

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

**California Independent System
Operator, Inc.**

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Docket No. EL04-____-000

**CONDITIONAL REQUEST FOR WAIVER AND FOR EXPEDITED ACTION OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR, INC.**

The California Independent System Operator, Inc. ("CAISO"), respectfully requests a conditional temporary waiver to potentially advance the deadline for submitting Supplemental Energy Bids in accordance with the ISO Tariff. As explained below, the CAISO intends to implement the Phase 1B modifications on October 1, 2004. In order to achieve this date, there is a possibility that the CAISO will need to advance the deadline for submitting Supplemental Energy Bids by two minutes from sixty (60) minutes prior to the operating hour to sixty-two (62) minutes prior to the operating hour for a limited period. The CAISO is working to eliminate the need for this two-minute extension prior to the October 1, 2004 implementation date. It seeks this limited, temporary modification to ensure that the CAISO's updated Real-Time Market Application can obtain and successfully process Supplemental Energy Bids in the event that it is necessary. The CAISO respectfully requests that the Commission approve these conditional modifications to the Supplemental Energy bid deadline and allow them to be put into effect, if necessary, coincident with implementation of the previously-approved Phase 1B Tariff modifications.

I. Background

On May 1, 2002 the CAISO submitted its Comprehensive Market Design 2002 (MD02) to be implemented in three Phases: Phase 1, market power mitigation measures, real-time economic dispatch and the use of a single energy bid curve; Phase 2, an integrated forward market, including an energy market and procedures for procurement of ancillary services; and Phase 3, implementation of the full network model, redesigned firm transmission rights, and the integration of congestion management with energy and ancillary services markets. To reflect the staged implementation of the market design elements, the CAISO then divided Phase 1 of MD02 into two sub-Phases: Phase 1A, consisting of the market design elements of Phase 1 which had been approved by the Commission without conditions; and Phase 1B, real-time economic dispatch and penalties for uninstructed deviation.

On July 8, 2003, the CAISO filed Amendment No. 54 to the CAISO Tariff. The CAISO sought approval for the implementation of the Phase 1B elements of the Real Time Imbalance Energy Market, including approval of Uninstructed Deviation Penalties (UDPs), Real Time Economic Dispatch (RTD), and inclusion of multiple ramp rates and other operational constraints into dispatch decisions. In an order issued October 22, 2003, *California Independent System Operator Corporation*, 105 FERC ¶ 61,091, the Commission accepted in part and rejected in part Amendment No. 54 and ordered the CAISO to make a compliance filing.

On November 21, 2003, the CAISO submitted a compliance filing as directed in the October 22 Order. That same day, a number of parties sought rehearing of that order. On March 11, 2004, the CAISO submitted a further compliance filing correcting

inconsistencies and invalid references in the ISO Tariff and Operating Protocols, as directed in the October 22 Order. On August 5, 2004, the Commission issued an order on the compliance filings and rehearing request, *California Independent System Operator Corporation*, 108 FERC ¶ 61,142.

In accordance with the Commission's orders, the CAISO has been working on implementing the Phase 1B changes. The CAISO currently projects that it will be able to implement Phase 1B on October 1, 2004.

II. Need For Temporary Waiver

The CAISO seeks a conditional temporary waiver to modify ISO Tariff Sections 2.5.22.4.1 and 5.13.2.1 and Dispatch Protocol Sections 3.2 and 7.3 to change the deadline for submitting Supplemental Energy Bids from sixty (60) minutes prior to the operating hour to sixty-two (62) minutes prior to the operating hour. This change may be required to address a software timing issue to ensure the Phase 1B systems can be put into service as currently scheduled on October 1, 2004.

The current deadline for submitting Supplemental Energy bids is sixty (60) minutes prior to the operating hour. These bids are made available to the ISO's market systems, including the new Real-Time Market Application ("RTMA") that will be implemented as part of the Phase 1B modifications, by transferring the bids from where they are submitted by the Market Participants in the Scheduling Infrastructure workspace and subjecting the bids to a final validation, a process that takes approximately thirty (30) seconds. However, the RTMA, which incorporates next hour's Supplemental Energy bids into the multi-interval optimization for the current hour, looks for those next hour's Supplemental Energy bids at eleven (11) seconds after the hour

for use in the multi-hour optimization that will be developed in the current hour. The CAISO has evaluated having RTMA wait longer than eleven (11) seconds after the hour to read the next hour's Supplemental Energy Bids, but has determined waiting longer jeopardizes the performance of RTMA in the current hour.

The CAISO believes that the RTMA application can be modified so that, if the RTMA application cannot read the next hour Supplemental Energy Bids at eleven seconds after the hour, the RTMA application could attempt to re-read the bids the next Dispatch Interval. While this modification would obviate the need to advance the deadline for submitting Supplemental Energy Bids, the CAISO is not sure it can modify the RTMA application through the appropriate controlled software modification process in time to meet an in-service date of October 1, 2004. To allow the RTMA to be put into service on October 1, 2004, even if the modification is not complete, the CAISO proposes advancing the deadline for submitting Supplemental Energy Bids by two minutes to provide time for the Supplemental Energy Bids to be made available for RTMA to read those bids according to the current design, at eleven seconds after the hour if RTMA cannot be modified by October 1, 2004. Again, the CAISO hopes that it can modify the RTMA software to allow the CAISO to return the deadline for submitting Supplemental Energy Bids to sixty (60) minutes before the operating hour before the October 1, 2004 date. In the event that unforeseen difficulties occur, the CAISO seeks this waiver.

