146 FERC ¶ 61,184
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation — Docket No. ER14-1442-000

ORDER GRANTING WAIVER

(Issued March 14, 2014)

1. On March 6, 2014, California Independent System Operator Corporation (CAISO) submitted a request for waiver of tariff sections 39.7.1.1.1.3 (Calculation of Natural Gas Price) and 30.4.1.2 (Registered Cost Option) to provide temporary protection against potential adverse outcomes in CAISO's day-ahead market caused by sudden increases in natural gas prices. CAISO states that its requested waiver will allow it to use updated natural gas price data for settlement purposes when natural gas prices for the affected trading day equal or exceed 150 percent of the gas price calculated pursuant to CAISO's tariff. CAISO requests expedited action. As discussed below, the Commission finds good cause to grant the requested waiver.

I. Background and Details of the Filing

2. CAISO explains that in its day-ahead market it considers start-up costs and minimum load costs when it clears supply offers by resources. On a 30-day basis, scheduling coordinators for resources providing offers in the day-ahead market may choose either the "proxy cost option"[1] or the "registered cost option"[2] for the purpose of

[1] The proxy cost option uses formulas for start-up and minimum load based on the resource's actual unit-specific performance parameters and the natural gas price calculated pursuant to section 39.7.1.1.1.3 of the tariff. Tariff sections 30.4.

[2] Resources under the registered cost option are allowed to register fixed start-up and minimum load cost values for up to 150 percent of the projected proxy cost for a 30-day period. Tariff sections 30.4.1.2 and 39.6.1.6.

determining their start-up costs or minimum load costs.[3] For resources under the proxy cost option, as part of the calculation for start-up and minimum load costs, CAISO determines the natural gas price by using the prices published in at least two of four natural gas price indexes included in CAISO's tariff. This happens the day before the running of the day-ahead market.[4] CAISO explains that the result of this timing is that natural gas prices used in the day-ahead market are calculated based on prices published two days prior to the applicable trading day.[5]

3. CAISO explains that natural gas prices can also affect resources' variable-cost default energy bids[6] and generated bids[7] calculated for the day-ahead market because the CAISO uses the natural gas price index specified in section 39.7.1.1.1.3 in determining the start-up and minimum load costs associated with those bids.[8]

4. CAISO states that this winter season, the market experienced abnormally volatile natural gas prices that have led to unrecoverable fuel costs. CAISO explains that these inefficiencies are the result of sudden spikes in the price of natural gas on an applicable trading day that were not reflected in the stated indices published the day prior to running the day-ahead market. Because of this timing lag, the maximum allowable start-up and minimum load costs for proxy cost resources that were committed in the day-ahead market do not accurately reflect the significantly higher fuel costs for gas-fired resources. Likewise, significantly higher fuel costs would also not be fully recoverable under the maximum allowable start-up and minimum load costs for resources using the registered cost option. CAISO offers February 6, 2014 as an example; on that day, natural gas prices increased approximately 300 percent above the pricing indexes published the day

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[3] CAISO tariff section 30.4.

[4] CAISO tariff section 39.7.1.1.1.3.

[5] CAISO transmittal at 8 and n. 8.

[6] CAISO uses default energy bids to mitigate bids of resources subject to local market power mitigation. The mitigated bid is substituted for use in the market clearing process and is also used to determine the resource's bid cost recovery compensation. CAISO tariff section 11.8. Default energy bids are also used to settle exceptional dispatches and in the settlement of residual imbalance energy. CAISO tariff sections 11.5.6 and 11.5.5.

[7] CAISO generates cost-based bids when a scheduling coordinator does not submit a bid for a resource that is subject to a must-offer requirement. CAISO transmittal at 10.

[8] *Id.* 9-10.

prior to the execution of the day-ahead market on February 5 for the February 6 trading day.

5. CAISO asserts that immediate action is needed to protect resources submitting offers in the CAISO day-ahead market against potentially unrecoverable costs that they may incur as a result of sudden increases in natural gas prices during the remaining winter and early spring period. CAISO requests waiver of the requirements in sections 30.4.1.2 and 39.7.1.1.1.3 of its tariff to allow CAISO to use the most recently available natural gas prices in the event of a significant price spike for the limited purpose of settling transactions after the close of the day-ahead market.[9] CAISO explains that under normal conditions it will continue to calculate the daily gas price index pursuant to the requirements of section 39.7.1.1.1.3 for use in the next day's day-ahead market run, and it will continue to operate under the current tariff provisions in settling the day-ahead market.[10] During periods of high gas price volatility, CAISO requests waiver of the requirement in section 39.7.1.1.1.3 that it determine natural gas cost prices based on at least two natural gas price indices published the day prior to running the day-ahead market. CAISO seeks waiver of section 30.4.1.2 that requires resources currently using the registered cost option to continue to use the proxy cost option for the remainder of the 30-day period if they are switched to the proxy cost option on any trading day in that period. Pursuant to the requested waivers, when the IntercontinentalExchange, Inc. (ICE) index prices on the day of execution of the day-ahead market indicate that a predetermined price increase threshold has been triggered, after the close of the day-ahead market, CAISO would update all resources' (registered and proxy cost) start-up and minimum load costs to reflect the most recent ICE index prices and settle transactions based on the newer, updated cost calculations.[11]

