

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

**California Independent System) Docket No. ER19-2727-000
Operator Corporation)**

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF THE CALIFORNIA
INDEPENDENT SYSTEM OPERATOR CORPORATION TO COMMENTS AND
LIMITED PROTEST**

The California Independent System Operator Corporation (CAISO)¹ submits this motion for leave to answer and answer to the comments and limited protest filed in the above-captioned proceeding² in response to the CAISO's August 30, 2019 tariff amendment (CCDEBE Tariff Amendment).³ The main purpose of the CCDEBE Tariff Amendment is to enhance the CAISO's market rules so that suppliers can request adjustments to their CAISO-calculated commitment cost and energy reference levels prior to the CAISO market process to more accurately reflect their costs. The CAISO also proposes to permanently implement some of the revisions the Commission previously accepted on an interim basis to address the limited operability of the Aliso Canyon natural gas storage facility (Aliso Canyon), along with a number of clarifying tariff revisions.

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

² The following entities filed motions to intervene in the proceeding: the California Public Utilities Commission; California Department of Water Resources State Water Project; Calpine Corporation; Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities); City of Santa Clara, California; Department of Market Monitoring of the CAISO (DMM); EDF Trading North America, LLC; Modesto Irrigation District; Northern California Power Agency; NRG Power Marketing LLC; Pacific Gas and Electric Company; PacifiCorp; San Diego Gas & Electric Company; and Southern California Edison Company (SCE). In addition, DMM and SCE filed comments, and the Six Cities filed a limited protest and comments.

³ CCDEBE is short for Commitment Cost and Default Energy Bid Enhancements.

None of the entities that submitted comments and a limited protest request that the Commission reject the CCDEBE Tariff Amendment. Instead, each entity generally supports the CCDEBE Tariff Amendment while raising a few specific issues.⁴ For the reasons set forth below, the Commission should accept the CCDEBE Tariff Amendment as filed, subject to the few additional tariff modifications the CAISO proposes in this answer.

I. Motion for Leave to File Answer

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,⁵ 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. Good cause for this waiver exists because the CAISO's 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 proceeding.⁶

⁴ DMM at 2 ("DMM supports each of these four general proposed changes [in the CCDEBE Tariff Amendment]. However, as explained in these comments, DMM continues to believe that several key details of the CAISO's proposed rules for allowing suppliers to request adjustment to their commitment cost and energy reference levels merit further clarification and/or modification."); SCE at 2 ("SCE does not oppose the CAISO's filing but suggests minor edits to the proposed changes within three specific tariff sections."); Six Cities at 1 ("With the exception of the elements discussed below, the Six Cities generally support the CAISO's proposed CCDEBE Amendments.").

⁵ 18 C.F.R. §§ 385.212, 385.213.

⁶ 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).

II. Answer

A. DMM's Comments Regarding How the CAISO Calculates Reference Levels Exceed the Scope of this Proceeding and Lack Merit

The CAISO proposes tariff revisions to allow suppliers to request automated or manual adjustments to the CAISO-calculated commitment cost reference levels (*i.e.*, proxy cost-based default start-up bids and proxy cost-based default minimum load bids)⁷ and energy reference levels (*i.e.*, variable cost-based default energy bids) prior to the CAISO market process. Specifically, the CAISO proposes to allow a supplier to submit an automated or manual request to change its resource's commitment cost reference level or energy reference level prior to the CAISO market process to reflect the resource's actual or expected fuel or fuel-equivalent costs. The CAISO does not propose any changes to the existing methodologies used for calculating the reference levels themselves.

DMM generally agrees with the CAISO's proposal to allow suppliers to request changes to their reference levels.⁸ Specifically, DMM states that it "supports each of the general elements of the CCDEBE proposal included in this tariff filing." However, DMM also states it "continues to believe that several key details of the CAISO's proposed rules for allowing suppliers to request

⁷ Under the CAISO tariff, commitment cost bid caps are calculated using either the proxy cost methodology or the registered cost methodology. All resources, except certain use-limited resources that are modeled under the registered cost methodology, bid their commitment costs (*i.e.*, their start-up costs, minimum load costs, and transition costs) pursuant to the proxy cost methodology. Transmittal letter for CCDEBE Tariff Amendment at 3 n.9 and 7.

⁸ DMM at 1-2, 20, 24.

adjustments to their commitment cost and energy reference levels merit further clarification and/or modification.”⁹ For the reasons set forth below, the Commission should reject DMM’s various arguments and find that the CAISO’s proposal is just and reasonable.

1. DMM’s Comments On the CAISO’s Continued Use of the Multipliers in Calculating Supplier Reference Levels Go Beyond the Scope of this Proceeding

As discussed below, under the existing tariff the CAISO uses a 25 percent multiplier in calculating commitment cost reference levels and a 10 percent multiplier in calculating energy reference levels. DMM states that it “continues to question the need to continue to include a 25% headroom scalar in commitment cost bid caps calculated by the CAISO.”¹⁰ DMM also seems to question the need to continue to use the 10 percent multiplier in calculating energy reference levels.¹¹ The CAISO need not justify either of the existing, Commission-approved multipliers in this proceeding because the CAISO does not propose any changes to those multipliers in the CCDEBE Tariff Amendment.¹²

⁹ *Id.* at 2.

