

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

<b>California Independent System Operator Corporation</b>	) ) )	<b>Docket No. ER22-1278-000</b>
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**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF  
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION TO COMMENTS AND LIMITED PROTEST**

The California Independent System Operator Corporation (CAISO)<sup>1</sup> answers the comments and limited protest filed in this proceeding<sup>2</sup> in response to the CAISO’s March 11, 2022 tariff amendment filing (Tariff Amendment).<sup>3</sup>

All but one of the market rule enhancements proposed in the Tariff Amendment are supported by every party submitting substantive comments in this proceeding. One party – the California Public Utilities Commission (CPUC) – opposes the CAISO’s discrete and severable proposal for the resource sufficiency evaluation (RSE) used in the Western Energy Imbalance Market (WEIM) to consider only CAISO import and export schedules for which an e-tag has been submitted by the time of the final hourly RSE run at 40 minutes before the hour. As explained below, the CAISO’s proposal will improve the accuracy of

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings set forth in appendix A to the CAISO tariff.

<sup>2</sup> The following entities filed motions to intervene in the proceeding: the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; City of Santa Clara, California; the Department of Market Monitoring of the CAISO (DMM); the Northern California Power Agency; Pacific Gas and Electric Company; Powerex Corp.; and Southern California Edison Company. DMM and Powerex submitted comments. The California Public Utilities Commission (CPUC) filed a notice of intervention and limited protest.

<sup>3</sup> The CAISO files this answer pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. For the reasons explained below, the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer the limited protest filed in the proceeding.

supply accounting in the RSE, promoting greater efficiency in the WEIM. Its application to only the CAISO balancing authority area (BAA) is justified by differences in how imports and exports are scheduled within the CAISO region as compared to other WEIM entity BAAs.

## **I. BACKGROUND AND SUMMARY**

The CAISO submitted the Tariff Amendment to (1) implement several RSE enhancements that improve performance beginning summer 2022 and (2) address some concerns expressed by stakeholders in phase 1 of the ongoing RSE stakeholder initiative. The RSE is a key element of the WEIM. It ensures each WEIM entity BAA can adequately balance its own supply and demand prior to participating in the real-time market. The revisions in the Tariff Amendment will allow the RSE to assess more accurately whether a BAA in the WEIM is scheduling or bidding sufficient supply in the upcoming hour to meet its demand, and will produce a more appropriate allocation of revenues resulting from RSE penalties. These enhancements will better enable the CAISO's real-time market to deliver benefits to customers across the western United States.

For the reasons explained below, the Commission should accept the Tariff Amendment as filed without condition or modification.

## **II. MOTION FOR LEAVE TO FILE ANSWER**

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,<sup>4</sup> the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer the limited protest filed in the proceeding.

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<sup>4</sup> 18 C.F.R. §§ 385.212, 385.213.

Good cause for the waiver exists because this answer will aid the Commission in understanding the issues in the proceeding, inform the Commission in the decision-making process, and help to ensure a complete and accurate record in the case.<sup>5</sup>

### **III. ANSWER**

#### **A. All But One Element of the Tariff Amendment Are Unopposed**

Stakeholders broadly supported the RSE enhancements submitted in the Tariff Amendment as market rule improvements that are feasible in the near-term. This support is reflected in the comments submitted in this proceeding. Powerex supports the proposed enhancements and commits to work with the CAISO and stakeholders to develop further improvements in the ongoing RSE enhancement stakeholder process.<sup>6</sup> The CPUC either supports or does not oppose all but one of the CAISO's RSE enhancements.<sup>7</sup> DMM either supports or does not oppose all of the RSE enhancements included in the Tariff Amendment.<sup>8</sup> DMM also offers some recommendations for consideration in the next phase of the RSE stakeholder initiative. These recommendations are beyond the scope of the instant proceeding, which is limited to RSE enhancements the CAISO determined it could implement for summer 2022. The CAISO appreciates DMM's feedback, and it will fully consider DMM's

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<sup>5</sup> See, e.g., *Equitrans, L.P.*, 134 FERC ¶ 61,250 at P 6 (2011); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,023 at P 16 (2010); *Xcel Energy Servs., Inc.*, 124 FERC ¶ 61,011 at P 20 (2008).