6. CAISO states that using the ICE index prices to re-calculate the start-up and minimum load costs is appropriate because the publication of the ICE index is the only tariff-approved index that coincides with the 10:00 a.m. closing of CAISO's day-ahead market.[12]

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[9] In Docket No. ER14-1440-000, CAISO seeks to use updated natural gas price data for market execution and settlement purposes, with requested action by March 19, 2014.

[10] CAISO Transmittal at 13.

[11] *Id*. at 13-14.

[12] *Id.* at 14.

7. CAISO proposes to set the initial natural gas price increase threshold that will trigger the use of ICE index prices at 150 percent or more of the gas price index calculated the previous evening (under the normal tariff methodology) based on ICE index prices on the day of execution of the day-ahead market. CAISO will publish this threshold in its business practice manual. CAISO contends that this threshold is reasonable because it is analogous to the cost of fuel exceeding the maximum start-up and minimum load cost values that can be registered in the master file for a resource that has elected the registered cost option, i.e., 150 percent of the projected proxy cost. CAISO also states that by keeping this threshold in the business practice manual, if emergency circumstances so require, CAISO may promptly and unilaterally revise the threshold as appropriate.[13] However, CAISO states that any revisions to the threshold will be promptly announced in a market notice and will be subject to stakeholder review either beforehand or subsequently.

8. CAISO states that the waiver is of limited scope, addresses a concrete problem that needs to be remedied, and does not have undesirable consequences.[14] CAISO states it will only act under the authority granted by the waiver when the daily gas prices published by the ICE index exceed the threshold and that the waiver will only be effective until the Commission considers CAISO's companion waiver request,[15] which CAISO requests Commission action on by March 19, 2014. CAISO additionally states that it will commence a stakeholder process in April to develop interim and permanent solutions to this problem.[16] CAISO further states that the requested waiver addresses a concrete problem because it seeks to adequately compensate resources in the event of significant spikes in gas prices. Lastly, CAISO states that granting the waiver will not have undesirable consequences. CAISO recognizes that this temporary solution may increase the costs paid by load serving entities, however, it contends that it is appropriate that generators are compensated for their start-up and minimum load costs based on the most up-to-date gas prices during atypical events.[17] Such compensation, CAISO asserts, will help to ensure continued, reliable electric service in the CAISO market.[18]

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[13] *Id.* at 16.

[14] *Id.* at 12.

[15] *See* Docket No. ER14-1440-000.

[16] CAISO transmittal at 16-17.

[17] *Id.* at 19.

[18] *Id.*

II. Notice and Responsive Pleadings

9. The filing was noticed on March 7, 2014, with comments, protests, or motions to intervene due on or before March 11, 2014. Timely motions to intervene were filed by Powerex Corp.; Calpine Corporations; Edison Mission Energy; City of Santa Clara, California; California Public Utilities Commission; Cogeneration Association of California; Modesto Irrigation District; Sunrise Power Company; Dynegy Moss Landing, LLC and Dynegy Marketing and Trade, LLC. Motions to intervene and comments were filed by Northern California Power Agency (NCPA); Pacific Gas and Electric Company (PG&E); NRG Companies and Dynegy Companies (NRG/Dynegy); Morgan Stanley Capital Group Inc. (Morgan Stanley); Electric Power Supply Association and the Independent Energy Producers Association (Electric Power Supply/ Independent Energy Producers); California Department of Water Resources State Water Project (WRSWP); High Desert Power Project, LLC (High Desert Power); La Paloma Generating Company, LLC. (La Paloma); NRG Companies; and Western Power Trading Forum (Western Power).