¹⁰ *Id.* at 5. *See also id.* at 12 (“As explained in DMM’s comments during the CCDEBE stakeholder process, DMM continues to question the need for applying the current 25% headroom scalar to commitment cost bid caps calculated by the CAISO”). DMM refers to the 25 percent and 10 percent multipliers as “scalars” throughout its comments.

¹¹ *See id.* at 14 (arguing that “since the start of the [CA]ISO’s nodal market in 2009, the CAISO has implemented a series of rule changes to ensure that all identified non-fuel costs are directly incorporated into the energy and commitment bid costs *before* the additional 10% and 25% headroom scalars are applied”) (Emphasis in original).

¹² *See, e.g.,* Potomac-Appalachian Transmission Highline, LLC, 158 FERC ¶ 61,050, at P 222 (2018) (citing *Winnfield v. FERC*, 744 F.2d 871 (D.C. Cir. 1984)) (“A contrary result, in which the filing utility bore the burden of justifying unchanged components of a filed rate, would, the Court explained, upend the basic structure and purpose underlying sections 205 and 206 of the FPA.”).

As to the 25 percent commitment cost reference level multiplier, the CAISO explained in the CCDEBE Tariff Amendment that under the existing tariff all resources (except certain use-limited resources that are modeled under the registered cost methodology) bid their commitment costs pursuant to the proxy cost methodology. The calculated proxy cost includes fuel input costs and various other cost components listed in the tariff.¹³ Resources subject to the proxy cost methodology submit daily bids for their commitment costs that are between zero and 125 percent of the calculated proxy cost (the proxy cost bid cap), which is based on daily natural gas prices and other costs.¹⁴ The Commission approved the existing 125 percent proxy cost bid cap (*i.e.*, the 25 percent multiplier used in calculating commitment cost reference levels) in 2014.¹⁵ The CAISO does not propose to change the 25 percent multiplier in the CCDEBE Tariff Amendment. Instead, the CAISO merely proposes to move tariff provisions setting forth the 25 percent multiplier to different locations within the tariff and to add new defined terms related to use of the multiplier.¹⁶

¹³ The other listed cost components include auxiliary power costs, greenhouse gas costs, major maintenance expenses, and operation and maintenance costs. Existing tariff sections 30.4.1.1.1(a) and 30.4.1.1.2(a). As was the case in the transmittal letter for the CCDEBE Tariff Amendment (see footnote 12 thereto), for the sake of clarity this answer distinguishes between existing tariff provisions (*i.e.*, provisions in the current CAISO tariff), new tariff provisions (*i.e.*, provisions that the CAISO proposes to add to the tariff in the CCDEBE Tariff Amendment), revised tariff provisions (*i.e.*, existing tariff provisions that the CAISO proposes to revise in the CCDEBE Tariff Amendment), and deleted tariff provisions (*i.e.*, existing tariff provisions that the CAISO proposes to delete in the CCDEBE Tariff Amendment).

¹⁴ Transmittal letter for CCDEBE Tariff Amendment at 7.

¹⁵ *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,284, at P 31 (2014).

¹⁶ See transmittal letter for CCDEBE Tariff Amendment at 52-53; new tariff sections 30.4.4.1 – 30.4.4.2; revised tariff sections 30.7.9(e) and 30.7.10.1(a); deleted tariff section 30.4.1.1.5; tariff appendix A, new definition of “Default Commitment Cost Bids” and revised definition of “Proxy Cost”.

With regard to the 10 percent energy reference level multiplier, the CAISO explained in the CCDEBE Tariff Amendment that all default energy bids under the variable cost option include a 10 percent adder to the CAISO's calculated cost based on natural gas price indices and other listed cost components.¹⁷ The CAISO calculates default energy bids using the same gas commodity price formulas that apply to commitment costs.¹⁸ The 10 percent adder (*i.e.*, the 10 percent energy reference level multiplier) accounts for incidental costs and gives a marginal resource an opportunity to make a profit.¹⁹ The Commission approved the existing 10 percent energy reference level multiplier in 2006.²⁰ The CAISO does not propose to change the 10 percent multiplier in the CCDEBE Tariff Amendment.

Because the CAISO does not propose any changes in the CCDEBE Tariff Amendment to either the 25 percent commitment cost reference level multiplier or the 10 percent energy reference level multiplier, DMM's arguments regarding

¹⁷ Existing tariff section 39.7.1.1 states that for natural gas-fired resources, the 10 percent adder is added to the sum of incremental cost (comprised of incremental fuel cost plus the volumetric grid management charge plus greenhouse gas cost if applicable) plus variable operation and maintenance cost. For non-natural gas-fired resources, the 10 percent adder is added to the sum of incremental fuel or fuel-equivalent cost plus the volumetric grid management charge plus greenhouse gas cost if applicable. Existing tariff section 39.7.1.1.

¹⁸ Transmittal letter for CCDEBE Tariff Amendment at 10. The CAISO also generates cost-based bids (*i.e.*, generated bids) using the same cost components and resource-specific information used in the variable-cost default energy bid, and it determines gas costs for generated bids of natural gas-fired resources using the same gas pricing provisions. *Id.* at 10-11. To reflect these existing features of generated bids, the CAISO proposes to revise its tariff in the CCDEBE Tariff Amendment to define a generated bid as a post-market bid generated by the CAISO using the applicable default energy bid and default commitment cost bids. *Id.* at 55-56.

