

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

**California Independent System
Operator Corporation**

Docket No. ER16-1019-000

**MOTION FOR LEAVE TO ANSWER AND
ANSWER TO COMMENTS AND PROTEST**

The California Independent System Operator Corporation (CAISO) respectfully submits this motion for leave to answer, and answer, to the comments and protest filed in response to the CAISO's February 26, 2016, waiver request in this proceeding.¹ Neither the comments nor the protest provide a basis for the Commission to deny the February 26 waiver request. For the overall benefit of the CAISO markets and CAISO market participants, the Commission should grant the necessary tariff waiver to permit the CAISO to make the price corrections identified in the February 26 waiver request in a timely manner and reflect them on the relevant eighteen-month recalculation settlement statements.

The waiver would not, as Powerex and Shell suggest, grant the CAISO authority to conduct market re-runs, nor would the waiver constitute retroactive

¹ 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. Rule 213(a)(2) prohibits answers to protests absent permission of the Commission and the CAISO hereby moves for leave to make the answer to the protest. Good cause for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in the case. *See, e.g., Equitrans, L.P.*, 134 FERC ¶ 61,250, P 6 (2011); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,023, P 16 (2010); *Xcel Energy Services, Inc.*, 124 FERC ¶ 61,011, P 20 (2008).

ratemaking or otherwise violate the filed rate doctrine. Instead, the waiver represents a reasonable approach to resolving and correcting the data errors and other processing issues that resulted in the incorrect prices posted on OASIS. As noted in the February 26 request for a waiver, if the Commission does not grant the waiver, then in some instances the CAISO will be required under its tariff to re-run its settlements based on the incorrect prices that are currently posted on OASIS even if it finds the original settlements were based on the correct price. There is no reasonable basis to reject the requested waiver and not allow the CAISO to ensure that market settlements are based on correct prices.

I. BACKGROUND

The CAISO filed the February 26 tariff waiver request to correct the OASIS-posted prices for various pricing locations and market intervals during the period October 15, 2014 to April 30, 2015. The currently posted prices contain errors due to interrelated system issues experienced during the first seven months of implementation of the CAISO's expanded full network model and the Energy Imbalance Market (EIM).

Nine parties submitted motions to intervene without comment.² Southern California Edison Company (SCE) intervened and submitted brief comments supporting the waiver, stating its appreciation of "the CAISO's commitment to

² These parties include: DC Energy, LLC; Northern California Power Agency; Valley Electric Association, Inc.; NRG Power Marketing LLC and GenOn Energy Management, LLC; the Cities of Santa Clara, California and Redding, California and the M-S-R Public Power Agency; City of Los Angeles Department of Water & Power; Modesto Irrigation District; Pacific Gas and Electric Co.; and Sempra Generation, LLC.

identifying and resolving issues as it moves forward with the EIM, including correcting the posted prices and recalculating settlements consistent with those corrections, to ensure that the identified \$667,288 settlement discrepancy does not remain uncorrected, especially as it disproportionately impacts a small group of market participants.”³ The CAISO does not object to any of these interventions.

Two parties—Powerex Corp. and Shell Energy North America (US), L.P.—filed substantive comments on the February 26 request for a waiver. In their respective comments, Powerex and Shell both support the February 26 request for a waiver to the extent it would permit the CAISO to correct data processing or posting errors. However, Powerex and Shell oppose the waiver if it would permit the CAISO to perform market re-runs or establish new prices retroactively. They express concern that granting a waiver under such circumstances would run counter to the filed rate doctrine and the rule against retroactive ratemaking. One party — the Western Power Trading Forum (WPTF) — protests the waiver, arguing that the CAISO filing is deficient because it fails to characterize fully the scope of resettlements to be conducted if the waiver were granted and does not justify the waiver sufficiently. WPTF claims that the Commission should not permit the CAISO to make the corrections without requiring it to go through a compliance process that describes the full settlement impacts of the corrections and includes a root-cause analysis of the errors that caused the price issues.

³ SCE comments, at 2-3.