<sup>6</sup> Powerex at 5-6.

<sup>7</sup> CPUC at 2-3.

<sup>8</sup> DMM at 2-3.

recommendations for future enhancements as part of the ongoing stakeholder initiative.

**B. The RSE Tagging Proposal Improves Market Efficiency and Reasonably Reflects Differences in How Imports and Exports Are Scheduled in Different BAAs**

The CPUC argues that the proposed T-40 transmission tagging requirement is unduly discriminatory because it applies only to the CAISO BAA and not to other WEIM entity BAAs.<sup>9</sup> DMM does not oppose the tagging proposal, but it states that the CAISO should clarify why it is not proposing to apply the e-tagging requirement to all WEIM BAAs.<sup>10</sup>

Contrary to the CPUC's claims, relevant differences in the tariff rules applicable to intertie transactions justify applying the RSE tagging proposal only to the CAISO BAA. The Commission has recognized that rates, terms, and conditions of service are not unduly discriminatory or preferential if there is a rational basis for treating differently situated entities differently.<sup>11</sup> The CAISO

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<sup>9</sup> CPUC at 6-10.

<sup>10</sup> DMM at 11.

<sup>11</sup> Section 205 of the Federal Power Act (FPA) prohibits a public utility from "mak[ing] or grant[ing] any *undue* preference or advantage to any person or subject[ing] any person to any *undue* prejudice or disadvantage." FPA Section 205(b), 16 U.S.C. § 824d(b) (emphasis added). So long as there is no undue preference or discrimination, the public utility satisfies the requirements of Section 205. "Whether a rate or practice is unduly discriminatory depends on whether it provides different treatment to different classes of entities and turns on whether those classes of entities are similarly situated." *Calpine Corp. v. PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,035, at P 318 (2020). See also *Town of Norwood v. FERC*, 202 F.3d 392, 402 (1st Cir. 2000) ("But differential treatment does not necessarily amount to *undue* preference where the difference in treatment can be explained by some factor deemed acceptable to regulators (and the courts).") (emphasis in original).

clarifies its reasoning for why the RSE tagging proposal is properly limited to the CAISO BAA.

This proposal is related to an existing tariff rule that applies only to the CAISO BAA. Under tariff revisions the Commission accepted in 2020 and the CAISO implemented last year, a scheduling coordinator must submit by T-40 a valid e-tag with a transmission profile equal to the applicable economic bid or self-schedule.<sup>12</sup> If a scheduling coordinator fails to submit an e-tag by T-40, the CAISO's systems will adjust the associated energy schedule for each 15-minute market interval of the hour.<sup>13</sup> In approving this tariff provision, the Commission found that:

. . . the revisions to the E-Tag rules will provide the 15-minute market with more reliable information about whether intertie transactions awarded in the day-ahead and hour-ahead process are likely to materialize in real-time. Using more reliable information to run the market should improve market efficiency and help to decrease the need for out-of-market actions to maintain reliability.<sup>14</sup>

Under these existing tariff provisions, an import into the CAISO BAA or export out of the CAISO BAA must have a valid e-tag with a transmission profile equal to the applicable economic bid or self-schedule submitted by T-40, otherwise the CAISO will automatically adjust the energy profile to match the transmission profile or zero out the schedule from the market entirely if there is no valid e-tag. The CAISO's tagging proposal in this Tariff Amendment ensures the RSE will not count import bids or export bids for delivery to or from the

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<sup>12</sup> CAISO Tariff section 30.5.7.1.