¹⁹ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274, at P 1045 (2006), *order on reh'g and clarification*, 119 FERC ¶ 61,076, at P 501 (2007); *Nev. Power Co., et al.*, 153 FERC ¶ 61,206, at P 55 (2015).

²⁰ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274, at P 1045.

the CAISO's continued use of those multipliers are beyond the scope of this proceeding.²¹ DMM should raise any such arguments in a CAISO stakeholder process where all stakeholders, including DMM, will have an opportunity to consider and discuss the merits of DMM's arguments. If the stakeholder process were to result in a proposal to revise the existing multipliers that the CAISO Governing Board approved, the CAISO would file a separate tariff amendment and the Commission would then decide the merits of the proposal. But the CCDEBE Tariff Amendment is not that filing.

2. It Is Just and Reasonable to Use the Same Multipliers to Calculate Reference Level Change Request that the CAISO Uses to Calculate Reference Levels

DMM argues that the Commission should not accept the CAISO's proposal to require that suppliers calculate reference level change requests for their resources using the same 25 percent and 10 percent multipliers that the CAISO uses to calculate resources' commitment cost and energy reference levels under the existing tariff.²² DMM contends that the reference level change

²¹ See, e.g., *PJM Interconnection, L.L.C.*, 165 FERC ¶ 61,232, at P 13 (2018) ("We find that the Market Monitor's argument that Peak Load Contribution alone should be used to calculate the annual nominated value of a Demand Resource is beyond the scope of this proceeding. PJM does not propose in this filing to modify the calculation of a Demand Resource's annual nominated value. Rather, PJM proposes only to modify the calculation of Winter Peak Load."); *ISO New England Inc.*, 137 FERC ¶ 61,112, at P 17 (2011) ("To the extent Genco opposes the [existing] Tariff provisions themselves, its arguments are beyond the scope of this proceeding, which is governed by section 205 of the Federal Power Act (FPA).").

²² DMM at 7-15. It is evident from DMM's comments, including its quotation of the relevant provision in new tariff section 30.11.2.2, that DMM understands this to be the CAISO's proposal. See, e.g., DMM at 7-8, 11. However, DMM also asserts that the transmittal letter for the CCDEBE Tariff Amendment does not clearly explain what the proposal is. *Id.* at 6-7. The CAISO sees no ambiguity in the transmittal letter, which states (in a sentence DMM fails to mention) that "[a] supplier must calculate revised reference levels that it submits in a change request consistent with the methodology the CAISO systems use to calculate a resource's proxy cost-based default start-up bids, default minimum load bids, and variable cost-based default energy bids"; that statement is also followed by a footnote that specifies that the CAISO will multiply the proxy cost

request calculations should not include the existing 25 percent and 10 percent multipliers because that will allow suppliers to request reference levels that are significantly above resources' actual costs and above the CAISO-calculated reference levels even when they significantly exceeded the resources' actual costs. DMM's argument is without merit.²³ It is just and reasonable to require suppliers to use the same multipliers in their calculations that the Commission has already found to be just and reasonable for use by the CAISO systems in the similar context of calculating the commitment cost and energy reference levels.²⁴

Pursuant to the reference level change request calculation, the supplier must multiply the resource's proxy costs (including its actual or expected fuel or fuel-equivalent costs) by 125 percent to determine its adjusted commitment cost reference level, or multiply the resource's variable costs (including its actual or expected fuel or fuel-equivalent costs) by 110 percent to determine its adjusted

by the 25 percent commitment cost reference level multiplier. Transmittal letter for CCDEBE Tariff Amendment at 27 & n.83.

²³ Although the CAISO believes that inclusion of the multipliers in the reference level change request calculations is just and reasonable, the multipliers are not an essential component of the CCDEBE Tariff Amendment. Therefore, even if the Commission were to reject the inclusion of the multipliers in those calculations, such rejection would not adversely impact Commission acceptance of the rest of the tariff revisions the CAISO proposes.

²⁴ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,058, at P 17 (2014) ("In evaluating whether the EIM proposal is just and reasonable in the context to which it will be applied, the Commission appropriately observed, among other rationales, that the rules and structures previously have been found just and reasonable in a similar context. This comparison is particularly relevant where, as here, the market to which the proposal will be applied is based on the market in which elements of that proposal have been found just and reasonable."); *Midcontinent Indep. Sys. Operator, Inc.*, 165 FERC ¶ 61,190, at P 72 (2018) ("We continue to find that the use of the two percent Distribution Factor threshold is just and reasonable. As MISO has observed, the Commission has already approved this standard in a similar context, and we see no reason not to do so here.").

energy reference level.²⁵ The CAISO systems will compare the automated reference level change request with a reasonableness threshold calculated (and later adjusted as needed) by the CAISO for the resource to determine whether the revised reference level will be approved automatically.²⁶

It is appropriate to include the complete set of components used to calculate the reference levels, including the 25 percent and 10 percent multipliers, in reference level change requests because the whole purpose of this initiative is to ensure that suppliers have a method for seeking revisions to their reference levels if in their totality the methodology for calculating their reference levels does not capture a supplier's expected costs. The CAISO calculates the reference levels based on formulaic approaches to capture a resource's start-up and minimum load costs and costs for marginal energy above minimum load to ensure that when suppliers are subject to commitment cost bids and default energy bids, they can reasonably recover their costs.²⁷ In addition, the CAISO

²⁵ Transmittal letter for CCDEBE Tariff Amendment at 25-28; new tariff sections 30.11.2 – 30.11.2.2. As was the case in the transmittal letter for the CCDEBE Tariff Amendment (see footnote 12 thereto), for the sake of clarity this answer distinguishes between existing tariff provisions (*i.e.*, provisions in the current CAISO tariff), new tariff provisions (*i.e.*, provisions that the CAISO proposes to add to the tariff in the CCDEBE Tariff Amendment), revised tariff provisions (*i.e.*, existing tariff provisions that the CAISO proposes to revise in the CCDEBE Tariff Amendment), and deleted tariff provisions (*i.e.*, existing tariff provisions that the CAISO proposes to delete in the CCDEBE Tariff Amendment).

