

ALSTON & BIRD LLP

The Atlantic Building
950 F Street, NW
Washington, DC 20004-1404

202-756-3300
Fax: 202-654-4876

Michael E. Ward

Direct Dial: 202-756-3076

Email: michael.ward@alston.com

July 12, 2006

VIA COURIER

The Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

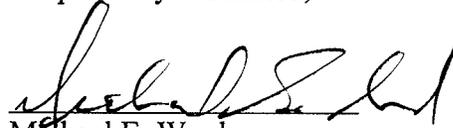
**Re: California Independent System Operator Corporation,
Docket No. ER06-_____**

Dear Secretary Salas:

Pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.207, the California Independent System Operator Corporation respectfully submits an original and fourteen copies of its Petition for Temporary Waiver of Sanctions Under Sections 37.4.1.2 and 37.4.3.2 of the CAISO Tariff.

Two additional copies of this filing are enclosed to be date-stamped and returned to our messenger. If there are any questions concerning this filing please contact the undersigned.

Respectfully submitted,



Michael E. Ward
Counsel for the California Independent
System Operator Corporation

Enclosures

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

California Independent System)
Operator Corporation)

Docket No. ER06-_____

**PETITION FOR TEMPORARY WAIVER OF SANCTIONS
UNDER SECTIONS 37.4.1.2 AND 37.4.3.2 OF THE CAISO TARIFF**

Pursuant to Rule 207 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. 385.207, the California Independent System Operator Corporation (“CAISO”) petitions the Commission to waive, on a temporary basis, Sanctions under Sections 37.4.1.2 and 37.4.3.2 of the ISO Tariff¹ for failures to report Outages and to provide additional explanations of Forced Outages in a timely manner. The CAISO requests that the waiver be effective on December 19, 2005, and terminate on the earlier of October 31, 2006, or the effective date of a filing by the CAISO to terminate the waiver.

I. BACKGROUND

On July 22, 2003, the CAISO filed Amendment No. 55 to the CAISO Tariff in order to provide the CAISO with an effective Oversight and Investigation program. Amendment No. 55 established an Enforcement Protocol² that defined rules of conduct and set forth penalties for breaches of those rules. The CAISO explained that the Enforcement Protocol was developed in response to the evidence of market

¹ Capitalized terms, not otherwise defined, have the meaning given them in Appendix A of the CAISO Tariff.

² The Enforcement Protocol is Section 37 of the current CAISO Tariff.

manipulation during the 2000-2001 California Energy Crisis and the need for appropriate mechanisms to deter such behavior.

On September 22, 2003, the Commission issued an order accepting and suspending Amendment No. 55 for five months, to be effective February 21, 2004, subject to refund and further Commission order. *See California Indep. System Oper. Corp.*, 104 FERC ¶ 61,308 (2003). On February 20, 2004, the Commission issued a subsequent order approving Amendment No. 55, subject to certain modifications.³ *See California Indep. System Oper. Corp.*, 106 FERC ¶ 61,179 (2004).

In Amendment No. 55, the CAISO proposed, *inter alia*, to require Market Participants to comply with all reporting requirements governing the availability and maintenance of a generating unit or transmission facility, including proper Outage scheduling requirements. This proposed rule also required Scheduling Coordinators or Participating Transmission Owners to immediately notify the CAISO when capacity changes or resource limitations occur that affect the availability of the unit or facility or the ability to comply with Dispatch Instructions. In approving these provisions, the Commission directed the CAISO to specify in greater detail the prohibited behavior. *Id.* at P 84.

In a May 20, 2004, compliance filing, the CAISO revised the Enforcement Protocol to provide that (1) Market Participants must report to the CAISO Control Center any Outage of a Generating Unit within 30 minutes after the Outage occurs; and (2) each Market Participant must provide, within two working days of the

³ The Commission's approval with modifications was subject to the Commission's acceptance of a CAISO filing that demonstrated that the CAISO had established an independent Governing Board. The Commission later found changes to the CAISO's Board selection process acceptable for purposes of the independence requirements of Order Nos. 888 and 2000 and vacated the compliance filing requirement. *California Indep. System Oper. Corp.*, 112 FERC ¶61,001 (2005).

commencement of the forced outage, an explanation of a Forced Outage to the CAISO that includes a description of the equipment failure or other cause and a description of all remedial actions taken by the Operator. By order issued October 28, 2004, the Commission accepted the CAISO's proposed revisions. *California Indep. System Oper. Corp.*, 109 FERC ¶ 61,087 (2004).

