

133 FERC ¶ 61,020
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

California Independent System Operator
Corporation

Docket No. ER10-2191-000

ORDER GRANTING TEMPORARY WAIVER OF TARIFF PROVISION

(Issued October 8, 2010)

1. On August 10, 2010, California Independent System Operator Corporation (CAISO) filed a petition for waiver of paragraph (a) of section 24.2.3 of the CAISO Open Access Transmission Tariff (Tariff), which permits market participants to submit proposals for economic transmission upgrades or additions through a transmission planning request window.¹ As discussed below, we grant CAISO a temporary waiver until the earlier of the Commission's action on CAISO's pending revised transmission planning process (RTPP) in Docket No. ER10-1401-000 or January 3, 2011. Our grant of this temporary waiver does not prejudice the outcome of the RTPP proceeding.

I. Background

2. On June 4, 2010, CAISO filed proposed revisions to its Tariff to implement the RTPP.² The proposed RTPP includes revisions to the procedure for submitting economic project proposals, which is currently done through the transmission planning request window. On July 26, 2010, the Commission issued an order finding that CAISO had not shown that the RTPP is just and reasonable and that CAISO's proposed tariff sheets lacked the specificity and clarity necessary for the Commission to evaluate the proposal.³

¹ CAISO August 10, 2010 Petition for Waiver of Tariff Provision, Docket No. ER10-2191-000 (Petition).

² CAISO June 4, 2010 Revised Transmission Planning Process Proposal, Docket No. ER10-1401-000.

³ *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,067 (2010).

Consequently, the Commission accepted and suspended the proposed RTPP tariff revisions to become effective the earlier of January 3, 2011 or a date set in a further Commission order.⁴

3. On August 10, 2010, CAISO submitted the instant petition for waiver.

II. CAISO's Proposed Waiver

4. CAISO asks the Commission to waive Tariff section 24.2.3(a), which permits the submittal of proposals for economic transmission upgrades or additions during an annual request window. CAISO seeks this waiver for the 2010/2011 planning cycle. CAISO explains that Tariff section 24.2.3 sets forth a request window for the submission of various transmission proposals, including economic projects, reliability-driven projects, location constrained resource interconnection facility projects, demand response programs, generation projects, requests for economic planning studies, and merchant transmission facilities.⁵ CAISO explains that the Commission-suspended RTPP would remove economic transmission projects from the list of proposals that may be submitted during a request window. CAISO states that instead, under the proposed RTPP, it would identify needed economic transmission projects (elements) and then conduct a solicitation process for interested project sponsors. CAISO argues that the suspension of the RTPP, therefore, creates "uncertainty" with respect to the future use of a request window for economic projects.⁶ CAISO contends that waiver of Tariff section 24.2.3(a) would eliminate inefficiencies inherent in opening a 2010 request window for economic transmission upgrades or additions that would be rendered moot if the Commission were ultimately to accept the features of the RTPP that replace the request window for economic projects.

III. Notice of Filing and Responsive Pleadings

5. Notice of the petition was published in the *Federal Register*, 75 Fed. Reg. 51,259 (2010), with motions to intervene and comments due on or before August 31, 2010. Timely motions to intervene were filed by Southern California Edison Company (SoCal Edison); Desert Southwest Power, L.L.C. (Desert Southwest); Pacific Gas and Electric Company; Green Energy Express, L.L.C. and 21st Century Transmission, L.L.C.; Western Independent Transmission Group (WITG); Transmission Agency of Northern California; the City of Santa Clara, California and the M-S-R Public Power Agency; and

⁴ *Id.*

⁵ *See* Petition at 5 and CAISO Tariff § 24.2.3.

⁶ Petition at 2.