²⁶ Transmittal letter for CCDEBE Tariff Amendment at 28-40; new tariff sections 30.11.1 – 30.11.1.4, 30.11.3.1, and 30.11.3.3. A supplier that submits an automated reference level change request will be required to maintain documentation of contemporaneously available information to support the resource's actual or expected costs, and the CAISO will retain rights to audit the supplier at any time. Transmittal letter for CCDEBE Tariff Amendment at 40-43; new tariff sections 30.11.3.2 and 30.11.3.4. Alternatively, a supplier can submit a manual reference level change request, which must include the supporting documentation, prior to the CAISO market process if the resource's costs exceed a tariff-specified level. Transmittal letter for CCDEBE Tariff Amendment at 43-45; new tariff sections 30.11.4.1 – 30.11.4.3.

²⁷ Transmittal letter for CCDEBE Tariff Amendment at 7-10.

may update reasonableness thresholds based on changes in the gas price indices. These formulaic approaches include proxy values for fuel or fuel-equivalent costs that may or may not reflect a resource's actual or expected fuel or fuel-equivalent cost exposure. Resources may have a request that cannot be processed through the automated process and may not have an opportunity to make a manual request. If the reference level change request calculations did not include the 25 percent and 10 percent multipliers, the CAISO may fail to reflect all fuel or fuel-equivalent costs the resource may face related to gas price volatility and/or incidental costs unrelated to gas price volatility.

Moreover, if the Commission were to accept DMM's argument, then suppliers who do not request a reference level adjustment would have more "headroom" to reflect such costs as compared to suppliers that did make a reference level change request. This would essentially result in two bidding rule regimes – one regime for suppliers that submit reference level change requests and a different regime for suppliers that do not submit such requests. The CAISO is concerned that such a dual bidding structure would be unduly discriminatory and unjust and unreasonable. As discussed above, the CAISO is not proposing any changes to the bidding rules for commitment costs in this proceeding and has not vetted the implications of a dual bidding structure. It is important to keep in mind that the commitment cost bid caps are in place at all times. Entities that did not request changes would be able to bid up to 125 percent of their calculated proxy costs, but entities that did request changes and updates would only be able to bid up to their calculated proxy costs.

Given the purpose of the CCDEBE Tariff Amendment, it is reasonable to apply the 25 and 10 percent multipliers to reference level change requests, and doing so strikes a reasonable balance between cost causation and providing resources with sufficient flexibility to recover their costs.²⁸ Further, in Order No. 831, the Commission stated that an Independent System Operator or Regional Transmission Organization could choose to retain an existing adder above cost or propose a new adder above cost in a cost-based incremental energy offer (*i.e.*, a default energy bid under the CAISO tariff) above \$1,000 per megawatt-hour (MWh), so long as the adder above cost does not exceed \$100/MWh.²⁹ Including the 10 percent multiplier in the energy reference level change request calculations is consistent with this Commission directive.³⁰

DMM provides several hypothetical scenarios to demonstrate that under the CAISO's proposal the supplier's natural gas costs could be increased above what DMM believes are the resource's actual costs, including scenario D to reflect implementation of the CCDEBE Tariff Amendment.³¹ The Commission should not find these hypothetical scenarios to be persuasive. Again, one of the main rationales for the CCDEBE Tariff Amendment is to address limitations on

²⁸ See *id.* at 8.

²⁹ *Offer Caps in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 831, FERC Stats. & Regs. ¶ 31,387, at P 207 (2016), *order on reh'g and clarification*, Order No. 831-A, 161 FERC ¶ 61,156 (2017).

³⁰ The CAISO submitted its filing to comply with Order No. 831 on September 5, 2019 in Docket No. ER19-2757-000. In that filing, which is currently pending before the Commission, the CAISO proposes to comply with the Commission directive described above by adding a provision to existing tariff section 39.7.1.1 to specify that, for any default energy bids calculated under the variable cost option that exceed \$1,000/MWh because of an approved reference level change request, any 10 percent adder (or frequently mitigated unit adder) will not exceed \$100/MWh.

³¹ DMM at 8-12.

the CAISO's ability to capture in its reference level calculations the actual or expected fuel or fuel-equivalent costs that resources incur or face when they are about to participate the CAISO market. As discussed above, the fact the CAISO must use gas price indices creates limitations and inefficiencies that must be addressed. The gas price indices the CAISO uses in its reference level calculations, even if the CAISO updates the gas prices as the CAISO proposes to do in the CCDEBE Tariff Amendment,³² are based on weighted averages that inherently will over- and under-represent an individual supplier's actual costs.