Comments

10. A number of commenters provided supporting comments for CAISO's waiver proposal, arguing that it will provide market participants needed protection against immediate price volatility.[19] PG&E supports the waiver proposal, but argues that it should be in effect only through March 31, 2014 and that the Commission should grant as soon as possible CAISO's companion waiver request in Docket No. ER14-1440-000 because it corrects imperfections in the market that are not addressed in this waiver.[20] Other commenters support the CAISO's instant waiver proposal, but also argue that the Commission should grant the waiver proposal submitted by CAISO Indicated Suppliers in Docket No. ER14-1428-000. They argue that these waiver proposals are complementary and address different situations.[21]

11. Several commenters argue that tying the waiver to the 150 percent price increase threshold will result in market participants incurring losses whenever a natural gas price spike fails to reach this threshold.[22] La Paloma argues that CAISO has not provided any

[19] SCE at 2, NCPA at 3; Morgan Stanley at 4; NRG/Dynegy at 2, WRSWP at 3.

[20] PG&E comments at 3.

[21] Electric Power Supply/Independent Energy Producers at 6; Morgan Stanley at 4; High Desert Power at 4-5.

[22] NRG/Dynegy at 2, La Paloma at 5-8, Western Power at 6-8.

support for this initial threshold and contends that reliability and market confidence could deteriorate if the Commission approved recovery of incurred fuel costs only when losses reach or exceed a certain threshold.[23] Similarly, Western Power argues that the Commission should reject the 150 percent threshold on the basis that it is an insufficient remedy and either direct CAISO to eliminate or reduce the threshold or provide an alternative remedy for cost recovery.[24]

12. La Paloma also asserts that although CAISO proposes to use the ICE index, it has not demonstrated that the actual costs for purchasing natural gas have any direct correlation to the ICE prices.

13. Western Power protests that CAISO's proposed waiver, if granted, should not be included in CAISO's business practice manual because the proposed threshold will significantly affect a supplier's rates, terms and conditions. It also argues that the proposed waiver lacks necessary details and requests that the Commission direct CAISO to submit a compliance filing providing more specific details about the waiver and how it will be implemented.[25]

14. Electric Power Supply/ Independent Energy Producers,[26] Morgan Stanley and NRG/Dynegy assert that CAISO's proposed waiver will not protect generators that buy or dispose of gas in the intra-day market in response to unanticipated dispatches or de-commitments by CAISO. According to Morgan Stanley, generators may incur costs related to forced-re-sale of natural gas at prices significantly lower than the purchase price as well as unusually high cost for imbalance management if gas cannot be promptly sold, stored or otherwise re-balanced.[27]

15. A number of comments request that the Commission direct CAISO to establish stakeholder proceedings to develop long-term market solutions for setting the market-clearing price that reflects the actual cost incurred by resources.[28] Western Power

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[23] La Paloma at 5-8.

[24] Western Power at 6-8.

[25] *Id*. at 8-9.

[26] Electric Power Supply/Independent Energy Producers at 6.

[27] Morgan Stanley at 4.

[28] La Paloma at 10, Electric Power Supply/Independent Energy Producers at 7, NRG/Dynegy at 7.

requests that the Commission require CAISO to submit proposed revised market design changes by June 2014 for implementation by fall of 2014.[29]

16. Electric Power Supply/Independent Energy Producers, Morgan Stanley and Western Power comment that CAISO should consider using daily bidding of start-up and minimum load cost offers as a possible solution.[30] Morgan Stanley asserts that this approach could provide scheduling coordinators with flexibility to accurately reflect costs in a volatile market, provide more accurate price signals to market participants, and encourage efficient market dispatch by allowing scheduling coordinators to avoid the disconnect between prices used in developing energy bid curves and those used to administratively calculate start-up and minimum load costs.[31]

III. <u>Discussion</u>

A. <u>Procedural Matters</u>

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[32] the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. <u>Substantive Matters</u>

18. The Commission finds good cause to grant the requested waiver of sections 39.7.1.1.1.3 (Calculation of Natural Gas Price) and 30.4.1.2 (Registered Cost Option) for the purpose of settling transactions, effective from the date of this order through the earlier of April 30, 2014, or when the Commission issues an order on CAISO's broader waiver in Docket No. ER14-1440-000. The Commission has previously granted requests for waivers of tariffs in situations where, as relevant here:

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[29] Western Power at 5.

[30] Electric Power Supply/Independent Energy Producers at 7, Morgan Stanley at 4-6, Western Power at 3-5.

[31] Morgan Stanley at 5-6.

[32] 18 C.F.R. § 385.214 (2013).

(1) the waiver is of limited scope; (2) a concrete problem must be remedied; and (3) the waiver does not have undesirable consequences, such as harming third parties.[33]

19. We find that CAISO's requested waiver satisfies the aforementioned conditions. First, CAISO's request is limited in scope in that it seeks a one-time waiver of two specific tariff provisions in CAISO's tariff. The waiver reduces the number of pricing indices used to set the gas price for the purpose of settling transactions, but continues to use the ICE index, a gas price index that is already approved in section 39.7.1.1.1.3 of CAISO's tariff. The waiver is also limited to the period from the date of this order through the earlier of the issuance of an order in Docket No. ER14-1440-000 or April 30, 2014.[34] Further, the waiver will apply only in the day-ahead market and will be used only when the price of natural gas based on the ICE index on the day of execution of the day-ahead market is substantially more than the applicable tariff-based gas price index. We find that the proposal appropriately limits the scope of the requested waiver.

