

167 FERC ¶ 61,199  
FEDERAL ENERGY REGULATORY COMMISSION  
WASHINGTON, DC 20426

May 31, 2019

In Reply Refer To:  
California Independent System Operator  
Corporation  
Docket No. ER19-1690-000

California Independent System Operator Corporation  
250 Outcropping Way  
Folsom, CA 95630

Attention: David Zlotlow  
Senior Counsel

Dear Mr. Zlotlow:

1. On April 26, 2019, the California Independent System Operator Corporation (CAISO) filed a request pursuant to Rule 207 of the Commission's Rules of Practice and Procedure<sup>1</sup> for limited tariff waiver (Waiver Request) to temporarily permit CAISO to continue to calculate effective flexible capacity<sup>2</sup> values for proxy demand resources (PDRs)<sup>3</sup> based on the general formula described in Section 40.10.4.1(a) of its tariff, rather than using the testing-based approach specific to PDRs, as specified by tariff

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<sup>1</sup> 18 C.F.R. § 385.207 (2018).

<sup>2</sup> Effective flexible capacity is the number of megawatts eligible to be counted towards meeting a load-serving entity's flexible resource adequacy requirements. *See Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,042, at P 16 (2014).

<sup>3</sup> Proxy demand resources are loads or an aggregation of loads that are capable of measurably and verifiably reducing their electricity demand. CAISO's PDR framework effectively allows applicable resources to bid demand response into the CAISO market. *See* CAISO Tariff, Appendix A, Master Definition Supplement, and CAISO Tariff § 4.13.1.

Section 40.10.4.1(c). CAISO requests that the waiver extend until the earlier of: (1) successful development of the needed test procedures; or (2) December 31, 2019.

2. In the Waiver Request, CAISO explains that it recently identified a gap in how it has implemented its tariff with regard to effective flexible capacity calculations.<sup>4</sup> CAISO first explains that Section 40.10.4.1(a) of its tariff contains a general formula for effective flexible capacity calculations, which bases effective flexible capacity values on a resource's start-up time, ramp rate, and net qualifying capacity. However, CAISO notes that tariff Sections 40.10.4.1(b) through (f) provide certain technology-specific effective flexible capacity methodologies for certain types of resources, including PDRs. Specifically, CAISO notes that tariff Section 40.10.4.1(c) provides that the effective flexible capacity of a PDR shall be based on the resource's actual MWs of load modification in response to a dispatch by CAISO during a randomly-administered test event. CAISO states that this methodology provides for CAISO to use applicable baseline load to measure the actual load modification by a PDR.<sup>5</sup>

3. CAISO states that flexible resource adequacy requirements first became effective in 2014 as part of its Flexible Resource Adequacy Criteria and Must Offer Obligations Initiative,<sup>6</sup> and notes that there were no PDRs registered in CAISO when this initiative was first implemented. Consequently, CAISO states that it has not developed the applicable test procedures for PDRs as specified in tariff Section 40.10.4.1(c). When PDRs eventually came into the CAISO system, CAISO states it erroneously established the practice of calculating their effective flexible capacity using the general formula in tariff Section 40.10.4.1(a), rather than the testing-based approach specific to PDRs in Section 40.10.4.1(c).<sup>7</sup>

4. Nevertheless, CAISO states that, upon identifying this implementation gap in March of 2019, CAISO began developing testing procedures for PDR effective flexible capacity. CAISO states that these procedures are not finalized, and that CAISO is also still determining how best to implement them upon finalization.<sup>8</sup> CAISO anticipates that

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<sup>4</sup> Waiver Request at 1.

<sup>5</sup> *Id.* at 2-3.

<sup>6</sup> *Id.* at 3, 5 (citing *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,042).

<sup>7</sup> *Id.* at 5.

<sup>8</sup> *Id.*

it will require more time to conduct this process, and expects implementation before the end of this year.<sup>9</sup>

5. However, CAISO notes that until testing procedures are finalized, it cannot calculate new PDR effective flexible capacity consistent with tariff Section 40.10.4.1(c).<sup>10</sup> Absent a waiver, this would present two potential complications for CAISO's immediate implementation of its flexible resource adequacy capacity.<sup>11</sup> First, CAISO states that 86 new PDRs have requested approximately 860 MWs of effective flexible capacity starting with the June 2019 resource adequacy month (out of which 10 MWs are under contract to provide flexible resource adequacy capacity). CAISO asserts that, without an effective flexible capacity value, CAISO would need to remove these resources' eligibility for June, meaning that the 10 MWs of flexible capacity would not be provided, and associated load-serving entities might need to secure alternative capacity to meet their capacity obligations for June.<sup>12</sup> Second, CAISO notes that absent a waiver, there might be risks for the draft 2020 annual effective flexible capacity list, which CAISO is required to post in mid-August 2019. Because of the time involved to develop the test protocols, CAISO states that it is likely infeasible to calculate test-based effective flexible capacity values for the approximately 730 unique PDRs CAISO has in its system.<sup>13</sup>

6. CAISO asserts that the waiver would create a transitional period during which CAISO could complete the development and implementation of the test program without

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<sup>9</sup> *Id.* at 10.

<sup>10</sup> CAISO asserts that PDRs that already have an effective flexible capacity value for 2019 are not "immediately affected" by this issue, because Section 40.10.4.2(b) prohibits changes to CAISO's final list of effective flexible capacity values once this list has been posted. *Id.* at 7.