Based on the CAISO's understanding of hypothetical scenario D in DMM's comments, it is correct to conclude that the reasonableness threshold can increase to \$91.25/MWh, and the CAISO would accept a minimum load bid of \$90/MWh from the resource in this scenario. DMM suggests that this is problematic because the \$90/MWh minimum load bid would exceed the resource's costs. However, this conclusion is based on the incorrect assumption that the resource's fuel costs are exactly the price of fuel calculated by the CAISO.

DMM's assumption about the fuel costs is incorrect for reasons as discussed in the CCDEBE Tariff Amendment.³³ In the event the CAISO does not accept a reference level change request, the gas prices used in calculating the resource's reference levels are weighted average price indices, which by definition will reflect trades where the actual price is the average. Inclusion of the

³² See transmittal letter for CCDEBE Tariff Amendment at 31-40.

³³ *Id.* at 14-21.

multipliers in the reference level change request calculations, as the CAISO proposes in the CCDEBE Tariff Amendment, ensures the supplier can reflect its costs above the weighted average in its bids, which will allow the CAISO to dispatch resource more efficiently and compensate resources consistent with their costs.

It is true that under the CAISO's proposal the supplier in hypothetical scenario D would be able to submit a bid above its calculated costs up to \$90/MWh. However, DMM fails to consider an additional important consideration that is especially relevant in the case of commitment cost reference levels where there is no test for detecting whether a resource has market power prior to the application of the commitment cost reference level: namely, that resources are subject to the proxy cost bid cap, which puts a ceiling on their allowable reference levels at all times. The 25 percent multiplier reflected in the proxy cost bid cap addresses the fact that it is impossible for a formulaic calculation by the CAISO to always capture a resource's costs, even if the CAISO adjusts the fuel cost component. Indeed, the CAISO's proxy cost formula does not account at all for costs incidental to fuel commodity and transportation costs, such as hedging costs and other risk premiums.

In addition, the 25 percent multiplier will still be needed even with the reference level adjustment process and the CAISO's ability to update fuel prices because a supplier might have a reference level change request that can only be

entertained through the manual process.³⁴ The CAISO will be limited in the number of manual reference level change requests it can approve and will only review them in a limited time window each morning. Further, even though the CAISO is proposing to update fuel prices based on gas prices published by the Intercontinental Exchange (ICE),³⁵ it will not have sufficient information to do this for all fuel regions.

Further, the financial impact of the multipliers on the reference level change request calculations will be constrained by several tariff provisions proposed in the CCDEBE Tariff Amendment. For automated reference level change requests, the financial impact will be constrained by the CAISO-calculated reasonableness thresholds.³⁶ If the requested reference level change is equal to or less than the reasonableness threshold for the resource, the CAISO will approve the revised reference level; if the requested reference level change exceeds the reasonableness threshold for the resource, the CAISO will approve the revised reference level only up to the resource's reasonableness

³⁴ The manual reference level change request process is set forth in new tariff section 30.11.4 and described at pages 43-45 of the transmittal letter for the CCDEBE Tariff Amendment.

³⁵ See transmittal letter for CCDEBE Tariff Amendment at 32-34.

³⁶ The CAISO systems will calculate reasonableness thresholds for natural gas-fired resources using the same methodology they use to calculate resources' proxy cost-based default start-up bids, proxy cost-based default minimum load bids, and variable cost-based default energy bids, except that the fuel price used to calculate the reasonableness thresholds will be multiplied by a fixed percentage. For days without a published daily gas price index, the fixed percentage will be 125 percent consistent with rules set forth elsewhere in the tariff for calculating natural gas prices. For other days, the fixed percentage will be 110 percent, which will be the same fixed percentage the CAISO systems will use to calculate reasonableness thresholds for non-natural gas-fired resources using a similar methodology. New tariff sections 30.11.1.2.1 – 30.11.1.2.2. The CAISO will also be able to adjust the calculated reasonableness thresholds to account for subsequent increases in gas prices and for persistent conditions. New tariff sections 30.11.1.3 – 30.11.1.4.

threshold.³⁷ Thus, even with the multipliers included in the automated reference level change calculations, the reasonableness threshold will set a ceiling on the revised reference level the CAISO will approve.

The tariff provisions discussed above will help to ensure that use of the multipliers in the reference level change request calculations will result in just and reasonable rates in accordance with the Federal Power Act (FPA). As the Commission has explained, “Section 205 of the FPA requires that ‘[a]ll rates and charges made . . . shall be just and reasonable.’ The FPA does not prescribe any particular ratemaking methodology to be followed in setting rates so long as rates fall within a zone of reasonableness, *i.e.*, the rates are neither less than compensatory to the seller nor excessive to the consumer.”³⁸ Further, “[u]nder the statutory standard of ‘just and reasonable’ it is the result reached not the method employed which is controlling.”³⁹ Use of the multipliers in the reference level change request calculations satisfy these requirements of the FPA.

3. Applying the 25 Percent and 10 Percent Multipliers in the Reference Level Change Request Calculation Will Not Undermine the CAISO’s Ability to Perform *Ex Post* Verification of Suppliers’ Actual or Expected Costs

DMM argues that allowing suppliers to apply the 25 percent and 10 percent multipliers in their supplier-determined costs (*i.e.*, their reference level change requests) will undermine the CAISO’s ability to perform *ex post*

³⁷ New tariff section 30.11.3.3.

