

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

**California Independent System Operator) Docket No. ER07-127
Corporation)**

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

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2006), the California Independent System Operator Corporation (“CAISO”) hereby files this motion for leave to file answer to comments and protests filed in response to proposed modifications relating to generator Outage reporting requirements, filed by the CAISO on October 31, 2006 (“Outage Reporting Amendment”) in the above-referenced dockets. Specifically, the CAISO responds to Comments filed by Southern California Edison (“SCE”) and a Limited Protest filed by the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (“Six Cities”). To the extent that this is deemed an answer to a protest, the CAISO requests leave to make this response. The CAISO believes that the additional information contained herein will assist the Commission’s deliberations with respect to these issues.

I. BACKGROUND

A. The Outage Reporting Amendment

Earlier this year, Market Participants began to express concerns that the CAISO’s existing Outage reporting requirements, when combined with Commission-approved sanctions for failure to comply with these requirements and the current

reporting functionality provided by the CAISO's SLIC system, would require an unreasonably high level of reporting and potential exposure to sanctions. In addition, Market Participants noted that the applicability of the requirements to small Generating Units without telemetry might unjustly expose Generating Unit Owners to frequent Sanctions. Similarly, Market Participants maintained that, without an explicit minimum MW reporting threshold, they could not be assured that any particular level of reporting would be sufficient to avoid sanctions.

Based on these concerns, the CAISO, on July 12, 2006, filed with the Commission a petition for temporary waiver of Sanctions under Sections 37.4.1.2 and 37.4.3.2 of the CAISO Tariff for failure to report Outages and to provide additional explanations of Forced Outages, as required under those Sections. The CAISO explained that this waiver would allow the CAISO to investigate further the concerns about Outage reporting requirements, and to work with stakeholders to identify and develop potential changes that would address Market Participant concerns in a manner that maintains reliable grid operations. The CAISO requested that the waiver be effective as of December 19, 2005, and terminate on the earlier of October 31, 2006, or the effective date of a filing by the CAISO to terminate the waiver. On September 8, 2006, the Commission issued an order approving the CAISO's petition for waiver.

On October 31, 2006, after conducting a comprehensive stakeholder process involving representatives from no less than 31 separate stakeholders, the CAISO filed with the Commission the Outage Reporting Amendment, in which the CAISO proposed a number of modifications to the Outage reporting provisions of the CAISO Tariff in order to implement new reporting thresholds, as well as changes to other provisions of

the Tariff consistent with these new thresholds. The highlights of these proposed changes are:

- Generator operators must report a change from any previous report of the maximum output capability (i.e., the availability) of any resource, if that availability change is of at least 10 MW or five percent of the resource's P-max,¹ whichever is greater, and lasts 15 minutes or longer.
- If, on an unplanned basis, any resource is derated from P-max by more than 40 MW or 10 percent of P-max (whichever is greater) for a period of 15 minutes or longer, or if a resource is taken offline (i.e., disconnected from the electric system) on an unplanned basis, a detailed Forced Outage Report must be submitted to the CAISO.

Also, the CAISO explained that it had secured permission from its Board of Governors to implement improvements to its SLIC application in order to accommodate the new reporting thresholds described, as well as to make the application more user-friendly, intuitive, and better able to handle reporting requirements, even for Generator Operators with multiple resources.

B. Responses to the CAISO's Filing

The Commission received thirteen motions to intervene in this docket. Five of those included substantive comments on the CAISO's filing. Three of the five comments, from a broad range of Market Participants, were entirely supportive. For example, "PG&E fully supports the CAISO's proposed tariff changes and commends the CAISO for the deliberative approach toward consensus building. PG&E encourages

¹ P-max is the unrestricted maximum power output capability of a unit on file with the ISO.

FERC to approve the proposed changes as filed.”² Similar comments, “commend[ing]” the CAISO for “respond[ing] to stakeholder concerns,” and generally urging approval of the amendment were submitted by Williams Power Company and the Metropolitan Water District of Southern California.³

A fourth set of comments, submitted by the Six Cities, protested two technical errors, where the language of the Outage Reporting Amendment did not necessarily fulfill the purpose as explained in the accompanying transmittal letter.⁴ These two issues are addressed in Section II.D, below, in which the CAISO concurs with the Six Cities on these two issues. The Six Cities did not otherwise oppose the Amendment.