Consistent with the Commission's directives, these provisions are currently reflected in Sections 37.4.1.1 and 37.4.3.1 of the CAISO's Simplified and Reorganized Tariff. Section 37.4.1.1 of the CAISO Tariff provides as follows:

A Market Participant shall report to the ISO Control Center any Outage of a Generating Unit subject to Section 4.6 of the ISO Tariff within thirty (30) minutes after the Outage occurs, in accordance with Section 9.3.10.2 of the ISO Tariff.

Section 4.6 specifies the responsibilities for Participating Generators and Section 9.3.10.2 establishes the requirements for reporting Forced Outages. Under CAISO Operating Procedure T-113, Forced Outages must be reported to the CAISO using the CAISO's Scheduling and Logging in California ("SLIC") web client, unless SLIC is unavailable.

Section 37.4.3.1 of the CAISO Tariff provides

A Market Participant, within two working days of the commencement of a Forced Outage, must provide an explanation of the Forced Outage to the ISO that includes a description of the equipment failure or other cause and a description of all remedial actions taken by the Operator in accordance with Section 9.3.10.5 of the ISO Tariff. An Operator must promptly provide information requested by the ISO to enable the ISO to review the explanation submitted by the Operator and to prepare a report on the Forced Outage.

It should be noted that, at the time Amendment No. 55 was filed, the CAISO Tariff defined an Outage as a "Disconnection or separation, planned or forced, of one or more elements of an electric system," but the CAISO had pending before the

Commission an amendment expanding the definition of Outage to include a “reduction in capacity.” The Commission subsequently approved the expanded definition⁴ and later advanced the effective date of the expanded definition to coincide with the effective date of the Enforcement Protocol.⁵ Thus, the potential number of outages that must be reported has increased since the time Amendment No. 55 was filed.

Since issuance of the Commission’s December 19, 2005, Letter Order authorizing the CAISO’s Market Monitoring Unit to administer the Enforcement Protocol, the Department of Market Monitoring (“DMM”) has been putting the necessary resources in place and undertaking necessary preparatory work to implement sanctions for violations of Section 37.4 – “Comply with Availability Reporting Requirements.” As part of these efforts, DMM has attempted to resolve the details of and address certain issues that have arisen in connection with implementing the Outage reporting requirements and Sanctions mechanism under the Enforcement Protocol.

Market Participants have raised several concerns regarding their ability to comply with the requirements. First, Market Participants have expressed concerns that the applicability of Section 37.4.1.1 to “any” reduction in capacity, *i.e.*, to any “derate,” without qualification would require that all, even infinitesimally small, normal variations of a unit’s measurable capacity be reported. Such variations can occur multiple times during a day. The magnitude of this issue has only become apparent as the CAISO has attempted to work through the implementation details.

⁴ *California Indep. System Oper. Corp.*, 105 FERC ¶ 61,091 (2003)

⁵ *California Indep. System Oper. Corp.*, 109 FERC ¶ 61,087 at P 58 (2004).

Second, Market Participants have contended that the current design of the SLIC application is not adequate to report Outages at the frequency required to report small variations in unit capacity. This issue was not raised in the original Amendment No. 55 filing, because SLIC was only a concept at that time, and it was assumed that the SLIC tool would be able to adequately accommodate all outage reporting in a timely manner. It is important to note that the adequacy of SLIC as a tool for Market Participants to report changes in generation availability depends to a large extent on the frequency of reporting and, thus, is inextricably linked to the first issue concerning the level of granularity in reporting.

A final issue that has arisen results from the fact that numerous Generating Units, such as landfill gas units, are less than 10 MW. These units are not required to have telemetry, and are not staffed full time. However, compliance with Section 37.4.1.1 would require that telemetry be installed on these units, with a large cost impact on the generation industry, or that the units be manned around the clock. Neither is an acceptable alternative.

The CAISO has conducted an initial stakeholder meeting to address these concerns. However, the concerns remain. In particular, Market Participants remain concerned that a small MW threshold for reporting would require an unreasonable level of reporting and potential exposure to Sanctions given the current functionality provided by the CAISO's SLIC system.⁶ In addition, the applicability to small Generating Units without telemetry may unjustly expose the Generating Unit Owners

⁶ Market Participants maintain that if penalties are enforced for late or non-reporting that they will have to report normal transient operating limitations when a Generating Unit deviates from a Dispatch Instruction, in addition to actual reductions in capacity, to avoid potential investigation by the CAISO's market monitoring unit for non-reporting.

to Sanctions. Similarly, Market Participants maintain that, without an explicit minimum MW reporting threshold, that there are no objective criteria according to which they can avoid Sanctions specified in 37.4.3.1 for not providing explanations of Forced Outages within two working days.