³⁸ *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity, and Ancillary Services by Public Utilities*, Order No. 697-A, 123 FERC ¶ 61,055, at P 407 (2008) (quotation marks in original) (citations omitted).

³⁹ *FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944).

verification of their actual or expected costs.⁴⁰ DMM asserts that allowing the use of the multipliers will cause reference level requests to become a regular occurrence rather than a rare occurrence. DMM is incorrect. Its argument in fact underscores the importance of the need to provide a just and reasonable methodology for allowing suppliers the ability to reflect their actual or expected costs fuel or fuel-related costs in their reference level change requests.

The CCDEBE Tariff Amendment is necessary to address the current inability of suppliers under certain conditions to accurately reflect their costs in the CAISO market, which leads to both dispatch and economic inefficiencies.⁴¹ DMM does not refute the need to address these issues and in fact supports the CAISO's proposal overall.⁴² Although it is correct that suppliers will be allowed to submit reference level change requests for gas prices that are only marginally higher than the CAISO uses to calculate their reference levels, other than administrative efficiency, DMM offers no reason why suppliers should not be permitted to reflect those costs in the CAISO markets and dispatch for the reasons explained in the CCDEBE Tariff Amendment and this answer.

DMM is also incorrect to suggest that the CAISO's ability to perform *ex post* verification of actual or expected costs will be hampered because of the volume of requests. The CAISO and stakeholders developed a just and reasonable methodology that allows the CAISO the ability to ensure that reference level change requests submitted before the CAISO market process

⁴⁰ DMM at 15-16.

⁴¹ Transmittal letter for CCDEBE Tariff Amendment at 14-21.

⁴² DMM at 2, 24.

and requests for payment of actual incurred costs after the CAISO market process are based on verifiable costs. As explained above the CAISO will also retain the right to audit automated reference level change requests at any time, even in cases where the automated change request falls within the reasonableness threshold. It will not be a complicated process to evaluate a resource's fuel or fuel-equivalent costs given that the CAISO can require the supplier to provide the documentation of contemporaneous available information, which includes detailed supporting information and calculations that led to the supplier's decision to submit a reference level change request. As part of its readiness efforts to implement the proposed rules, the CAISO has already developed internal procedures to conduct its audits of the automated reference level change requests.

Further, as explained above, for manual change requests, the supplier will be required to submit documentation of contemporaneous available information that shows that its resource's actual or expected fuel or fuel-equivalent costs exceed the fuel or fuel-equivalent costs the CAISO used to calculate the resource's reference level by the greatest of 10 percent or \$0.50/MMBTU, as applicable. The CAISO will soon issue details in its business practice manuals to ensure that suppliers are aware of the details of the data the CAISO will need.

The fact that the reference level change request calculations will include use of the multipliers will not pose a calculation problem for the CAISO. The multipliers are fixed, known, and simple to apply.

DMM is also incorrect that the multipliers will complicate requests for payment of actual incurred costs after the CAISO market process. Today the CAISO includes the multipliers in calculating the reference levels. The CAISO has already addressed or is addressing several matters filed at the Commission that evaluate after-the-fact whether the fuel costs actually incurred caused the resource to participate in the CAISO markets with commitment costs and default energy bids that did not adequately cover those costs.⁴³ Educated by its experiences in these proceedings, the CAISO is proposing specific procedures that suppliers must follow to ensure the CAISO can isolate and evaluate whether the actual fuel or fuel-equivalent costs were higher than the costs accounted for in the resource's reference levels.⁴⁴ The CAISO can readily evaluate the various components of the supplier's calculations and documentation to reach its conclusions. Again, it is not mathematically complex to consider the known and constant multipliers used to calculate the resource's reference levels based on the existing methodologies. DMM does not explain why the CAISO is not equipped to carry out these calculations.

Finally, there is no reason to believe that including the multipliers in the reference level change request calculations would prevent the CAISO from auditing suppliers' actual or expected costs effectively, even if DMM were correct that including the multipliers will result in a large volume of reference level change requests. Such audits will occur after the reference level request is

⁴³ See transmittal letter for CCDEBE Tariff Amendment at 24.

⁴⁴ See new tariff section 30.12.4.

approved or rejected, and neither the supplier's requirement to retain documentation supporting a reference level change request, nor the CAISO's right to audit that information, are time-limited. The proposed tariff provisions clearly place the burden on suppliers to respond to the CAISO's audits and *ex post* evaluations. If the CAISO cannot conclude that the *ex ante* requests are warranted, the scheduling coordinator will be prevented from making requests for a period of time. Also, if the CAISO cannot determine that the supplier has sufficiently justified after-the-fact cost recovery through the *ex post* verification process, the CAISO will not make the requested payments after the CAISO market process. These measures will provide a strong incentive for the suppliers to be prepared with the necessary documentation and explanations both *ex ante* and *ex post*.

B. The Commission Should Accept the Proposed Tariff Revisions Regarding the Reasonableness Threshold

1. The Tariff Revisions Accurately Describe Which Resources and Bids Will Be Exempt from the Reasonableness Threshold Calculation

The first two sentences of new tariff section 30.11.1.1 specify which types of resources and bids are exempt from calculation of the reasonableness thresholds. SCE and the Six Cities suggest that the CAISO revise or supplement these sentences for greater clarity.⁴⁵

There is no need to revise the first sentence of tariff section 30.11.1.1, which states in straightforward fashion that “[t]he CAISO will calculate

⁴⁵ SCE at 4; Six Cities at 3.