II. ANSWER

A. The Waiver Does Not Seek Authority to Conduct Market Re-Runs or Set Rates Retroactively

Powerex states that it supports the request for a waiver to the degree “there have been data or processing errors in transferring the market clearing prices to OASIS or to the CAISO’s settlement systems”⁴ Similarly, Shell indicates that “[t]o the extent that CAISO’s request is merely seeking to ensure that prices posted to CAISO’s OASIS and used in its settlement system match the market clearing prices used to dispatch resources during the affected period, Shell Energy has no issue with CAISO’s request.”⁵ Shell states its view that “if during the transmittal of market clearing price data to OASIS, or from OASIS to the settlement system, there was an error that caused the OASIS or settlement system prices to not reflect the actual market clearing prices, then this error should be corrected.”⁶

Both Powerex and Shell, however, state that the Commission should not allow the CAISO to correct prices beyond those errors arising from data processing or data posting errors. Powerex states its understanding that the CAISO seeks “authorization to go beyond ensuring that OASIS and the settlements systems accurately reflect the market clearing prices” and instead in some cases “appears to seek Commission authority to re-run its market and

⁴ Powerex comments, at 4.

⁵ Shell comments, at 3.

⁶ *Id.*

recalculate market clearing prices at certain intervals and in certain locations.”⁷ Shell also expresses concern that the CAISO not be allowed to establish new prices retroactively because doing so, in Shell’s view, would disrupt market participants’ settled expectations and run counter to the filed rate doctrine and the rule against retroactive ratemaking.⁸ Powerex explains that its fundamental concern is that the CAISO not apply “clearing prices that do not align with the bids and offers CAISO actually accepted or rejected in its market.”⁹ To illustrate its point, Powerex offers an example of a market participant that offered an import to the CAISO at \$25 and cleared the market at \$30. If the price were corrected down to \$10, then the participant would not be compensated “at a price that bears no resemblance to the price it offered to the market, and on which its offer was dispatched.”¹⁰

The CAISO understands Powerex’s and Shell’s caution but believes their concerns are misplaced and based on a misunderstanding of the CAISO’s request and how the CAISO actually would conduct the price corrections if the Commission grants the waiver. Powerex cites two statements in the February 26 waiver request that indicate the identified issues were limited to problems with the CAISO settlements system.¹¹ Presumably, from these statements, Powerex inappropriately extrapolates both that some issues covered by the waiver are not

⁷ Powerex comments, at 5.

⁸ Shell comments, at 3.

⁹ Powerex comments, at 5.

¹⁰ *Id.* at 7.

¹¹ *Id.* at 5 n.8 (*citing* February 26 waiver at 11 n.11 & 17).

purely settlements issues and such non-settlements issues involve market re-runs. The two statements Powerex identifies do not suggest the CAISO seeks to recalculate market-clearing results. In one case, the CAISO was describing a category of issues not covered by the February 26 request for a waiver,¹² and in the second, the CAISO was describing a case of a very basic data transfer error.¹³

To be clear, the February 26 waiver request does not seek authority for the CAISO to perform market re-runs, nor would it change market outcomes. Instead, the price corrections would merely ensure that OASIS, and in some cases the CAISO settlements system, reflect the correct prices that they should have all along given the CAISO tariff. Building on the example Powerex provided, some of the errors that the February 26 waiver would correct cover the case where the import was offered to the CAISO at \$25 and the market awarded that offer because the clearing price was \$30, yet OASIS and settlements currently reflect an incorrect price of \$10. Even in the case where the price correction takes market participants off their bid curve (as in the example Powerex offers), the CAISO tariff provides bid cost recovery (for generators)¹⁴ or make-whole payments (for demand and exports).¹⁵

The circumstances of this waiver are no different than any other instance of the CAISO exercising its price correction authority under section 35 of the

¹² February 26 waiver at 11 n.11.

¹³ *Id.* at 17.

¹⁴ CAISO tariff, section 11.8.

¹⁵ *Id.* at section 11.21.

