147 FERC ¶ 61,181
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation — Docket Nos. ER06-615-000, ER02-1656-027, ER02-1656-029, ER02-1656-030, ER02-1656-031

ORDER ON REQUEST FOR WAIVER

(Issued June 3, 2014)

1. In this order, the Commission rejects a motion for permanent waiver (Waiver Request) filed by the California Independent System Operator Corporation (CAISO) but extends the deadline for complying with the Commission's directive to disaggregate existing load aggregation points (LAPs) in CAISO's balancing authority area to one year from issuance of this order.

I. Background

In the September 2006 order conditionally accepting CAISO's proposed Market Redesign and Technology Upgrade (MRTU) tariff revisions,[1] the Commission approved CAISO's proposal to clear and settle most market demand in its balancing authority area using three LAPs corresponding to the service territories of the three major California investor-owned utilities: Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SoCal Edison), and San Diego Gas & Electric Company (SDG&E). The Commission found that the three LAPs were "an acceptable starting point" toward locational marginal pricing (LMP), but stated that it "continue[d] to believe that increasing the number of LAP zones will provide more accurate price

[1] *California Independent System Operator Corporation.*, 116 FERC ¶ 61,274, at P 611 (2006), *reh'g*, 119 FERC ¶ 61,076 (2007) (September 2006 Order).

signals and assist participants in the hedging of congestion charges," and thus directed CAISO to increase the number of LAP zones for the second release of MRTU (i.e., by April 1, 2012).[2]

2. Valley Electric Association, Inc. was later included as a LAP when it joined the CAISO as a participating transmission owner in January 2013, bringing the current total to four LAPs in CAISO's operational footprint.[3]

3. In July 2011, the Commission permitted CAISO to extend the deadline for disaggregating the LAPs to October 1, 2014, in light of CAISO's representations that additional experience with the MRTU design changes was necessary to develop a plan for implementing more granular load zones.[4]

II. Waiver Request

4. CAISO filed its Waiver Request on February 7, 2014. In the Waiver Request, CAISO explains that it initiated an open stakeholder process to consider input on disaggregation in 2013 and, as part of this initiative, conducted a pricing study that compared prices at two different levels of load aggregation over the period from January 2011 to June 2013 (Pricing Study).[5]

5. The first level of aggregation examined in the Pricing Study was the status quo, with the four existing LAPs. This was compared to a case where two of the existing LAPs were subdivided. In particular, the PG&E and SoCal Edison LAPs were each divided into two smaller LAPs. CAISO then examined the prices between the status quo and subdivided cases, and calculated the average differences between the prices, in some

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[2] September 2006 Order, 116 FERC ¶ 61,274 at P 611 (citing *California Indep. Sys. Operator Corp.*, 112 FERC ¶ 61,103, at P 35 (2005)).

[3] *See* Waiver Request at 2.

[4] *California Indep. Sys. Operator Corp.*, 136 FERC ¶ 61,055 (2011) (July 2011 Order).

[5] Waiver Request at 5.

cases over a quarter and in others over a year.[6] CAISO states that it issued a Draft Final Proposal on September 18, 2013, which determined "that there are not sufficient net benefits or stakeholder support to move forward with the disaggregation of the existing [LAPs]" and thus proposed to request that the Commission relieve it of the obligation to disaggregate the existing LAPs.[7] CAISO asserts that all stakeholders who submitted comments throughout the initiative either support or do not oppose the Waiver Request.[8]

6. In the Waiver Request, CAISO seeks permanent waiver of the Commission's directive from the September 2006 Order to disaggregate default LAPs in the CAISO balancing authority. CAISO asserts that good cause exits to grant the waiver because the potential benefits of disaggregating the default LAPs do not justify the high costs of doing so. CAISO argues that this is primarily due to the fact that California's existing retail rate structure is an average rate across each investor-owned utility service territory, which mutes price signals to retail customers from disaggregated wholesale LAPs.[9] CAISO reports that the differences between the default LAPs and the sub-LAPs in the Pricing Study were "relatively small (generally less than 5 percent, or an average of less than $2.00 between the default load aggregation point and sub-load aggregation point)."[10] CAISO asserts that the Commission has granted waiver of Commission directives under similar circumstances.[11]

[6] *See* Draft Final Proposal at 12-13, *available at* http://www.caiso.com/Documents/DraftFinalProposal-LoadGranularityRefinementSep18_2013.pdf.

[7] Waiver Request at 7 (quoting Draft Final Proposal at 3).

[8] *Id*. at 8.

[9] *Id*. at 1.

[10] *Id*. at 6.

[11] *Id*. at 8-9 (citing *Cal. Indep. Sys. Operator, Inc.*, 139 FERC ¶ 61,206, at PP 23, 31 (2012) (*CAISO*); *ISO New England, Inc*., 143 FERC ¶ 61,198, at PP 29-35 (2013)).