Reasonableness Thresholds for all resources except for Non-Resource-Specific System Resources.” However, the CAISO agrees that the second sentence of the tariff section, which specifies which types of bids are exempt from the reasonableness threshold calculations, should be revised for further clarity. Specifically, the CAISO requests that the Commission direct it on compliance to make the following changes to that sentence: “The CAISO will ~~not~~ calculate Reasonableness Thresholds for evaluating Reference Level Change Requests for Bids from resources, other than Hydro Default Energy Bids and ~~or~~ Virtual Bids.”

2. The CAISO Should Be Permitted to Adjust the Reasonableness Threshold for Persistent Conditions

The CAISO proposes to add a tariff provision giving it the authority to adjust the reasonableness threshold for a specific resource if the CAISO observes that the resource’s actual fuel or fuel-equivalent costs are systematically greater than the gas price indices or fuel-equivalent costs used by the CAISO in calculating the resource’s corresponding reference levels. Such adjustments due to persistent conditions will allow the CAISO to tune the resource’s reasonableness thresholds to better reflect the resource’s actual costs.⁴⁶

DMM states that if in practice the CAISO does not frequently adjust the reasonableness threshold pursuant to the new tariff provision, there may be no need to provide further implementation detail regarding such adjustments. But if

⁴⁶ Transmittal letter for CCDEBE Tariff Amendment at 35; new tariff section 30.11.1.4.

the CAISO does frequently need to adjust the reasonableness threshold pursuant to the tariff provision, DMM argues that the CASO should define what it means by a systematically greater amount of actual fuel or fuel-equivalent costs, how long the adjustment will be effective, and how the CAISO will determine the size of the adjustment.⁴⁷

It is not possible to define in advance what constitute systematically greater amounts of actual fuel or fuel-equivalent costs. However, the CAISO proposes that if it determines after review of the submitted after-the-fact requests that there exist verifiable market conditions that warrant modifications to a reasonableness threshold, the CAISO will adjust the reasonableness threshold to account for those verifiable facts.

The after-the-fact verifications will be based on the CAISO's assessments of actual costs that suppliers incurred. These assessments will not be speculative in nature and may reveal persistent market conditions that will affect a supplier's or a group of suppliers' fuel or fuel-equivalent costs. Even if the CAISO increases the reasonableness threshold for a resource as a result of its assessments, the supplier's reference levels will not be updated unless and until it submits a reference level change request, in which case all the safeguards discussed in the CCDEBE Tariff Amendment and in this answer will apply to ensure that the reference levels increase only if the supplier has or expects to have higher fuel or fuel-equivalent costs.

⁴⁷ DMM at 18-19.

C. The CAISO Clarifies that It May Be Appropriate for Suppliers to Reflect Gas Imbalance Penalties in Reference Level Change Requests But Not in Cost Recovery After the CAISO Market Process

DMM requests that the CAISO clarify in this answer that documentation of contemporaneously available information used to determine cost recovery before the CAISO market process does not include documentation of exposure to, or risk of, gas imbalance penalties.⁴⁸ The CAISO clarifies that this determination differs based on the information provided for demonstration of verification of reference level change requests, versus cost recovery after the CAISO market process.

As the Commission has articulated in the past, there is a concern with allowing resources to pass through gas company penalties to the electricity markets because doing so could undermine the gas companies' reliability-based rules.⁴⁹ The CAISO recognizes this is an inherent risk between the electric and gas markets and works closely with all the gas companies that affect its balancing authority area to ensure that the CAISO's actions and market dispatches do not impinge on gas reliability. However, with regard to reference level change requests, which suppliers submit before the CAISO market process, CAISO acceptance of increases to a resource's cost components to account for gas company penalties actually works in favor of gas reliability because it allows the CAISO to consider those costs in the CAISO market. If the supplier is able to factor them into their reference level change requests, the CAISO market

⁴⁸ *Id.* at 16-18.

⁴⁹ See *Cal. Indep. Sys. Operator Corp.*, 155 FERC ¶ 61,224, at P 96 (2016).

optimization will select the least-cost solution and thus may not dispatch those resources. The CAISO would only consider these costs in a reference level change request if they are supported by documentation that the supplier was unable to procure gas for the resource that would have allowed the supplier to avoid the penalties.

In contrast, allowing cost recovery after the CAISO market process would undermine the gas company penalty structure and encourage resources to violate gas company instruction. This could impact the gas company's ability to enforce its penalty structures. Therefore, the CAISO proposes to exclude gas company penalties from cost recovery after the CAISO market process because doing so would provide a disincentive for suppliers to follow gas company instructions.⁵⁰

The Six Cities state that compliance with restrictions on gas consumption imposed by pipelines and local general distribution companies generally should be expected, and that penalties for non-compliance should generally not be recoverable in the after-market process. However, the Six Cities go on to argue that the CAISO should allow a resource that incurs gas usage penalties pursuant to a CAISO dispatch instruction to recover them in that process.⁵¹

The CAISO disagrees, for the reasons explained above and because such cost recovery would be inconsistent with Commission precedent. The tariff revisions in the CCDEBE Tariff Amendment on after-market cost recovery are

⁵⁰ Transmittal letter for CCDEBE Tariff Amendment at 51.