To protect against a concern that this waiver is in effect a permanent tariff amendment, the CAISO would ask that the waiver be granted for at most a two month period, to expire by December 1, 2004. Consequently, the waiver would at most

change the timing for submitting Supplemental Energy bids by two minutes only through November 30, 2004.

III. Request for Tariff Waivers

For the reasons set forth above, and in light of the circumstances present here, the CAISO requests that the Commission exercise its discretion¹ to grant a conditional, limited one-time waiver of all ISO Tariff provisions that require it to accept Supplemental Energy Bids up to sixty (60) minutes before to the operating hour. Specifically, the CAISO requests waivers of the language in ISO Tariff Sections 2.5.22.4.1 and 5.13.2.1 and Dispatch Protocol Sections 3.2 and 7.3. The CAISO believes that these are the only relevant ISO Tariff provisions, but, out of an abundance of caution, also asks that the Commission grant a one-time waiver of any other ISO Tariff provision that it believes should be waived in order for the CAISO to set the deadline for Supplemental Energy Bids at sixty-two (62) minutes before the operating hour.

In earlier cases, the Commission has focused on a variety of factors when determining whether it is appropriate to grant tariff waivers to help alleviate the effects of an error. Among other things, it has considered whether: (i) the waiver is of limited scope; (ii) a concrete problem needs to be remedied; and (iii) the waiver will not have undesirable consequences, such as harming third parties.²

¹ The Commission has previously waived tariff provisions when circumstances, including equitable considerations, warranted. See, e.g., *New York Independent System Operator, Inc.* 107 FERC ¶61,292 (2004) *New York Independent System Operator, Inc.*, 104 FERC ¶ 61,214 (2004); *H.Q. Energy Services (L.S.), Inc. v. New York Independent System Operator, Inc.* 97 FERC ¶ 61,218 at 61,694 (2001); *reh'g denied*, 100 FERC ¶ 61,028 (2002). See also *Wisvest-Connecticut, LLC v. ISO New England Inc.*, 101 FERC ¶ 61,372 (2002).

² See, e.g., *Wisvest-Connecticut*, 101 FERC at 62,551 (noting that error was "an inadvertent mishap"). See also *Great Lakes Gas Transmission Limited Partnership*, 102 FERC ¶ 61,331 (2003); *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330 (2003); *Northern Border Pipeline Co.*, 76 FERC ¶ 61,141 (1996).

All of these factors are present in this case. The waiver conditionally grants the CAISO two additional minutes to process Supplemental Energy Bids for a limited two month period until further software changes are in place. As such, the waiver is extremely limited in scope. Without the waiver, implementation of the Commission-approved changes in Phase 1B would be further delayed. Thus, the waiver remedies a specific problem. Furthermore, the limited nature of the request minimizes any potential harm to third-party Market Participants.

The ISO discussed the need for this conditional waiver with the Phase 1B Joint Application Development group Market Participants in an August 20, 2004 conference call. Those Market Participants generally supported the two-minute change, but desired that the change be temporary. The ISO also requested written comments on this proposed change by August 31, 2004; none were received.

The ISO Governing Board authorized the ISO to request this temporary waiver of the ISO Tariff provisions for the Supplemental Energy bid deadline on September 3, 2004.

IV. Request for Expedited Commission Action

Accordingly, the CAISO respectfully asks that the Commission take expedited action and grant the requested waivers no later than September 17, 2004. Prompt action is essential so that the CAISO can know how it is to proceed with implementation of Phase 1B.

The CAISO respectfully requests that the waiver be put into effect, if necessary, when the Phase 1B modifications are put into service. The CAISO will provide written notice to Market Participants and to the Commission at least ten days in advance of the

implementation of the Phase 1B modifications. The ISO expects it will know whether it will require the temporary waiver of the Supplemental Energy bid deadline requested in the instant filing before it provides the required ten-day advance notice to the Commission and Market Participants that the Phase 1B modifications will be implemented on October 1, 2004. The ISO also expects to notify the Commission and Market Participants whether the Supplemental Energy bid deadline will be advanced when it provides required ten-day advance notice to the Commission and Market Participants that the Phase 1B modifications will be implemented on October 1, 2004. The CAISO would then implement the Phase 1B modifications, including any necessary changes to the deadline for Supplemental Energy Bids proposed herein, on the first day of a month so as to not be implemented in the middle of an invoicing cycle.

V. Notice and Service of Documents

Communications regarding this filing should be addressed to the following individuals, whose names should be placed on the official service list established by the Secretary with respect to this submittal:

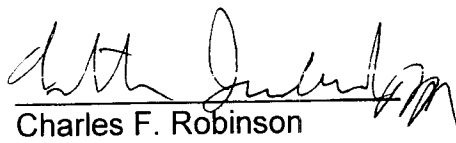
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The ISO has served copies of this transmittal letter, and all attachments, on the California Public Utilities Commission, the California Energy Commission, the California

Electricity Oversight Board, on all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff, and on all parties in the proceedings in Docket Nos. EF03-1046 (Amendment No. 54) and ER04-609 (Amendment No. 58), and ER04-1087 (Amendment No. 62). In addition, the ISO is posting this document on the ISO Home Page.

Respectfully submitted,



Charles F. Robinson
Anthony J. Ivancovich

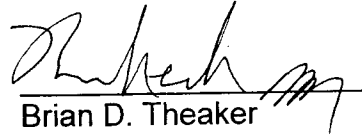
Counsel for The California Independent
System Operator Corporation

Date: September 7, 2004

CERTIFICATE OF SERVICE

I hereby certify I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary in the proceedings and on the other parties indicated in the document.

Dated at Folsom, CA, on this 7th day of September, 2004.


Brian D. Theaker