

141 FERC ¶ 61,201  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony T. Clark.

California Independent System Operator  
Corporation

Docket No. ER13-40-000

ORDER ACCEPTING PROPOSED TARIFF CHANGES

(Issued December 10, 2012)

1. On October 5, 2012, pursuant to section 205 of the Federal Power Act (FPA),<sup>1</sup> the California Independent System Operator Corporation (CAISO) filed with the Commission proposed amendments to its tariff that would enable CAISO to release market related information to enhance participation in CAISO's energy, ancillary services, and congestion revenue rights (CRR) markets. Specifically, CAISO proposes to release: (1) market modeling data including transmission limits, load distribution factors, power transfer distribution factors, and aggregate generation outages; (2) CRR auction bid data; and (3) wind and solar energy resources forecast data. With respect to information that has been deemed critical energy infrastructure information (CEII),<sup>2</sup> CAISO's proposal contains measures to protect such information. As discussed below, the Commission accepts the tariff amendments effective December 11, 2012, as requested.

**I. Background**

2. In 2009, CAISO developed an initiative to allow for CAISO and stakeholders' review of CAISO's data release and accessibility policy. The initiative, which consisted of three phases, was intended to facilitate the release of data and information to allow market participants to better understand market

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<sup>1</sup> 16 U.S.C. § 824d (2006).

<sup>2</sup> CAISO Tariff, App. A (0.0.0) ("Critical Energy Infrastructure Information shall have the meaning given the term in the regulations of FERC at 18 C.F.R. § 388.12, et seq.").

results, and consequently, participate more effectively in the CAISO markets.<sup>3</sup> On July 12, 2010, the Commission accepted CAISO's phase one tariff revisions to enable CAISO to release the list of transmission constraints CAISO plans to enforce and actually enforces in the day-ahead market.<sup>4</sup> On October 15, 2010, the Commission addressed CAISO's phase two data issues relating to CAISO's implementation of convergence bidding.<sup>5</sup>

3. Phase three of the initiative focused on the identification of additional data that would improve overall market efficiency if released. Specifically, CAISO states that the scope of phase three related to the following data release issues: 1) additional market model data beyond the data released through the CRR full network model release process; 2) timing of access to market data; 3) CRR bid data; and 4) wind and solar energy resources forecasting data.<sup>6</sup> CAISO states that the instant filing represents the results of the data release phase three working group and stakeholder process.<sup>7</sup>

## II. The Instant Filing

4. CAISO proposes several tariff changes, including the addition of new sections, to provide for the release of additional market data. According to CAISO, by releasing the data discussed herein, market participants will be able to improve their ability to accurately analyze and simulate the market, and thereby improve the overall efficiency of market operations.

5. New section 6.5.10.1.4 provides that CAISO will release actual transmission limits. Currently, CAISO releases default transmission limits, which may not accurately reflect changes in system conditions. By providing the actual transmission limits, market participants will have the ability to anticipate transmission constraints on CAISO's grid.<sup>8</sup>

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<sup>3</sup> CAISO October 5, 2012 Tariff Filing at 1 (CAISO Filing).

<sup>4</sup> *California Independent System Operator Corporation*, 132 FERC ¶ 61,023 (2010).

<sup>5</sup> *California Independent System Operator Corporation*, 133 FERC ¶ 61,039, at PP 88-90 (2010).

<sup>6</sup> CAISO Filing at 2.

<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.* at 3.