<sup>13</sup> *Id.*

<sup>14</sup> *Cal. Indep. Sys. Operator Corp.*, 172 FERC ¶ 61,234 at P 23 (2020).

CAISO without a transmission profile in a submitted e-tag that supports its interchange schedule by T-40. Similar to the reasons that led to the existing tariff rules that discount schedules in the market that are not tagged by T-40, there is a reasonable expectation that intertie transactions without an equivalent transmission profile in a valid e-tag will not be delivered in real-time. The RSE tagging proposal reflects this existing CAISO market rule in the RSE and will provide more accurate and reliable information to run the RSE, thus improving the accuracy of the test for the CAISO BAA.

The interchange accounting rules that apply in WEIM entity BAAs are different from the CAISO tariff rules in key respects, which in turn supports not applying the proposed RSE tagging requirement to WEIM entities. Under open access transmission tariffs (OATTs) provisions widely adopted by WEIM entities, transmission customers may modify their base schedules until no later than 57 minutes before the operating hour (T-57).<sup>15</sup> In addition, these OATT provisions provide that, as of T-55, interchange base schedule data will be considered financially binding and transmission customers may not submit further changes to their interchange base schedules.<sup>16</sup> Unlike the CAISO tariff provisions, these other OATTs do not automatically adjust schedules to match transmission profiles or zero out transactions that are not e-tagged by T-40. As such, the WEIM entity BAAs already contain requirements designed to produce similar

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<sup>15</sup> See, e.g., Arizona Public Service Co. OATT, Attachment Q, section 4.2.4.5.2; Avista Corp. OATT Attachment P, section 4.2.4.5.2; Idaho Power Co. OATT, Attachment O, section 4.2.4.5.2; Los Angeles Department of Water and Power OATT, Attachment O, section 4.2.4.5.2; NV Energy OATT, Attachment P, section 4.2.4.5.2; Salt River Project OATT, Attachment S, section 4.2.4.5.2; and Tacoma Power OATT, Attachment O, section 4.2.4.5.2.

<sup>16</sup> *Id.*

results, albeit through different rules, and the proposed e-tagging rule that aligns with an existing CAISO market rule does not overlay well with the WEIM entity OATT rules.

The CPUC suggests the proposed T-40 transmission tagging requirement is “intended to reduce import failures.”<sup>17</sup> To the contrary, the proposed rule is intended to reduce the risk of counting supply in the RSE that is less likely to be delivered to the market in real-time. Because this rule only applies to the RSE test, it is unclear how it affects the HASP clearing process (where imports are scheduled), which runs prior to the execution of the RSE. Moreover, because the CAISO implemented the market rule that “haircut” schedules going into the fifteen minute market at T-40 if they do not have an associated transmission profile, the incentive to reduce import failures already exists. The CPUC makes the point that the potential for import failures is not limited to the CAISO and applies to all WEIM BAAs.<sup>18</sup> DMM similarly states that there is evidence a significant amount of base schedule imports into WEIM entity BAAs do not deliver.<sup>19</sup> The CAISO acknowledges this evidence; however, the intent of this proposal is to address a distinct issue -- to ensure the schedules tested in the RSE are as accurate as possible. On the other hand, the intertie deviation adder is designed to capture and increase requirements for import failures from what was tested at T-40. The RSE tagging proposal appropriately takes into account

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<sup>17</sup> CPUC at 6.

<sup>18</sup> CPUC at 7.

<sup>19</sup> DMM at 11.

the different rules applicable under the CAISO tariff versus the WEIM entity OATTs, and represents an incremental improvement in the accuracy of the RSE for the CAISO BAA.<sup>20</sup>

The CPUC also notes that the intertie uncertainty requirement recently removed by the CAISO applied to all WEIM BAAs and questions why the tagging proposal does not also apply to all WEIM entity BAAs.<sup>21</sup> The rationale underlying the uncertainty requirement is different from the rationale for the RSE tagging proposal. The historical uncertainty requirement estimated the quantity of expected supply that might not be delivered and prospectively increased the RSE requirement accordingly, rather than discounting the supply counted in the RSE based on a rule that aligns with an existing CAISO tariff rule. These features of the RSE are fundamentally different and do not suggest that all intertie RSE accounting practices must be symmetrical.

