

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

**California Independent System) Docket No. ER14-2756-000
Operator Corporation)**

**MOTION FOR CLARIFICATION OF RESETTLEMENT AUTHORITY OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (“CAISO”) files this motion for clarification seeking confirmation of its authority to resettle congestion revenue right (“CRR”) charges and payments to correct certain administrative errors that occurred during the period from May 1 to September 1, 2014.¹ Although Commission precedent indicates that the CAISO already has the authority to resettle these CRR amounts because the administrative errors resulted in charges and payments that are contrary to the filed rate in the CAISO tariff during this period, the CAISO believes it is prudent to file this motion to fulfill a commitment the CAISO made, in the September 2, 2014, tariff amendment filing the Commission accepted in this proceeding, to “seek further relief from the Commission” if the CAISO determined that there was a need to resettle CRR amounts for the period prior to September 2, 2014.²

The CAISO respectfully requests that the Commission issue an order confirming the CAISO’s authority to resettle the CRR amounts by October 1,

¹ The CAISO submits this motion pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.212. References in this motion to numbered sections are references to sections of the CAISO tariff unless otherwise stated.

² Transmittal letter for September 2, 2014, tariff amendment filing at 2 n.2.

2015, so the CAISO can timely resettle these amounts pursuant to the settlement statements scheduled to be issued eighteen months after the relevant trading day (T+ 18M). Issuance of an order after October 1, 2015, would result in delaying the resettlement for almost two years, until the issuance of scheduled settlement statements thirty-five months after the relevant trading day (T+35M). Such a delay would further delay the application of the filed rate to CRR Holders that retain revenues to which they are not entitled.

I. Background

A. September 2, 2014, Tariff Amendment in This Proceeding

In its September 2, 2014, filing in this proceeding, the CAISO requested that the Commission accept, effective as of the filing date, a proposed revision to tariff section 11.2.4.6 to clarify that, for purposes of calculating CRR revenue adjustments pursuant to section 11.2.4.6, the CAISO will include nodal megawatt limit constraints (“nodal constraints”) that the CAISO applies to eligible pricing nodes in the integrated forward market pursuant to tariff section 30.10. Section 11.2.4.6 provides for the CAISO to reduce CRR revenues to CRR holders that also submit virtual bids at locations that increase the value of CRRs. This is sometimes referred to as “the CRR settlement rule” or a CRR “claw-back” provision.

In the September 2 filing, the CAISO explained that the tariff language previously approved by the Commission in section 11.2.4.6 already authorized the CAISO to include nodal constraints in the CRR revenue adjustment calculations because nodal constraints are included in the definition of the term

“transmission constraints” used in this tariff section. The CAISO sought to clarify the tariff once it became aware that market participants’ settlement statements prior to September 2014 did not reflect the “claw back” of the impact of nodal constraints on locational marginal prices because the CAISO did not include the impact of nodal constraints when it implemented the CRR settlement rule.³ The CAISO also stated that it would seek further relief from the Commission if it determined that there was a need to resettle market participant settlement statements to recapture CRR revenues for the period prior to September 2, 2014.⁴

On October 31, 2014, the Commission issued an order accepting the tariff amendment filing effective September 2, 2014, as requested by the CAISO.⁵ The Commission noted the CAISO’s commitment to notify the Commission in the event that further action was required regarding CRR amounts for the period prior to September 2, 2014.⁶ The Commission did not, however, address whether it was necessary for the CAISO to seek further relief from the Commission to resettle CRR amounts for that earlier period.

B. The CAISO’s Resettlement Authority

In circumstances where the CAISO determines that its software or settlement processes have produced payments or charges that are inconsistent

³ *Id.* at 4-6.

⁴ *Id.* at 2 n.2. *See also id.* at 7 (stating that if the CAISO determined that further action was required for that earlier period, the CAISO would inform the Commission and market participants and take appropriate steps).

⁵ *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,093, at P 6 & n.13 (2014) (“October 31 Order”).