6. New section 6.5.10.1.2 provides that CAISO will release actual load distribution factors used in the day-ahead market, where appropriate. While a portion of CAISO's load is already cleared and priced at the nodal level, the majority of its load is cleared and priced in the aggregate at load aggregation points. For load that is cleared and settled at the load aggregation points, the load distribution factors model how load is distributed among pricing nodes. CAISO currently provides typical load distribution factors, but asserts that the actual load distribution factors will allow market participants to more accurately analyze and simulate the market and better evaluate the impact of their bids on specific constraints.<sup>9</sup>

7. New section 6.5.10.1.3 provides that CAISO will release factors to show the impacts on a transmission constraint when a unit of energy is added at one location and removed from a different location. According to CAISO, the factors, termed shift factors, will help participants to analyze power flow and to validate the settlement process that evaluates the revenue impact of virtual bidding.<sup>10</sup>

8. The remaining tariff changes include a provision that CAISO will release bid data from CRR auctions, that it will release aggregate information on generation outages, and that it will provide information on generation outages and wind and solar forecasting data.<sup>11</sup> The CRR auction bid data will allow market participants to improve their forecasting ability by understanding why a bid was accepted or why it did not clear the auction. By aggregating the generation outage data, CAISO will avoid releasing confidential data on discrete generation sources, while still providing the market participants with more visibility to system conditions, which will allow the participants to make informed scheduling decisions. Also, CAISO proposes to aggregate the forecast data for certain variable energy resources and publish it to increase visibility of system conditions.<sup>12</sup>

9. CAISO asserts that some of the information to be released under the new tariff provisions may contain critical energy infrastructure information. Consequently, CAISO will disclose the protected data subject to the same

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<sup>9</sup> *Id.* at 5.

<sup>10</sup> *Id.* at 5-6.

<sup>11</sup> *Id.* at 7-9.

<sup>12</sup> *Id.* at 8-9.

protective provisions in place under its section 6.5.3.3.1 of its tariff,<sup>13</sup> which it now proposes to consolidate in section 6.5.10. Specifically, CAISO proposes to release the protected data to only those individuals who have executed CAISO's non-disclosure agreement for protected data. Further, parties that are not market participants must also demonstrate a legitimate business or governmental interest in the CAISO markets in order to obtain the protected data, in addition to other requirements. As an additional measure of protection, CAISO proposes a new tariff provision that gives CAISO the authority to suspend the release of market-related data if the CAISO determines that the release of such data results in anti-competitive or detrimental impacts to market efficiency.<sup>14</sup>

10. CAISO requests that the amendments proposed in this filing become effective on December 11, 2012.

### **III. Notice of Filing and Responsive Pleadings**

11. Notice of CAISO's filing was published in the *Federal Register*, 77 Fed. Reg. 63,305 (2012), with interventions and protests due on or before October 26, 2012. Timely motions to intervene were filed by: The City of Santa Clara, California and the M-S-R Public Power Agency; the California Department of Water Resources State Water Project; Pacific Gas and Electric Company; Southern California Edison Company; NRG Power Marketing LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo Power LLC, High Plains Ranch II, LLC, Long Beach Generation LLC, NRG Solar Alpine LLC, NRG Solar; Borrego I LLC, NRG Solar Blythe LLC, NRG Solar Roadrunner LLC, and Avenal Solar Holdings, LLC (together, NRG Companies).

12. Modesto Irrigation District (Modesto) filed a timely motion to intervene and comments, which CAISO answered.

13. While Modesto does not protest the release of any of the data or information proposed for release in the filing, it raises several issues regarding CAISO's treatment of CEII. First, Modesto seeks assurance that CAISO and the Commission will ensure that requests for Protected Data are only granted for legitimate purposes.<sup>15</sup>

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<sup>13</sup> Section 6.5.3.3.1 of the CAISO tariff addresses the release of information related to transmission constraints.

<sup>14</sup> CAISO Filing at 9.

<sup>15</sup> Modesto October 26, 2012 Comment at 5-6 (Modesto Comments).

14. Secondly, Modesto expresses concern that CEII held by government agencies or public entities could be subject to the Freedom of Information Act (FOIA), or other public disclosure laws. Accordingly, Modesto advises CAISO, the Commission, and market participants to collectively ensure that the CEII is afforded adequate protection under the applicable laws and regulations.