20. Further, the waiver addresses a concrete problem that must be remedied by allowing gas-fired generators the opportunity to recoup their start-up and minimum load costs based on data that more accurately reflects contemporary natural gas pricing. Moreover, we find that this limited waiver will not have undesirable consequences. Notably, no party asserts that undesirable consequences would result from granting this waiver. Although CAISO acknowledges that the waiver may result in increased costs borne by load serving entities, consistent with the Commission findings in *PJM II* and *NYISO*, increased costs to load as a result of more accurate cost recovery calculations do not amount to a legally cognizable harm.[35]

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[33] *See, e.g., PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,041, at P 5 (2014) (*PJM I*); *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,078, at P 38 (2014) (*PJM II*); *New York Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,061, at P 20 (2014) (*NYISO*); *New York Indep. Sys. Operator, Inc.*, 144 FERC ¶ 61,147, at P 8 (2013); *New York Indep. Sys. Operator, Inc.*, 139 FERC ¶ 61,108, at P 14 (2012); *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,184, at P 13 (2011); *ISO New England Inc.*, 134 FERC ¶ 61,182, at P 8 (2011); *California Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,004, at P 10 (2010); *accord ISO New England Inc. – EnerNOC, Inc.*, 122 FERC ¶ 61,297 (2008); *Central Vermont Public Service Corp.*, 121 FERC ¶ 61,225 (2007); *Waterbury Generation LLC*, 120 FERC ¶ 61,007 (2007); *Acushnet Co.*, 122 FERC ¶ 61,045 (2008).

[34] In Docket No. ER14-1440-000, CAISO requests that its waiver be effective through April 30, 2014.

[35] *See PJM II*, 146 FERC ¶ 61,078 at P 15; *NYISO*,146 FERC ¶ 61,061 at P 7.

21. With respect to arguments by protestors that CAISO has not provided sufficient justification for setting the initial price increase threshold at 150 percent of the prior day's price indices, the 150 percent threshold proximately coincides with the maximum allowable cost recovery afforded to resources that select the registered cost option.[36] We also find it reasonable to use the ICE index, given that the closure of the day-ahead market coincides with the time the index is regularly published, and therefore it is the index that will most accurately reflect the price of natural gas at the time of the day-ahead market.[37] To be clear, the Commission is not approving a wholesale alteration of CAISO's current tariff cost recovery methodologies in this order, nor would this be the appropriate occasion for doing so.

22. With respect to Western Power's comments that including the price increase threshold in CAISO's business practice manual is not the appropriate approach, we disagree. Maintaining the threshold in the business practice manual is temporary and allows flexibility to immediately announce a change in the threshold to the market.

23. Further, PG&E has not provided a substantive reason to limit the waiver's effective period to March 31, 2014. Conversely, allowing the waiver to be in effect up to April 30, 2014 or when the Commission acts on CAISO's companion waiver will relieve any immediate threats or uncertainty to market participants from gas price spikes and ensure that gas-fired generators and suppliers are compensated appropriately for their start-up and minimum load costs. We also agree with SoCal Edison that the requested waiver should apply equally to all similarly situated entities. We find that, as requested, CAISO's waiver achieves that goal.

24. Finally, CAISO has committed to commence a stakeholder process to develop a long-term solution to these problems. Many commenters note that part of the recent problems results from inefficient dispatch of units due to the fact that start-up and minimum load costs appear inexpensive relative to energy bids. Other commenters note that the problem could be resolved if CAISO's market allowed generators to bid daily their gas costs, subject to demonstration of actual costs. We encourage CAISO and its stakeholders to discuss the options when the stakeholder process begins in April.

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[36] *See supra* note 1.

[37] We note that the Commission has previously concluded that actions by the price index developer, ICE, were in substantial compliance with the Commission's standards. *Price Discovery in Natural Gas and Electric Markets*, 109 FERC ¶ 61,184, at PP 25-27 (2004). We also note that the ICE Index has previously been approved for inclusion in the CAISO tariff.

The Commission orders:

CAISO's request for waiver of tariff sections 39.7.1.1.1.3 and 30.4.1.2 to the earlier of the relief sought in Docket No. ER14-1440-000 or April 30, 2014 is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

Document Content(s)