CAISO tariff, except that the CAISO is carrying out that existing authority beyond the timeline prescribed in the tariff. That is not extraordinary because the CAISO tariff contemplates that the Commission may order that such out-of-time corrections be made,¹⁶ such as in response to a waiver similar to that which the CAISO has filed here. Further, the clear history of the Commission granting waivers of this sort belies the suggestions of Powerex and Shell that granting the CAISO's waiver request would constitute retroactive ratemaking or otherwise violate the filed rate doctrine.¹⁷

B. The CAISO has Characterized the Settlement Impacts to the Extent Reasonably Possible

The primary basis of WPTF's protest is that the waiver request is deficient because the CAISO fails to characterize the full range of settlements impacts from the waiver. According to WPTF, this includes failure to acknowledge the impact any price corrections may have on bilateral contracts. WPTF acknowledges that the CAISO cannot "provide the financial impacts to the bilateral markets of the proposed re-settlement of prices" but nevertheless faults the CAISO "failing to acknowledge that those impacts exist, [and thus] implicitly suggest[ing] that the Commission should disregard them in evaluating this filing, which is improper."¹⁸

¹⁶ *Id.* at section 35.3.1.

¹⁷ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,111 (2014); *Southwest Power Pool, Inc.*, 138 FERC ¶ 61,200 (2012); *N.Y. Indep. Sys. Operator, Inc.*, 136 FERC ¶ 61,156 (2011); *Southwest Power Pool, Inc.*, 135 FERC ¶ 61,032 (2011).

¹⁸ WPTF protest, at 4.

The CAISO is aware that bilateral trading based on CAISO market prices occurs. However, the CAISO has no way of quantifying the extent to which such trading occurs or the extent to which such bilateral transactions do or do not have provisions to correct settlement outcomes based on price corrections made by the CAISO. The CAISO should not be held responsible for ensuring that settlement of bilateral transactions are not disturbed because parties may or may not have taken protective measures to account for potential CAISO price corrections. All market participants are on notice that price corrections may occur and that they may occur beyond the time horizon defined in the tariff. Participants are further on notice that settlement statements may be corrected under the normal course of business up to thirty-six months after the trading day.¹⁹ The CAISO has taken every action possible to resolve the pricing issues within the tariff-prescribed timelines so that if there is a need to change participants' settlements it does so within the tariff-based timelines. As WPTF acknowledges, the impact of a CAISO price correction on bilateral contracts is beyond the CAISO's ken. The Commission should not prevent the CAISO from correcting prices consistent with its tariff (but for timing limitations in section 35.2 of the CAISO tariff) at the expense of CAISO market participants who are entitled to receive settlement consistent with the filed rate, merely to address an unquantifiable impact to bilateral trades.

¹⁹ See CAISO tariff, section 11.29.7.1 (outlining the general settlements timeline and noting a potential final recalculation settlement statement at thirty-six months).

WPTF also argues that the analysis underlying the February 26 request for a waiver is deficient for failing to account for second-order effects, such as the impact to bid cost recovery, congestion revenue rights revenue impacts, or real-time imbalance energy impacts. The CAISO clearly stated in the waiver request filing that the market impact figures provided were estimates precisely because of the sort of factors WPTF highlights.²⁰ In a situation like this, the CAISO faces inherent limitations in its ability to capture in advance the complete downstream settlement impacts of the price correction changes because of the sheer quantity of CAISO charge codes that consume various price elements, and the contingent nature of some calculations.²¹ Manually tracing the impacts to the settlement outcome of every charge code is infeasible without actually conducting the price corrections and running the resettlements. The CAISO lacks a parallel or “shadow” settlements system that would allow it to run the full counterfactual analysis of what actual settlements would be if the waiver were granted. Finally, the CAISO could not use its production settlements system to generate an impact assessment because doing so would interfere with the ongoing production of new settlements statements. Thus, the estimated figures provided

²⁰ The CAISO explained that the “figures provided in this filing . . . represent the CAISO’s best estimate of the settlement impacts if the Commission were to grant the requested waiver,” February 26 waiver at 13 n.16, and that the “estimated market impacts by party provided in this filing represent the CAISO’s best understanding of what those ultimate charges and credits are likely to be.” *Id.* at 13 n.17. In total, some variation of the word “estimate” was used in the February 26 waiver 12 separate times to describe the anticipated settlement impacts if the waiver were granted.