15. Lastly, Modesto suggests that CAISO and the Commission contemplate the development of a CEII tracking and control process. Modesto asserts that this requirement would enable enhanced tracking of who has documents, the location of the documents, and when the documents are created or destroyed, among other details.<sup>16</sup>

16. In response to Modesto's first concern, CAISO answers that its proposal contains provisions to ensure that only specific individuals will be able to access the data and that it will not be used for harmful purposes. CAISO states that it proposes to release the CEII in the same manner that it currently releases transmission constraints enforcement information.<sup>17</sup> CAISO contends that these measures ensure that the data is only distributed to parties who demonstrate a legitimate governmental or business interest in the CAISO markets. Moreover, CAISO asserts that the tariff provisions contain additional requirements for parties seeking access to the data who are not market participants or members of the Western Electric Coordinating Council. Additionally, CAISO notes that anyone with access to the data is obligated to report any violation of the access requirements.<sup>18</sup>

17. CAISO explains that section 5 of its non-disclosure agreement addresses Modesto's second concern directly. CAISO asserts that the non-disclosure agreement provides that, should a governmental entity subject to laws such as the FOIA possess CEII and receive a request for records involving the CEII, there are procedures in place to provide for the protection of the data.

18. In response to Modesto's third concern, CAISO emphasizes that each individual employee or consultant who will have access to the data must personally execute the non-disclosure agreement, which enables CAISO to track all individuals who have access to the data.<sup>19</sup>

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<sup>16</sup> *Id.* at 6.

<sup>17</sup> CAISO November 5, 2012 Answer at 3-5 (CAISO Answer).

<sup>18</sup> CAISO Answer at 5.

<sup>19</sup> *Id.* at 6.

#### **IV. Discussion**

##### **A. Procedural Matters**

19. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

20. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) 2012, prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept CAISO's answer because it has provided information that assisted us in our decision-making process.

##### **B. Commission Determination**

21. The Commission accepts CAISO's tariff amendments, effective December 11, 2012, to allow the release of additional market modeling data, CRR auction bid data, and wind and solar energy resource forecast data. We find that the additional data will enhance market participants' ability to accurately analyze and simulate the market, thereby improving overall market efficiency. We also find that the new tariff provisions will enhance market participants' understanding of market results and outcomes based on the additional transparency of market modeling data.

22. As asserted in Modesto's Comment and recognized by CAISO, the aforementioned market modeling data may be designated as CEII, which warrants protection. We agree, and find that CAISO's approach to protecting such data is reasonable.

23. We find that, through the implementation Section 6.5.10, CAISO is taking reasonable measures to adequately prevent the disclosure of CEII data. Specifically, under section 6.5.10, any entity seeking access to protected data must execute CAISO's non-disclosure agreement, which imposes restrictions on the use of the data, and enables CAISO to track the representatives, consultants and employees of the requesting entity that has access to the data. Further, the level of scrutiny is heightened for non-market participants, which must demonstrate a legitimate governmental or business interest in the CAISO markets.<sup>20</sup> Finally, the instant tariff revisions permit CAISO to suspend the release of any market-related data that CAISO determines will have detrimental or anti-competitive impacts.

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<sup>20</sup> *Id.* at 4-5.

24. We also find that CAISO has adequately addressed Modesto's concerns regarding the potential for disclosure of CEII through FOIA requests. Modesto explains that CEII could be subject to a FOIA request for CAISO maintained data, requiring further vetting beyond CAISO's procedures. However, under CAISO's proposal, in the event that a FOIA request is received by a federal government entity, such as the Commission, procedures exist to appropriately safeguard against disclosure of the data.<sup>21</sup> Further, both the Commission and CAISO have mechanisms in place to track and manage information about who has access to CEII.<sup>22</sup>

The Commission orders:

The Commission hereby accepts CAISO's revised tariff sheets, effective December 11, 2012, as requested.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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<sup>21</sup> *See, e.g.*, 18 C.F.R. § 388.113 (2012).

<sup>22</sup> *Id.* at 6-7.