⁵¹ Six Cities at 2-3.

largely modeled after the tariff provisions on after-market cost recovery that the Commission accepted in the Aliso Canyon proceedings.⁵² In the Aliso Canyon order accepting the CAISO's original set of tariff revisions on after-market cost recovery, the Commission rejected a commenter's argument that a resource that incurs gas imbalance penalties pursuant to a CAISO dispatch instruction should be entitled to recover them after-the-fact:

Likewise, we reject NRG's request to include OFO [operational flow order] penalty costs within the scope of fuel costs recoverable under these provisions. The Commission has previously found that "[a]llowing generators to recover costs and penalties associated with unauthorized natural gas consumption could jeopardize the reliability of natural gas pipeline and transmission systems and is therefore at odds with the reliability and costs benefits otherwise associated with allowing generators to recover actual fuel costs in reference levels." We find that the Commission's rationale in that proceeding applies with equal force here.⁵³

The Commission should make the same finding in the instant proceeding. If a resource wants to recover gas usage penalty costs associated with a CAISO dispatch instruction after the CAISO has dispatched the resource, it can seek relief from the pipeline or local distribution company.

D. Minor Tariff Changes Proposed by Commenters

The Six Cities propose that the CAISO correct a typographical error in new tariff section 30.11.1.1 and correct two erroneous cross-references and a grammatical error in new tariff section 30.11.3.4(b).⁵⁴ The CAISO agrees with

⁵² Transmittal letter for CCDEBE Tariff Amendment at 46.

⁵³ *Cal. Indep. Sys. Operator Corp.*, 155 FERC ¶ 61,224, at PP 90, 96 (quoting *N.Y. Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,111, at P 39 (2016)).

⁵⁴ Six Cities at 3, 4.

the corrections proposed by the Six Cities and requests that the Commission direct the CAISO to make them on compliance.

However, the CAISO disagrees with other changes proposed by SCE. SCE argues that, to minimize the risk of misinterpretation, the CAISO should retain existing language in tariff section 30.4.5.1(b)(iv) regarding the major maintenance expense adder included in proxy costs, which the CAISO proposed to delete in the CCDEBE Tariff Amendment.⁵⁵ New tariff section 30.4.5.1(e) specifies that proxy costs (including those in tariff section 30.4.5.1(b)(iv)) will include any major maintenance adders determined pursuant to tariff section 30.4.5.4. Thus, there is no risk that the provisions on the major maintenance adder will be misinterpreted.

SCE also recommends modifying the provision in revised tariff section 30.7.9(g) that references proxy start-up cost and the provision in revised tariff section 30.7.10.1(c) that references proxy minimum load cost to include the 25 percent multiplier set forth in new tariff section 30.4.4.1.⁵⁶ There is no reason to make this change. Tariff section 30.4.4.1 states that for resources under the proxy cost methodology, the CAISO will calculate a resource's default commitment cost bids as the applicable proxy cost multiplied by 125 percent. The CAISO proposes to define proxy cost in appendix A to the tariff to include proxy start-up cost and proxy minimum load cost. Because proxy start-up cost and proxy minimum load cost are multiplied by 125 percent pursuant to tariff

⁵⁵ SCE at 3.

⁵⁶ *Id.* at 3-4.

section 30.4.4.1, there is no need to modify tariff sections 30.7.9(g) and 30.7.10.1(c) to include that same multiplier.

E. The CCDEBE Tariff Amendment Inadvertently Omitted a Minor Tariff Change that the CAISO Will Propose on Compliance

In the transmittal letter for the CCDEBE Tariff Amendment, the CAISO stated that it proposed to make permanent the deletion of tariff section 31.6.1(v), which is currently omitted from the tariff until December 31, 2019 pursuant to tariff changes the Commission accepted on an interim basis in the most recent order issued in the Aliso Canyon proceedings.⁵⁷ However, after the CAISO submitted the CCDEBE Tariff Amendment, it discovered that it had inadvertently not included the proposed deletion of tariff section 31.6.1(v) in the red-lined document provided in attachment B thereto.

For the reasons the CAISO has explained, the Commission should accept on a permanent basis the tariff changes it accepted on an interim basis in the Aliso Canyon proceedings.⁵⁸ For the same reasons, the CAISO requests that the Commission direct the CAISO to delete tariff section 31.6.1(v) in a compliance filing to be submitted in this proceeding.

⁵⁷ See transmittal letter for CCDEBE Tariff Amendment at 9 & n.30, 53-55 & n.184 (citing *Cal. Indep. Sys. Operator Corp.*, 165 FERC ¶ 61,161, at P 45 (2018)). Making the deletion of tariff section 31.6.1(v) permanent is also consistent with the CCDEBE changes approved by the CAISO Governing Board. See CCDEBE Board Memorandum, attachment D to CCDEBE Tariff Amendment, at 8.

⁵⁸ See transmittal letter for CCDEBE Tariff Amendment at 53-55.

III. Conclusion

For the foregoing reasons, the Commission should accept the tariff revisions contained in the CCDEBE Tariff Amendment as filed, subject to the further tariff modifications proposed in this answer.

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Dated: October 7, 2019

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced proceeding, pursuant to 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 7th day of October, 2019.

/s/ Grace Clark

Grace Clark