²¹ As an example, a settlements calculation may be based on taking the greater of two prices, A and B. Prior to the waiver, assume that A was greater than B, but because of the waiver B has been revised. If A is still greater than the revised B, then there still would be no impact from the waiver with respect to that particular settlement calculation.

in the February 26 waiver request represented the boundaries of what the CAISO reasonably could present in this proceeding. As is always the case, the CAISO will not know the actual settlement outcome unless and until the Commission grants the waiver, the CAISO completes the price corrections, and the CAISO processes the recalculation settlement statements.

This acknowledged methodological limitation in the CAISO analysis should not limit the CAISO's eligibility to seek this waiver. In the only other instance where the CAISO requested a waiver of the timing restrictions in section 35.2 of the CAISO tariff, the CAISO stated explicitly in its waiver request that "the exact resettlement amounts are not obtainable until the actual resettlement is conducted" and that the CAISO was providing "estimates of the settlement impact of the waiver if granted."²² In that case the CAISO noted that it made its estimated calculations based on the assumption of \$-30/MWh LMPs, but that the "actual totals that will appear on the resettlement statements will differ because those will be passed on the prices as corrected."²³ On the basis on what the CAISO clearly identified as estimated impact calculations, the Commission granted the CAISO's request.²⁴ Similarly, the Commission should grant the instant request.

The CAISO notes that the Commission has approved price correction timing waivers in instances where there were no impact assessments

²² Petition for Waiver of Tariff Provisions, *Cal. Indep. Sys. Operator Corp.*, Docket No. ER14-1318 (Feb. 12, 2014), at 5.

²³ *Id.* at 4 n.4.

²⁴ *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,111 (2014).

whatsoever. In at least one other instance where an ISO sought a waiver of tariff provisions imposing a time limitation for price corrections, the Commission approved the request without having been provided even an estimated settlement impact.²⁵ This reflects that the overwhelming interest is in settling energy correctly, which is more important than leaving any “second order” impact undisturbed. Accordingly, the CAISO fails to see how WPTF’s claims regarding the limitations or supposed defects in the CAISO settlement impact estimates are fatal to the CAISO waiver request given that providing such an impact statement is not a requirement for the Commission to grant a waiver.

WPTF’s protest is further unjustified because if the Commission denies the requested waiver, then, as explained in the February 26 request for waiver, the CAISO would be required under its tariff to re-calculate settlements with the prices as posted on OASIS, even though it is now known that some of those prices are incorrect.²⁶ In some cases, the prices as posted are incorrect, but the settlements are based on the correct price. In some cases, both the posted prices and settlements prices are incorrect. In either case, the CAISO would be required to re-run the settlements with the incorrect prices. This means that whether or not the Commission grants the waiver, CAISO market participants will be subject to resettlements. There is no basis for forcing incorrect market

²⁵ *N.Y. Indep. Sys. Operator, Inc.*, 136 FERC ¶ 61,156 (2011); Notification of Inability to Timely Complete Price Corrections, *N.Y. Indep. Sys. Operator, Inc.*, Docket No. ER11-4141 (Jul. 29, 2011).

²⁶ February 26 waiver at 15 (*citing* CAISO tariff, section 35.3.2).

settlements for CAISO market participants in the interest of protecting unidentified bilateral trades.