7. CAISO contends that each of the four potential primary benefits of disaggregation that it identifies and which were examined through the stakeholder initiative either cannot be fully realized under current conditions or can be substantially accomplished without disaggregation.[12]

8. First, CAISO argues that the expectation that disaggregation will result in more demand response and investment in needed generation and transmission infrastructure due to better price signals is belied by (1) the results of the Pricing Study, (2) the fact that end-use customers will continue to be charged average retail rates, (3) the fact that nodal prices in CAISO's day-ahead and real-time energy markets are already published and available, and (4) the ability of demand response to settle at custom LAPs.[13]

9. Second, CAISO contends that the combination of two factors outweigh the second benefit of disaggregation identified in the stakeholder process—better hedging of congestion charges and the establishment of more congestion revenue rights, resulting from better alignment of congestion revenue rights with congestion charges. First, participants in CAISO markets can already use virtual bidding in combination with their existing congestion revenue rights to improve hedging performance. Second, because many load-serving entities hold long-term congestion revenue rights that sink at an existing LAP, and because the congestion revenue rights nomination process is restricted to the same source-sink combinations allocated to load-serving entities in the prior year's allocation, disaggregation could cause problems with existing congestion revenue rights and the congestion revenue rights nomination process.[14]

10. Third, CAISO states that it does not believe that subsidization of higher-price areas by lower-price areas will be significantly reduced, because end-use customers will continue to be charged average retail rates and that this nullifies incentives. Moreover, large customers that provide demand response as proxy demand resources already can create custom LAPs.[15]

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[12] *Id*. at 5-6, 10-17.

[13] *Id*. at 10-12.

[14] *Id*. at 12-14.

[15] *Id*. at 14-15.

11. Fourth and lastly, CAISO asserts that the fourth expected benefit of disaggregation—fewer uneconomic adjustments, leading to more efficient day-ahead market outcomes—is lessened because market participants already can use virtual bids to capture some of these price differences, and load forecasting will be more difficult at disaggregated levels.[16]

12. CAISO also argues that the disaggregation will impose significant costs on electricity consumers and that it could cause implementation challenges for stakeholders, including the need to modify forecasting and settlement systems, and the need for load-serving entities to develop new load profiles requiring California Public Utilities Commission (CPUC) approval.[17] Additionally, CAISO argues that trying to disaggregate the default LAPs and implement a number of higher-priority market modifications that are currently planned or being implemented concurrently, could increase costs and burdens for market participants.[18]

13. CAISO commits to continue to monitor conditions in California and resume stakeholder discussions and studies regarding disaggregation "[i]f either the [LAP] prices or the retail rate structure change significantly in the future."[19]

III. <u>Answers</u>

14. Timely answers to the Waiver Request were filed by the Bay Area Municipal Transmission Group, the California Municipal Utilities Association, the Northern California Power Agency, and PG&E. On February 27, 2014, the CPUC filed a motion for leave to file answer out-of-time and answer.

15. The Bay Area Municipal Transmission Group states that it supports the requested waiver for the same reasons expressed in the Waiver Request. PG&E likewise supports the request based on the lack of significant price signals or other benefits from disaggregation and the significant implementation costs. The California Municipal Utilities Association agrees with CAISO that higher-priority stakeholder initiatives and the need for fundamental changes in how retail rates are derived outweigh the potential benefits of disaggregation. It further notes that CAISO retains its rights under

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[16] *Id*. at 15-17.

[17] *Id*. at 17-18.

[18] *Id*. at 18-20.

[19] *Id*. at 9, 22.

section 205 of the Federal Power Act to revisit this issue in the future. The Northern California Power Agency concurs with CAISO's assessment of the costs of disaggregating the default LAPs, and cautions that customers of its members could face "an immediate and disproportionate impact" from disaggregation. The CPUC argues, based on the Pricing Study, that the benefits of disaggregating at this time are minimal and speculative, and that the costs of implementing such a measure far outweigh any potential benefits. The CPUC also indicates that any purported benefits would not be realized in the near term, absent significant changes in the State's retail rate design, which are not likely to occur in the near time.[20]

IV. Discussion

A. Procedural Matters

16. Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(d)(1) (2013), an answer to a motion must be made within 15 days after the motion is filed. The Commission will accept the CPUC's answer because it will not prejudice any party to this proceeding.

B. Commission Determination

17. We will deny the Waiver Request. The Waiver Request does not comply with the Commission's criteria for granting waiver. The Commission has previously granted one-time waivers of tariff provisions in situations where: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) a concrete problem needed to be remedied; and (4) the waiver did not have undesirable consequences, such as harming third parties.[21] CAISO does not seek to waive a provision in its tariff or remedy a concrete problem. Most importantly, CAISO's Waiver Request is not limited in scope, but rather seeks permanent waiver of the obligation to disaggregate CAISO's default LAPs.[22]

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[20] CPUC Answer at 3-4.