A fifth set of comments, submitted by SCE, opposed the minimum reporting threshold and purported to challenge the CAISO’s underlying sanction authority.⁵ Most of the remainder of this pleading addresses SCE’s comments.

II. DISCUSSION

A. The CAISO’s Reporting Requirement Threshold is Reasonable

SCE contends that the CAISO’s proposed bandwidth of 10MW or 5% of P-max for reporting Outages is unworkably low. SCE attempts to support this contention with several flawed arguments. First, SCE points out that, according to the CAISO’s Outage Reporting White Paper (“Outage White Paper”),⁶ the CAISO would be “one of only 3

² Motion for Leave to Intervene Out-of-Time and Support of Pacific Gas and Electric Company, November 22, 2006 at 2.

³ Motion to Intervene of Williams Power Company, November 21, 2006 at 4; Motion to Intervene and Comments of the Metropolitan Water District of Southern California on Outage Reporting Amendment to CAISO Tariff, November 21, 2006 at 7.

⁴ Motion to Intervene and Limited Protest on Behalf of the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California, November 21, 2006 (“Six Cities”).

⁵ Motion to Intervene and Comments of Southern California Edison, November 21, 2006 (“SCE”).

⁶ See Outage Reporting Amendment, Attachment A.

ISOs that require reporting of such low MW units.”⁷ While SCE’s statement is literally true, it omits important additional information – namely, that the other two ISOs addressed in the Outage White Paper (ISO-New England and New York ISO) *have no specific minimum outage reporting threshold*, that is, participants in those ISOs risk violating the respective tariffs unless they report *all outages*.⁸ A complete review of ISO outage reporting requirements therefore undermines rather than supports SCE’s argument because it shows that the CAISO’s proposed 10 MW threshold would rank among the least burdensome outage reporting requirements. SCE also contends that neither of the two other ISOs that set a minimum outage reporting threshold (Midwest ISO and ERCOT) include penalties for failure to comply with those thresholds. Again, however, SCE neglects to mention critical additional information. As documented in the Outage White Paper, ISO New England, which requires participants to report all outages (with no specific minimum threshold), imposes penalties for failure to comply with reporting requirements, and New York ISO imposes general sanctions for installed capacity suppliers that do not comply with generator requirements, such as outage reporting.⁹ Rather than detracting from the CAISO’s proposal, this information further demonstrates that the CAISO’s proposed threshold is no more burdensome than outage reporting mechanisms approved for other ISOs. SCE’s conclusion that the CAISO’s proposed reporting requirements and sanctions are somehow “drastic” as opposed to other ISOs is groundless.

⁷ SCE at 2-3.

⁸ Outage Reporting Amendment, Attachment A at 8.

⁹ *Id.* Also, even if an ISO does not have in its tariff specific penalties related to outage reporting, participants in those markets that fail to comply with the applicable outage reporting requirements are subject to sanction by FERC under what was previously Market Behavior Rule 3, now codified in 18 U.S.C. § 35.37, which requires sellers to “provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with . . . Commission-approved independent system operators.”

SCE also points out that Midwest ISO participants have a computer tool for submitting outage reports, and complains that reporting outages to the CAISO is a manual process, stating that it is infeasible for SCE to have its operating personnel spend time entering availability changes of a “minor magnitude” when those personnel should be focused on maintaining the reliability of SCE’s generation portfolio.¹⁰ But CAISO does not intend the Outage Reporting Amendment to become effective (or the stay on related sanctions to expire) before it implements upgrades to its SLIC software that are designed to enable easier outage reporting by Market Participants, as specifically stated in the transmittal letter accompanying the Outage Reporting Amendment, and addressed in further detail below. Thus, SCE’s complaint that the CAISO’s proposed reporting threshold is too low because it will rely on the CAISO’s current manual reporting process is not valid.

Other than its concerns about manual reporting, which are mooted by the ISO’s impending SLIC upgrades, SCE provides no explanation as to why the CAISO’s proposed threshold would constitute an unreasonable burden to Market Participants. It is telling that of the numerous generation-operating entities that participated in the robust stakeholder process that led up to the filing of the Outage Reporting Amendment, and/or intervened in this proceeding, only SCE has stated that the 10 MW/5% threshold is unreasonable. In fact, at least one other generator recommended during the stakeholder process that the CAISO adopt a *lower* threshold. Moreover, SCE does not dispute the CAISO’s conclusion that the 10MW/5% threshold is necessary from a reliability perspective. SCE contends, however, that if the Commission does determine that a minimum reporting threshold is necessary, that a threshold of 25 MW and greater

¹⁰ SCE at 3-4.

would strike a more “appropriate balance between grid reliability and burden on Market Participants.”¹¹ SCE provides no explanation whatsoever as to why a 25 MW threshold would be more appropriate. For these reasons, SCE’s request that the Commission reject the 10MW/5% reporting threshold should be denied.

