments and protests. Otherwise, the Commission will follow the normal process for section 205 filings. The Commission may, upon requisite findings under the FPA, suspend tariff sections, pending review of the filing.

5. By establishing this process, we can assure that market participants may act in accordance with existing tariffs and market rules without ambiguity as to whether such actions are permissible⁵ and, also, expeditiously revise such tariffs and market rules if they contain flaws.

By the Commission: Commissioner Kelly concurring with a separate statement attached.

(S E A L)

Linda Mitry,
Deputy Secretary.

⁴ Where warranted, we expect to issue a notice in three to five business days.

⁵ We note, however, that sellers are also subject to our Market Behavior Rules. Thus, under certain circumstances, a seller that has acted in compliance with an RTO tariff may be subject to sanctions under our Market Rule # 2, if such seller has engaged in a manipulative behavior. *See Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 (2003), *order on rehearing*, 107 FERC ¶ 61,175 at P 25 (2004).

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KELLY, Commissioner, *concurring*:

I strongly support this order's goal of setting forth an expedited process to allow the Commission to promptly revise a flawed tariff provision or market rule under certain circumstances. However, I believe that the Commission should also establish a mechanism to allow the Commission to hold an immediate hearing and grant temporary, concurrent relief, e.g., a Temporary Restraining Order-type process, upon request by an ISO/RTO or market participant, if necessary to prevent serious market failure.

	<hr/> Sudeen G. Kelly
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