[21] *See, e.g., Aragonne Wind*, LLC, 145 FERC ¶ 61,106, at P 18 (2013); *Southeastern Power Admin*., 143 FERC ¶ 61,210, at P 7 (2013); PJM *Interconnection, L.L.C.*, 135 FERC ¶ 61,069, at P 8 (2011).

[22] While the Commission previously granted waiver of the directive in the September 2006 Order that CAISO implement an interface between its outage reporting web-enabled interface and the system that accepts and validates bids, CAISO

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18. We also find that the Waiver Request is insufficiently supported. In particular, CAISO asserts that the Pricing Study shows that further disaggregation, as discussed above, would only result in an average price difference of about five percent (or approximately $2.00 between the default load aggregation point and sub-load aggregation point). However, CAISO does not explain how these average price differences would affect market outcomes. Also, CAISO does not explain why these average price differences are the correct metric to assess whether disaggregation will improve price signals and create better incentives in the market. Given that more disaggregation theoretically should produce better price signals, we find the fact that CAISO significantly limited the level of disaggregation examined—and left SDG&E out of the Pricing Study entirely—renders the Pricing Study inconclusive. In fact, the Pricing Study acknowledges that several regions would see significant price differences as a result of disaggregation, and that disaggregation would produce upward trends in price differences across the entire state.[23] Further, CAISO provides no discussion of the effects of disaggregation on congestion revenue rights other than mentioning that their allocation mechanisms will have to be adjusted to the new level of disaggregation. Congestion revenue rights that better reflect actual transmission constraints and actual price differences between locations will increase the incentives to invest in transmission where needed. CAISO also argues that it will be costly to disaggregate the current LAPs, yet it does not provide a breakdown or estimate of what these costs would be.

19. Further, CAISO's request for permanent waiver of the directive to disaggregate its default LAPs may be considered an out-of-time request for rehearing of this portion of the September 2006 Order, which is not permitted under the Commission's regulations.[24]

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demonstrated in that waiver request that the interface was superseded by a new system. *CAISO*, 139 FERC ¶ 61,206 at PP 23, 31.

[23] CAISO, *Load Granularity Refinements Pricing Analysis Study* at 9, *available at* http://caiso.com/Documents/PricingAnalysisStudy-LoadGranularityRefinements.pdf ("Even with the most significant outliers removed, there appears to a moderate upward trend in price differences, particularly in the [SoCal Edison] region."); *id*. at 11 (noting, with respect to the San Francisco Bay Area sub-LAP, that "[i]n the first quarter of 2013 there were frequent high price differences, with over 20% of the days having [sub-LAP] higher than the [default LAP] by over $5.00").

[24] 16 U.S.C. § 825l(a) (2012) ("Any person, electric utility, State, municipality, or State commission aggrieved by an order issued by the Commission in a proceeding under this Act to which such person, electric utility, State, municipality, or State commission is a party may apply for a rehearing within thirty days after the issuance of such order.");

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20. However, we recognize that CAISO has raised concerns in the Waiver Request that suggest that the current October 1, 2014 deadline for complying with the Commission's directives regarding the level of disaggregation may no longer be feasible. In light of our findings regarding the deficiencies in the Pricing Study, we will extend the deadline for disaggregating the LAPs to one year from the issuance of this order. Additionally, should CAISO seek further relief from the disaggregation requirement, any such request must include an analysis with sufficient detail to allow the Commission to reasonably evaluate the effects of implementing a greater level of disaggregation. To the extent that CAISO uses a study like the Pricing Study to support its request, it should include additional information or changes such as the following:

(1) A detailed description of the underlying data used, such as daily prices at individual sub-LAPs, or daily price differences between scenarios;

(2) An analysis of a reasonable range of different alternative levels of disaggregation;[25]

(3) Focused discussion on those areas exhibiting the largest price differences;

(4) Properly supported estimates of implementation costs for different levels of disaggregation with complete explanations of the methodology and assumptions that led to those estimates; and

(5) Analysis of the entire CAISO footprint (including SDG&E).

In addition, any request for relief should include an update on any changes in retail rate structure or other state-driven initiatives that could result in material changes in costs and benefits.

<u>The Commission orders</u>:

(A) CAISO's request for waiver is hereby denied, as discussed in the body of this order.

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18 C.F.R. § 385.713(b) (2013) ("A request for rehearing by a party must be filed not later than 30 days after the issuance of any final decision or other final order in a proceeding.").

[25] For example, the study could include results using the current LAPs in comparison with aggregation using sub-LAP groupings, sub-LAPs on their own, or a more granular level including individual nodes.

(B) CAISO is hereby granted an extension of the deadline to disaggregate the default LAPs to one year from the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.