B. The Commission Has Already Approved CAISO Sanctions Relating to Generator Reporting Requirements

SCE maintains that the Commission should deny the CAISO’s “request” for sanction authority relating to reporting of generator availability. SCE’s request, however, fails to take into account one very significant fact: the Commission has already approved the CAISO’s sanction authority in the context of the Amendment No. 55 proceeding, and the CAISO is not proposing in this docket any material change to the sanctions – the only such changes are to the underlying reporting requirements.

In Amendment No. 55, which the CAISO filed on July 22, 2003, the CAISO proposed, *inter alia*, to require Market Participants to comply with all reporting requirements governing the availability and maintenance of a generating unit or transmission facility, including proper Outage scheduling requirements. In its order accepting Amendment No. 55, the Commission directed the CAISO to specify in greater detail the prohibited behavior. In a May 20, 2004, compliance filing, the CAISO revised the Enforcement Protocol to provide that (1) Market Participants must report to the CAISO Control Center any Outage of a Generating Unit within 30 minutes after the Outage occurs; and (2) each Market Participant must provide, within two working days of the commencement of the forced Outage, an explanation of a Forced Outage to the

¹¹ *Id.* at 4.

CAISO that includes a description of the equipment failure or other cause and a description of all remedial actions taken by the Operator. The Commission accepted these proposed revisions in an order issued on October 28, 2004.¹² On December 19, 2005, the Commission issued a Letter Order authorizing the CAISO's Market Monitoring Unit to administer the Enforcement Protocol.

Thus, the sanctions relating to generator availability reporting already existed. The Outage Reporting Amendment did not change the level of sanctions, let alone "propose" new sanctions. This was the reason why, *before filing this proposed Amendment*, the CAISO sought, and obtained, a temporary waiver of sanctions under Sections 37.4.1.2 and 37.4.3.2 of the CAISO Tariff for failure to report Outages and to provide additional explanations of Forced Outages, as required under those Sections. The CAISO explained that this waiver would allow the CAISO to investigate further the concerns of Market Participants with respect to Outage reporting, and to work with stakeholders to identify and develop potential changes to the Outage reporting requirements that would address Market Participant concerns in a manner that maintained reliable grid operations. The entire purpose of the Outage Reporting Amendment was to implement such changes to the CAISO Tariff.¹³ SCE's request that the Commission deny the CAISO's request for sanction authority is beyond the scope of this proceeding.

¹² *California Independent System Operator Corp.*, 109 FERC ¶ 61,087 (2004).

¹³ See Outage Reporting Amendment, Transmittal Letter at 1 ("The Outage Reporting Amendment revises the CAISO Tariff by modifying the generator Outage reporting requirements to include appropriate thresholds for reporting resource availability and Outage reporting in a manner that appropriately balances the CAISO's need to maintain grid reliability with stakeholder concerns regarding reporting burdens and unreasonable exposure to penalties.")

Similarly, the Commission should also reject SCE's requests to modify the CAISO's sanctions for failure to report generator outages. SCE argues that if the Commission finds that the CAISO requires penalty authority (a foregone conclusion), then the CAISO's sanctions should be modified to allow for one warning letter per month, rather than one per year, and that sanctions for failure to report Outages should only apply to "willful" violations of the reporting requirements.¹⁴ SCE had a full opportunity to participate in the Amendment No. 55 proceeding and propose such modifications at that time. These issues are not properly raised in the present proceeding.¹⁵

C. The CAISO Has Already Proposed Waiving Sanctions Relating to Outage Reporting Until it Implements Upgrades to its Software Interface

Finally, SCE states that the CAISO's improved tool for outage reporting has yet to be developed, and concludes that, as a result, it "will not likely be available for Operators by the time the CAISO has sanction authority."¹⁶ SCE requests that the Commission withhold from the CAISO sanction authority until the improved tool is available and has been tested for function and usability by Market Participants.