⁶ *Id.* at P 6 & n.13.

with the applicable rates, terms and conditions of the CAISO tariff, the CAISO is authorized to resettle the markets it operates and to issue recalculation settlement statements that reflect the results of such market resettlements pursuant to the procedures set forth in its tariff.⁷ The CAISO may issue recalculation settlement statements at specified intervals after the relevant trading day, *i.e.*, the trading day for which market results are to be resettled.⁸ In addition, the CAISO may issue unscheduled recalculation settlement statements at times other than the specified intervals to correct miscalculations reflected on the T+9M or T+18M recalculation settlement statements if specified criteria are met.⁹ The CAISO requires a directive from its Governing Board or a Commission order to issue an unscheduled recalculation settlement statement more than thirty-six months after the relevant trading day.¹⁰

The Commission has explained that, in certain limited circumstances, resettlements require prior approval by the Commission. The CAISO must seek Commission approval when a planned resettlement involves an interpretation of how to apply the CAISO tariff that differs from the methodology outlined in the CAISO's business practice manual.¹¹ Where the application of the CAISO tariff

⁷ Tariff sections 11.29.1, 11.29.7.

⁸ The specified intervals are: the twelfth business day after the relevant trading day (T+12B); the fifty-fifth business day after the relevant trading day (T+55B); the ninth month after the relevant trading day (T+9M) if necessary; the eighteenth month after the relevant trading day (T+18M) if necessary; the thirty-fifth month after the relevant trading day (T+35M) if necessary; and the thirty-sixth month after the relevant trading day (T+36M) if necessary. Tariff section 11.29.7.1.

⁹ Tariff sections 11.29.7.1, 11.29.7.3.1. The tariff also sets forth procedures for market participants to validate and dispute recalculation settlement statements. Tariff sections 11.29.8.3, 11.29.8.4.

¹⁰ Tariff section 11.29.7.3.2.

¹¹ *Cal. Indep. Sys. Operator Corp.*, 137 FERC ¶ 61,180, at PP 21, 23-24 (2011). See also

does not conflict with the CAISO's business practice manuals, however, the CAISO has general authority under the filed rate doctrine that allows resettlements without prior Commission approval to address administrative errors, such as data input errors or software malfunctions.¹²

C. Need for the CAISO to Resettle CRR Amounts to Correct Administrative Errors

The CAISO has discovered that it needs to resettle CRR amounts (*i.e.*, charges and payments) to correct administrative errors that occurred during the period from trading day May 1, 2014, when the CAISO implemented its Spring 2014 software release, through trading day September 1, 2014, one day prior to the effective date of the September 2, 2014 tariff amendment. This starting date of the resettlement period – May 1, 2014 – captures the beginning of the time period that the CAISO has identified where nodal constraints were not included in the CRR settlement rule and have a more material impact. In addition, the CAISO has determined that it needs to resettle the application of the CRR settlement rule generally as of May 1, 2014, due to impacts of the Spring 2014 release, which caused other problems with the performance of the rule.¹³

Cal. Indep. Sys. Operator Corp., 143 FERC ¶ 61,211, at PP 16-21 (2013) (granting petition for declaratory order for approval to resettle bid cost recovery payments resulting from application of flawed formula in business practice manual that was inconsistent with filed rate set forth in tariff).

¹² *Cal. Indep. Sys. Operator Corp.*, 137 FERC ¶ 61,180, at P 24. The Commission explained that this automatic settlement authority was supported by Commission precedent. *Id.* at P 24 & n.36 (citing *NRG Power Mktg, Inc. v. New York Indep. Sys. Operator, Inc.*, 91 FERC ¶ 61,346 (2000) (filed rate doctrine allowed for correction of price calculations caused by faulty computer software); *Black Oak Energy, LLC v. New York Indep. Sys. Operator, Inc.*, 122 FERC ¶ 61,261 (2008) (concerning general authority under the filed rate doctrine to correct erroneous prices caused by data input or software errors); *ISO New England, Inc.*, 90 FERC ¶ 61,141, at 61,423 (2000)).