C. The Distribution of Estimated Settlement Impacts Justifies the Waiver Under Commission Standards

WPTF claims that the CAISO provides no rational criterion for deciding to request authority to correct the OASIS-posted prices. WPTF characterizes the distributional impacts as “two parties that will be paid re-settlements, and multiple smaller parties that will have to pay.”²⁷ In WPTF’s view, “the concentration of how many ‘winners’ there are versus how many ‘losers’ there are [is not] a rational criterion upon which to base a decision on whether to request re-settlements”²⁸

WPTF’s arguments are unavailing in several respects. First, WPTF attempts to have it both ways. If WPTF does not believe the CAISO impact estimates are credible for failing to capture the “second-order” impacts, then it cannot also argue that the CAISO analysis shows that resettlement is not justified. That issue aside, WPTF does not accurately capture the distribution of the estimated payments and credits. It is not a simple case that two parties will receive net payments and many other parties will face small payments. Attachment B to the February 26 request for a waiver reflects a more complex story. There are two parties at each of the extreme ends of the distribution (*i.e.*, two parties face significant estimated credits and two parties face significant

²⁷ WPTF protest, at 4.

²⁸ *Id.* at 4.

charges), with many participants facing smaller, but not insignificant, estimated credits or charges.

Further, the CAISO never explicitly presented any criterion focusing on “winners” vs. “losers.” The CAISO was clear in the February 26 request for a waiver that the material in Attachment B was presented to support the fourth prong of the Commission’s price correction waiver standard – prevention of harm to market participants. A focus on the relative distribution or concentration of “winners” and “losers,” is not, so far as the CAISO is aware, a determinative factor in Commission consideration of such a waiver.²⁹ The CAISO remains confident that given the facts of this specific case, the Commission’s granting of this waiver request would prevent overall harm to market participants. WPTF presented no argument supporting the contrary position, *i.e.*, maintaining the current misallocation of funds is to the benefit of market participants.

D. Additional Compliance Filings Would be Unnecessary and Not Related to the Waiver Request Before the Commission

Instead of granting the waiver, WPTF asserts that, if the Commission agrees that the CAISO request has merit, the Commission “should direct the CAISO to make a compliance filing that describes the full impacts of the resettlement and the resultant impacts on the full set of charge types” and also “require the CAISO to conduct and file a thorough root cause analysis of why its

²⁹ Even referring to market participants as winning or losing in this context is inaccurate because it uses the flawed status quo as the point of reference. Any charges that a market participant incurs on recalculation settlement statements as a result of this waiver merely recoup funds that participant never should have received in the first place. Likewise, any credits received on recalculation settlement statements reflect funds that the participants should have received initially.

design, testing and implementation processes failed to detect in advance the flaws that resulted in the errors the CAISO now wishes to correct.” Allowing the corrections to be made without the CAISO having to undergo these additional compliance processes would, in WPTF’s view, “eliminate incentives for the CAISO to re-double its efforts to ensure that the systems necessary to effectuate timely resettlements are developed and implemented.”

The CAISO does not see the logic in WPTF’s alternative path. WPTF seemingly argues that even if the Commission agrees that the CAISO has met the well-established requirements to be granted a price correction waiver, the Commission should hold the corrections in abeyance to carry out further compliance processes all in the interest of teaching the CAISO a lesson. That would be unfair to the market participants that are harmed by the incorrect and erroneous prices.

If the Commission agrees with the merits of the CAISO request, then the only reasonable result is for the Commission to grant the waiver. The CAISO has explained its understanding of the underlying causes of the erroneous prices it seeks to correct. Whatever remedial actions the Commission finds that the CAISO must take are a separate question from whether the waiver is justified. On the issue of whether remedial actions are necessary, the readiness criteria in section 13 of the CAISO Business Practice Manual for the Energy Imbalance Market are designed to forestall implementation issues when new EIM entities join. Furthermore, the February 26 waiver is not a request the CAISO has made casually, nor is the CAISO pleased that this waiver request was necessary. The

CAISO does not need additional incentive to avoid having to make another filing of this breadth again.

III. Conclusion

The Commission should deny the WPTF protest and approve the CAISO's February 26 waiver request as filed.

Respectfully submitted,

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Dated: March 30, 2016

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service lists in the above-referenced 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 30th day of March 2016.

Is/ Anna Pascuzzo

Anna Pascuzzo