Modesto Irrigation District. No protests were filed. SoCal Edison, WITG and Desert Southwest filed comments. SoCal Edison supports CAISO's proposal to temporarily suspend the requirement to propose economic projects in the request window. SoCal Edison states that the waiver would eliminate inefficiencies and avoid unnecessary work until RTPP is acted on by the Commission. WITG supports CAISO's petition for waiver of the request window for economic project proposals, Tariff section 24.2.3(a), if the Commission directs CAISO to include demand response and generation project proposals in its waiver as well. WITG states that it would also support a Commission decision to defer action on CAISO's petition for waiver and WITG's supplemental waiver request pending the issuance of a formal order in the RTPP proceeding. Desert Southwest states that CAISO should consider projects submitted in the 2008 and 2009 request windows first, regardless of whether a waiver for the 2010/2011 request window is granted.

IV. Discussion

A. Procedural Matters

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Commission Determination

7. As explained below, the Commission finds good cause to grant a temporary waiver of section 24.2.3(a) of CAISO's Tariff and delay the request window period for economic transmission upgrades or additions until the earlier of the Commission's action on the RTPP or January 3, 2011. We find this temporary waiver will promote efficiency and avoid potentially unnecessary expenditure of resources associated with the development and evaluation of economically-driven transmission projects.

8. The Commission has historically granted certain waiver requests in cases involving an emergency situation and/or an unintentional error.⁷ Waiver, however, is not limited to those circumstances. Where good cause for a waiver of limited scope exists, there are no undesirable consequences, and the resultant benefits to customers are

⁷ See, e.g., *ISO New England Inc.*, 117 FERC ¶ 61,171, at P 21 (2006) (using reasoning typically applied to waivers to allow limited and temporary change to tariff to correct an error); *Great Lakes Transmission L.P.*, 102 FERC ¶ 61,331, at P 16 (2003) (granting emergency waiver involving *force majeure* event granted for good cause shown); and *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330, at P 5 (2003) (granting waiver for good cause shown to address calculation in variance adjustment).

evident, the Commission has found that a one-time waiver is appropriate.⁸ We find the waiver request in the instant proceeding meets these criteria. As elaborated below, we find good cause exists to grant a temporary waiver to avoid potentially unnecessary expenditure of resources and promote efficiency; no undesirable consequences will result from granting the waiver; and customers will benefit from conservation of resources.

9. CAISO's Tariff and the suspended RTPP tariff provisions reflect different approaches to transmission planning. Under the existing Tariff, CAISO must hold a request window for several types of transmission proposals, including economic projects, prior to the end of 2010. In contrast, under the proposed RTPP, CAISO would no longer hold a request window for the submission of economic transmission upgrades or additions. Instead, starting with the 2010/2011 planning cycle, CAISO proposes to identify needed economic elements and then hold a solicitation process to elicit project proposals to meet those needs and choose a project sponsor. Because the RTPP proceeding is pending before the Commission, it is unclear to market participants whether they should submit economic project proposals to CAISO during the 2010 request window, as a precautionary measure in the event that RTPP is not accepted as proposed.

10. We find it appropriate to waive CAISO's obligation under Tariff section 24.2.3(a) until the earlier of Commission action on the RTPP or January 3, 2011. The waiver will save market participants and CAISO time and resources that would otherwise be spent on economic project proposals for the 2010/2011 planning cycle until such time that the Commission issues a decision in the RTPP proceeding. However, we emphasize that the waiver granted herein is temporary and does not prejudge the outcome of the RTPP proceeding. If the tariff provisions proposed in the RTPP proceeding are not accepted as proposed, the Commission may require CAISO to hold a request window for economic projects for the 2010/2011 planning cycle.

11. We find that WITG has not adequately supported its request that the waiver extend to demand response and generation project proposals. Accordingly, we deny WITG's request.

12. We find that Desert Southwest's request that projects submitted in the 2008 and 2009 request windows be considered prior to 2010 economic project proposals, if any, is beyond the scope of the petition. Therefore, we will not address this issue in this proceeding.

⁸ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226, *order on clarification*, 120 FERC ¶ 61,180 (2007) (granting a one-time waiver of the Tariff based on CAISO's representations that the waiver would obviate certain duplicative or redundant work).

The Commission orders:

CAISO's petition for waiver is hereby granted until the earlier of the Commission's action on the CAISO's revised transmission planning process or January 3, 2011, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.