II. Request for Waiver

In light of the concerns expressed by Market Participants, the CAISO believes that implementation of Sanctions for a failure to comply with the existing outage reporting requirements would be premature. The CAISO further believes that it is appropriate to investigate further the above noted concerns of Market Participants and identify potential changes to the Outage reporting requirements, or to the systems to be used for reporting them, to address these concerns in a manner that maintains reliable grid operations. The CAISO therefore requests that the Commission waive Sanctions under Section 37.4.1.2 and 37.4.3.2 of the CAISO Tariff through October 31, 2006, unless the CAISO requests, and the Commission approves, an earlier termination of the waiver. This will provide the CAISO sufficient time to work with stakeholders to develop and propose to the Commission any appropriate revisions to the Outage reporting requirements in Section 37.4.1.1 and Section 37.4.3.1.1 of the CAISO Tariff. The CAISO anticipates that it would be able to make such a filing with the Commission after the October 18-19, 2006, meeting of the CAISO Governing Board.

The CAISO continues to believe that the sanctions are an important tool in ensuring the long-term reliability of the ISO Controlled Grid and protecting the CAISO markets from manipulation and does not believe that this temporary waiver

will interfere with the CAISO's ability to comply with Applicable Reliability Criteria and to adequately monitor market behavior. The reporting requirements will remain in place and, to date, the level of Outage reporting has been acceptable even without the implementation of CAISO-imposed sanctions. Accurate and timely reporting of Generating Unit Outage information is essential to maintaining Control Area reliability, and the CAISO's filing will not change the Outage requirements specified in Section 9 of the CAISO Tariff. The CAISO expects that Market Participants will continue to report Outages in good faith as per their current practice, in accordance with the CAISO Tariff and Good Utility Practice. Although CAISO-imposed penalties with respect to Outage reporting will be temporarily waived if the Commission approves this filing, the CAISO Department of Market Monitoring will continue to monitor Outage reporting practices, in particular any significant changes from historic reporting practices, and will report non-compliance events to FERC Enforcement. A suspension of CAISO-imposed penalties does not preclude FERC from pursuing appropriate enforcement actions under its Market Behavior Rules, 18 C.F.R. § 35.37, or Prohibition of Energy Electric Market Manipulation, 18 C.F.R. § 1c.2. Although this process is somewhat more cumbersome than the application of tariff Sanctions, it should provide a sufficient incentive to ensure the maintenance of the current compliance level and is thus adequate for the short term.

III. EFFECTIVE DATE

The CAISO requests that the waiver be effective as of December 19, 2005, the date on which the Commission authorized the CAISO to charge penalties for violations of the Enforcement Protocol.

IV. COMMUNICATIONS

Please address communications concerning this filing to the following

persons:

Anthony J. Ivancovich
Assistant General Counsel - Regulatory
California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 608-7135
Fax: (916) 608-7296
aivancovich@caiso.com

Michael E. Ward
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004
Tel: (202) 756-3076
Fax: (202) 654-4876
michael.ward@alston.com

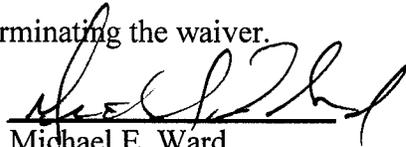
V. SERVICE

The CAISO has served copies of this filing on the Public Utilities Commission of the State of California, the California Energy Commission, the California Electricity Oversight Board, and all parties with effective Scheduling Coordinator Agreements under the CAISO Tariff. In addition, the CAISO has posted a copy of this filing on the CAISO Website.

VI. CONCLUSION

For the reasons discussed above, the CAISO requests that the Commission waive sanctions under Section 37.4.1.2 of the CAISO Tariff until the earlier of October 31, 2006, or a Commission order terminating the waiver.

Charles F. Robinson
General Counsel
Anthony J. Ivancovich
Assistant General Counsel – Regulatory
California Independent System
Operation Corporation
151 Blue Ravine Road
Folsom, CA 95630
916-608-7135 – telephone
916-608-7296 - facsimile



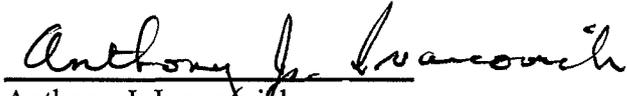
Michael E. Ward
Michael Kunselman
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004-1404
202-756-3300 – telephone
202-756-3333 - facsimile

Attorneys for the California Independent System
Operation Corporation

Certificate of Service

I hereby certify that I have this day served a copy of the foregoing document upon all parties indicated in the document, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 12th day of July, 2006 at Folsom in the State of California.


Anthony J. Ivancovich
Anthony J. Ivancovich