¹³ The CAISO is only seeking Commission approval to resettle the nodal constraints aspect of the rule and is providing the rationale for why the CAISO has selected May 1, 2014, as the starting date of the resettlement period rather than, say, June 1, 2014. For the reasons explained

Specifically, the Spring 2014 release included the implementation of the CAISO's fifteen-minute market,¹⁴ a significant software change that affected a number of the CAISO's systems and had the unintended consequence of causing those systems to include incorrect data in the calculation of amounts to be clawed back in the CRR settlement rule.

The CAISO already has the authority under the filed rate doctrine and its tariff to resettle the erroneous claw-back amounts. The resettlement is required solely to correct administrative errors and does not require any interpretation of the CAISO tariff that is contrary to a business practice manual. Further, the CAISO will issue recalculation settlement statements fewer than 36 months after the relevant trading dates, and therefore this resettlement will be processed within the timelines already authorized in the CAISO tariff. For these reasons, prior Commission approval of the resettlement and issuance of the recalculation settlement statements is not required. However, as discussed below, the CAISO is requesting a Commission ruling on this motion by October 1, 2015, so that the CAISO can include the resettlement on the T+18M settlement statements.

II. Motion for Confirmation of Authority to Apply Nodal Constraints in the CRR Rule for the Period from May 1 to September 1, 2014

Notwithstanding its existing authority to resettle the CRR claw-back amounts for the period from May 1, 2014, through September 1, 2014, the

above, it is both prudent and practical to select May 1 as the starting date.

¹⁴ The Commission accepted the tariff revisions required to implement the fifteen-minute market in *California Independent System Operator Corporation*, 146 FERC ¶ 61,204, *order on compliance filing*, 148 FERC ¶ 61,023 (2014).

CAISO is filing this motion out of an abundance of caution to fulfill the commitment it made in the tariff amendment filing that initiated this proceeding to ensure that it can include the nodal constraints in this resettlement.¹⁵ As the CAISO has previously explained in this proceeding, even prior to September 2, 2014, section 11.2.4.6 authorized the CAISO to include nodal constraints in the CRR revenue claw-back calculations because nodal constraints are included in the definition of the term “transmission constraints” used in section 11.2.4.6 that was in effect during the period from May 1 to September 1, 2014. The CAISO is only seeking confirmation of its resettlement authority on this narrow issue in order to fulfill the commitment made in the September 2, 2014, filing that it would “seek further relief from the Commission if it determines that there is a need to resettle market participant settlement statements to recapture the past amounts.”¹⁶

The CAISO respectfully requests that the Commission issue this order by October 1, 2015, which is 17 months from the May 1, 2014 trading day, so the CAISO can include the CRR settlement rule resettlement amounts on the T+18M settlement statements that start publishing on November 1, 2015. Issuance of an order after October 1, 2015, would result in delaying the resettlement for almost two years, until the issuance of the T+35M settlement statements. Such a delay

¹⁵ The CAISO does not request Commission confirmation of its authority to resettle the CRR payments or charges that are contrary to the CAISO tariff for any errors other than the errors related to the consideration of nodal constraints in the application of the CRR settlement rule. Nor does the CAISO’s motion address any resettlements for the period after September 2, 2014, because the proper application of the CRR settlement rule after September 2 was clarified by the October 31 Order.

¹⁶ Transmittal letter for September 2, 2014, tariff amendment filing at 2 n.2.

would further delay the application of the filed rate to CRR Holders that retain revenues to which they are not entitled.

III. Conclusion

For the reasons set forth above, the CAISO requests that the Commission confirm the CAISO's authority to resettle CRR charges and payments to correct administrative errors related to the consideration of nodal megawatt limit constraints in the application of the CRR settlement rule that occurred during the period from May 1 to September 1, 2014.

Respectfully submitted,

/s/ Sidney L. Mannheim

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Dated: July 31, 2015

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, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, DC this 31st day of July, 2015.

/s/ Bradley R. Miliauskas
Bradley R. Miliauskas