¹⁴ The underlying principle of the Rules of Conduct set forth in the CAISO's Enforcement Protocol is that the CAISO administer the sanctions only for objectively identifiable violations; other determinations must be referred to the Commission or its staff. See, e.g., CAISO Tariff Section 37.8.2 ("the Market Monitoring Unit shall refer to FERC any matter for which the particular circumstances preclude the objective determination of a Rules of Conduct violation"); Section 37.8.4 ("The Market Monitoring Unit shall contact the Market Participant(s) that may be involved, so long as the ISO has sufficient objective information to identify and verify the role of the Market Participant(s) in the potential Rules of Conduct violation"). It would be infeasible for the CAISO to make the determinations necessary to identify and sanction only "willful" violations.

¹⁵ It should also be noted that SCE did not raise any issues relating to revising sanctions during the stakeholder process.

¹⁶ SCE at 5-6.

The CAISO agrees that sanctions for outage reporting should not be imposed prior to developing improved outage reporting software. In fact, the CAISO specifically requested that the Tariff modifications proposed in the Outage Reporting Amendment become effective contingent upon implementation of upgrades to the SLIC system, “including testing of these upgrades and familiarizing Market Participants with their operation.”¹⁷ The CAISO estimated that this process would be completed by the end of December, 2006, but in any event no later than March 31, 2007.¹⁸ In addition, because the CAISO recognized that it would not be appropriate to impose sanctions prior to completing the necessary software upgrades, the CAISO requested that the Commission grant an extension of its waiver of Sanctions for failure to report Outages and to provide additional explanations of Forced Outages, as set forth in Sections 37.4.1.2 and 37.4.3.2 of the CAISO Tariff, until such time as the SLIC upgrades are completed.¹⁹

The Commission should, however, deny SCE’s requests to delay implementation of the Outage Reporting Amendment and related sanctions until after the summer of 2007. As part of the testing process and familiarization process, SCE and other Market Participants will be able to gauge how long it takes to submit an outage report using the new software interface. They can then extrapolate that data to different operating conditions. There is no need to delay implementation until after the summer of 2007. Indeed, it is important for reliability purposes that the CAISO have effective outage reporting requirements in place prior to the peak summer period. The Commission should also reject SCE’s request that the Commission permit another chance to

¹⁷ Outage Reporting Amendment, Transmittal Letter at 7.

¹⁸ *Id.*

¹⁹ *Id.* at 7-8.

comment on the CAISO's proposal after testing of the software upgrades. If SCE believes, after testing, that the CAISO's enhanced SLIC software is somehow flawed or insufficient, SCE has every right to file a complaint with the Commission at that time, or request an additional extension of the waiver of the Outage sanction provisions.

D. The CAISO Concurrs with the Modifications Proposed by Six Cities

In its Limited Protest, Six Cities states that it does not oppose the substance of the Outage Reporting Amendment, but points out two instances in which the Tariff language included with that filing appears to be inconsistent with the intent of the Amendment, as described in the Transmittal Letter.²⁰ First, Six Cities points out that the proposed language in Section 9.3.10.5 does not include any reference to a minimum fifteen minute duration for an outage reportable under that section, contrary to the description set forth on page 6 of the Transmittal Letter.²¹ Second, Six Cities notes that the proposed new version of Section 40.6A.3, which sets forth reporting requirements for Non-Participating Generators, continues to require reporting "any other reductions in their maximum operating levels or Resource Adequacy Capacity during the relevant month."²² Six Cities states that this language seems to require these generators to report any reduction in capability, rather than in accordance with the thresholds proposed in the Outage Reporting Amendment, and requests that this language be removed in order to make clear that the reporting requirements for Non-Participating Generators are no more stringent than those applicable to Participating Generators.

²⁰ Six Cities at 4.

²¹ *Id.* at 4-5.

²² *Id.* at 5.

The CAISO agrees with both of Six Cities' points. With respect to the first, the CAISO commits to add language to Section 9.3.10.5 in a compliance filing stating that generators need only provide detailed Forced Outage Reports for Outages that last 15 minutes or longer. The CAISO also commits to modify Section 40.6A.3 in order to make clear that Non-Participating Generators must report only those outages that meet the thresholds proposed in the Outage Reporting Amendment.

III. CONCLUSION

For the foregoing reasons, the CAISO respectfully urges the Commission to approve the Outage Reporting Amendment with only those modifications discussed in Section II.D above, and not the modifications requested by SCE.

Respectfully submitted,

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Certificate of Service

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned 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 this 6th day of December, 2006 at Folsom in the State of California.

Daniel J. Shonkwiler
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