**C. Monitoring is Sufficient to Address the Market Surveillance Committee's Limited Concern**

The CPUC references a concern raised by the Market Surveillance Committee (MSC) that the RSE tagging proposal could create an incentive for some market participants not to tag import transactions by T-40, causing the CAISO BAA to fail the sufficiency evaluation and driving up prices in the fifteen

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<sup>20</sup> Subsequent phases of the RSE enhancements initiative will consider additional changes to improve the overall accuracy of the RSE and explore appropriate consequences for failure.

<sup>21</sup> CPUC at 6-7.



minute market and real-time dispatch to the benefit of import suppliers.<sup>22</sup> The CPUC claims this concern is a reason for rejecting the proposal.

It is important to note the MSC supports the CAISO's RSE tagging proposal as part of the phase I RSE enhancements.<sup>23</sup> Accordingly, the MSC's observation provides no basis for rejecting the rule or extending it to all WEIM balancing authority areas. Indeed, the MSC described the incentives for CAISO market participants to refrain from e-tagging imports until after T-40 as weak. Further, DMM did not identify this specific concern in its comments. The MSC encouraged monitoring for possible changes in tagging behavior while supporting the rule change. The CAISO commits to undertake this monitoring. The Commission has accepted market rule changes in the past as just and reasonable while noting the CAISO commitment to monitor for unintended consequences of the rule change.<sup>24</sup> The same approach is warranted here.

**D. The CPUC's Remaining Concerns are Beyond the Scope of this Proceeding**

The CPUC suggests there are alternative ways to address the possibility that imports into the CAISO BAA not tagged by T-40 will not be available in real-time, suggesting for example that the CAISO could review and revise its intertie

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<sup>22</sup> CPUC at 10-12.

<sup>23</sup> *MSC Opinion on Energy Imbalance Market (EIM) Resource Sufficiency Evaluation Enhancements* at 26-27. The MSC opinion is available at: <http://www.caiso.com/Documents/MSCFinalOpiniononEIMResourceSufficiencyEvaluationEnhancements-Phase1.pdf>.

<sup>24</sup> See, e.g., *Cal. Indep. Sys. Operator Corp.*, 175 FERC ¶ 61,160 at PP 25, 27 (2021); *Cal. Indep. Sys. Operator Corp.*, 168 FERC ¶ 61,213 at PP 32, 38 (2019).

deviation penalties.<sup>25</sup> The CPUC's alternatives are beyond the scope of this proceeding. In reviewing a section 205 filing, the Commission makes a limited determination of whether the rates, terms, and conditions proposed by a public utility like the CAISO are just and reasonable, and the analysis does not extend to determining whether a proposed tariff amendment is more or less reasonable than alternative proposals not submitted by the public utility.<sup>26</sup> The CAISO has shown its proposed RSE tagging requirement is just and reasonable, and the Commission should not compare that proposal to alternatives suggested by commenters.

The CPUC also suggests the CAISO should have included an off-ramp in its proposal comparable to the provisions the Commission accepted allowing the CAISO to discontinue the net load uncertainty adder if certain criteria were met through only a market notice and informational report to the Commission.<sup>27</sup> The CAISO did not consider specific off-ramp criteria during the stakeholder process because it is unnecessary for the RSE tagging rule. The CAISO proposed an off-ramp for the net load uncertainty adder because it raised concerns the measurements used to calculate the uncertainty could overvalue or undervalue the uncertainty actually observed in the market. In this case, however, there are no such measurement concerns, and therefore the CAISO does not anticipate

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<sup>25</sup> CPUC at 16-18.