<sup>11</sup> CAISO notes that it publishes an annual list of effective flexible capacity in mid-August of the previous year. *Id.* at 4 (citing CAISO Business Practice Manual for Reliability Requirements, Exhibit A-1). CAISO's tariff does not permit any changes to an annual list once it is published, except when (as relevant here) new resources achieve commercial operation after the annual list is published. *See* CAISO Tariff, § 40.10.4.2 (b)(2). CAISO explains that this is relevant to PDRs because they are more likely to be created mid-year, and might not have an effective flexible capacity assigned through the annual process.

<sup>12</sup> Waiver Request at 7-8.

<sup>13</sup> *Id.* at 8-9.

imposing adverse outcomes on market participants. Therefore, CAISO requests a limited, one-time waiver to use the general formula in tariff Section 40.10.4.1(a) to calculate effective flexible capacity values for PDRs, as it transitions to a testing-based regime for these resources, and requests that the waiver apply until the earlier of either: (1) the successful development and implementation of test procedures under tariff Section 40.10.4.1(c); or (2) December 31, 2019.<sup>14</sup>

7. CAISO states that there is good cause to grant this waiver request. First, CAISO asserts that it has acted in good faith by submitting the Waiver Request as soon as practical once it determined the existence of the implementation gap in March. CAISO also believes that all parties covered by the waiver acted in good faith, having relied on CAISO's prior establishment of PDR effective flexible capacity without imposing a test specified in tariff Section 40.10.4.1(c). Second, CAISO avers that the waiver is of limited scope because it: (1) applies to a limited time frame not to exceed the balance of 2019, (2) affects a relatively small amount of capacity,<sup>15</sup> and (3) applies only to flexible capacity, thus not impacting other aspects of CAISO's resource adequacy program.<sup>16</sup> Third, CAISO states that the waiver would solve a concrete problem; specifically, CAISO argues that scheduling coordinators for PDRs and load-serving entities who have contracted with the PDRs for flexible resource adequacy face the risk of this capacity being invalidated if CAISO cannot create effective flexible capacity values for these resources during the transition to using the testing-based approach applicable to PDRs. Finally, CAISO asserts that there would be no undesirable consequences from the waiver, including any harm to third parties, as it would permit CAISO to retain its approach for a transitional period and to use a method that already exists in the tariff for other resource types.<sup>17</sup>

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<sup>14</sup> *Id.* at 9.

<sup>15</sup> CAISO notes that though the waiver covers over 700 resource identification numbers totaling 1,800 MWs, the true impact is much less—the difference of the effective flexible capacity values approximated by the two methodologies. CAISO also notes that very little of the total PDR effective flexible capacity has historically been shown on actual resource adequacy plans (and that only 10 MWs is currently under contract to provide flexible resource adequacy capacity starting in June). *Id.* at 6-7.

<sup>16</sup> CAISO further notes that the impact of the waiver is limited because if a PDR has its effective flexible capacity calculated under the waiver but is never used in a resource adequacy plan, then the waiver arguably has no impact. *Id.* at 11.

<sup>17</sup> *Id.* at 10-11.

8. Notice of CAISO's Waiver Request was published in the *Federal Register*, 84 Fed. Reg. 19,775 (2019), with interventions and protests due on or before May 10, 2019. Timely motions to intervene were filed by the Calpine Corporation, the City of Santa Clara, NRG Power Marketing, LLC, Pacific Gas and Electric Company, and Southern California Edison Company. No protests were filed.

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

10. The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.<sup>18</sup> We find that CAISO's unopposed Waiver Request to temporarily use the general formula for calculating effective flexible capacity values for PDRs satisfies the aforementioned criteria.

11. First, based on CAISO's representations, we find that CAISO has acted in good faith by filing the Waiver Request as promptly as feasible once it determined that it had been implementing effective flexible capacity calculations erroneously, and by beginning to develop and implement required testing procedures to allow effective flexible capacity calculations for PDRs as required by tariff Section 40.10.4.1(c). Second, we find that CAISO's request is limited in scope; the requested waiver will temporarily allow CAISO to use the general formula in its tariff to calculate effective flexible capacity for PDR while it develops testing procedures to implement the PDR-specific calculation methodology. Additionally, the waiver will be limited to the earlier of either CAISO's successful development and implementation of testing methods as specified by its tariff, or December 31, 2019. Further, the waiver will apply only to a specific, defined category of entities, which is limited to flexible capacity resources (and does not affect other aspects of CAISO's resource adequacy program).

12. Third, we find that CAISO's Waiver Request helps resolve a concrete problem. Absent a waiver, CAISO would not be able to calculate effective flexible capacity values for PDRs for the June 2019 resource adequacy month. Given the temporal constraints, CAISO also may not be able to calculate effective flexible capacity values for the upcoming 2020 resource adequacy year in time to post the draft list in mid-August 2019. Granting the waiver to allow CAISO to continue to use the general effective flexible capacity formula in its tariff for PDRs will help avoid potential disruptions to CAISO's resource adequacy program and to market participants. Fourth, and finally, we find that CAISO's unopposed request for waiver will not have undesirable consequences, such as

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<sup>18</sup> See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

harming third parties. The waiver will maintain the status quo, and, indeed, not granting the requested waiver could potentially harm load-serving entities who have contracted with PDRs for flexible resource adequacy capacity if that capacity were invalidated due to CAISO's inability to recreate an effective flexible capacity value for PDRs.

13. For these reasons, we grant CAISO's Waiver Request, applicable until the earlier of: (1) the successful development and implementation of test procedures under tariff Section 40.10.4.1(c); or (2) December 31, 2019.

By direction of the Commission.

Nathaniel J. Davis, Sr.,  
Deputy Secretary.