<sup>26</sup> See, e.g., *ISO New England Inc.*, 114 FERC ¶ 61,315 at P 33 and n.35 (2005), citing *Pub. Serv. Co. of New Mexico v. FERC*, 832 F.2d 1201, 1211 (10th Cir. 1987) and *Cities of Bethany, Bushnell, et al. v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984), cert. denied, 469 U.S. 917 (1984).

<sup>27</sup> CPUC at 10.

similar adverse consequences from this rule. In any event, if the CAISO identifies any unintended material adverse impacts on wholesale markets after implementation of the proposed rule, consistent with Commission precedent the CAISO will seek expedited consideration of any appropriate tariff amendments.<sup>28</sup> The CAISO has a track record of making expeditious filings with the Commission to address market issues when appropriate.

The CPUC also argues the RSE tagging proposal will exacerbate existing issues and increase RSE failures for the CAISO BAA.<sup>29</sup> This argument provides no basis to reject the CAISO's proposal, which is designed to improve the accuracy of the RSE. The increased potential for the CAISO BAA to fail the RSE because of improved accuracy in the RSE test is not a legitimate basis to reject the CAISO's proposal.

The CPUC states a flaw in the existing tariff is that WEIM advisory transfers are not included in the RSE test, but exports, enabled by advisory WEIM transfers, are included and points to a CAISO statement that "the HASP process has the potential to award block hourly exports from the CAISO based [on] the assumed availability of EIM transfers; *to the extent this occurs this adds to the CAISO's capacity test obligations while not adding to its available supply.*"

<sup>30</sup> The CPUC also notes the CAISO's statement "that additional analysis is needed to develop a stronger correlation between the load conformance that

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<sup>28</sup> See, e.g., *Guidance Order on Expedited Tariff Revisions for Regional Transmission Organizations and Independent System Operators*, 111 FERC ¶ 61,009 (2005).

<sup>29</sup> CPUC at 3-4, 12-15.

<sup>30</sup> *Id.* at 13, citing Revised Draft Final Proposal at 15.

drives EIM transfers that aid the CAISO in passing the RSE, as well as the dynamics between the EIM RSE and the HASP clearing process.”<sup>31</sup>

The CAISO is exploring the specific issue the CPUC identifies with stakeholders in subsequent phases of the ongoing RSE enhancements initiative. But the CAISO’s simple T-40 tagging proposal for the CAISO BAA is separate and distinct from this issue, and it is intended solely to improve the accuracy of the RSE. Potential issues with other existing measures should not preclude tariff revisions to improve RSE accuracy. Adopting the CPUC’s rationale would preclude the CAISO from fixing a specific problem in the market if other problems exist. Further, insofar as the CPUC is taking issue with existing RSE tariff provisions the CAISO does not propose to change and that the Commission found to be just and reasonable, such issues are beyond the scope of this section 205 proceeding.<sup>32</sup>

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<sup>31</sup> *Id.*

<sup>32</sup> In connection with these arguments, the CPUC offers an example that has factual flaws because it fails to take into account that, under the CAISO’s proposal both import and export awards from the CAISO will be discounted in the RSE if they are not tagged by T-40. As such, the “consequently scheduled” 2,000 MW of exports under the example will not cause the CAISO BAA to fail the RSE, as the CPUC suggests unless they are not tagged, at which point the export obligation is removed from the CAISO’s RSE requirement. The CAISO’s tariff revisions do not affect how the HASP clears exports from the CAISO.

#### IV. CONCLUSION

For the foregoing reasons, the Commission should issue an order by May 27, 2022, accepting the tariff revisions proposed in the Tariff Amendment, as clarified herein, without condition or modification.

Respectfully submitted,

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Dated: April 15, 2022

## CERTIFICATE OF SERVICE

I certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 15<sup>th</sup> day of April, 2022.

*/s/ Jacqueline Meredith*  
Jacqueline Meredith