

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

California Independent System)
Operator Corporation)

Docket ER07-127-000

**PETITION TO EXTEND THE WAIVER OF SANCTIONS
UNDER SECTIONS 37.4.1.2 AND 37.4.3.2 OF THE CAISO TARIFF,
AND TO TEMPORARILY WAIVE THE REQUIREMENT THAT SMALL
GENERATING UNITS FILE A SECOND REPORT FOR EACH
DISCONNECTION FROM THE GRID**

The California Independent System Operator (“CAISO”) hereby petitions the Commission 1) to extend its current waiver of sanctions under Sections 37.4.1.2 and 37.4.3.2 of the CAISO tariff until June 30, 2007, and 2) to waive until further notice, no later than November 30, 2007, the requirement that Generating Units¹ with a maximum capacity less than 40 MW submit detailed reports following any disconnection from the grid. *See* 18 C.F.R. § 207 (governing petitions).

The CAISO recently amended its requirements for outage reporting with its tariff amendment in an October 31, 2006 filing in this docket (the “Outage Reporting Tariff Amendment”). Late outage reports were penalized under separate tariff provisions – the “Enforcement Protocol” – that were in place before the amendment. *See* CAISO Tariff §§ 37.4.1.2 & 37.4.3.2. Last year, the Commission temporarily waived these sanctions to allow breathing room for a stakeholder process about amending the reporting requirements and improvements to the CAISO interface for reporting outages (known as “SLIC”). The software upgrade is now complete. But it has not been fully tested by

¹ Capitalized terms that are not otherwise defined have the meaning given to them in Appendix A of the CAISO tariff.

Market Participants, and the Commission's waiver will expire after March 31, 2007. To give Market Participants sufficient time to become accustomed to the new software before penalties take effect, the CAISO asks that the waiver be extended through June 30, 2007.

In addition, the CAISO asks the Commission to temporarily waive, for small generators only, the more detailed of the two types of required Outage reports. Specifically, for units with a maximum capacity less than 40 MW, the CAISO requests that the Commission waive the report about the cause of any complete disconnections of the grid and remedial actions taken, due two business days after the outage ("Forced Outage Reporting"). This waiver would not extend to the summary reports about changes in availability, due within 30 minutes of any change, which the CAISO uses to track real-time availability ("Availability Reporting"). CAISO staff is considering an amendment along these lines, but believes it wise to consolidate the required stakeholder process with one for its forthcoming efforts to reconcile the requirements of the Forced Outage Reporting Tariff Amendment with the NERC standards approved in Order No. 693. In the meantime, a waiver of this requirement for small generators would be appropriate.

I. BACKGROUND

A. The Outage Reporting Tariff Amendment

The need for the CAISO's recent Outage Reporting Tariff Amendment stemmed from the tariff-mandated penalties for late reports. On December 19, 2005, the CAISO learned that its Department of Market Monitoring would become responsible for the administration of the Enforcement Protocol, which had previously been administered by

the FERC. Two of the rules require timely reporting of information about Outages, and imposed penalties for late reports. Those rules are now found in sections 37.4.1.2 and 37.4.3.2 of the CAISO tariff.

To prepare Market Participants for the CAISO's administration of penalties, on April 24, 2005, the CAISO notified Market Participants that penalties would be enforced beginning May 15, 2006. This announcement led Market Participants to express concerns that the risk of penalties was unacceptably high because the requirements for outage reporting then in place were vague. The problem was that the term "Outage" was defined to include "any" reduction in capacity. The CAISO, which seemed to lack the discretion to set a specific minimum threshold for reporting, thus could not assure Market Participants that any given level of reporting would assure them of avoiding penalties. In addition, Market Participants contended that even with a clear threshold, the CAISO's software application for reporting outages was inadequate.

In response to these concerns, the CAISO decided to revise its requirements for outage reporting in order to define the requirements more clearly, and began a stakeholder process. The result was a two-part requirement:

- **Availability Reporting:** a quick report of any material changes in availability, without additional detail. Specifically, Generators must report within 30 minutes any change in availability of at least 10 MW and 5% of PMax that last for 15 minutes or longer. *See* CAISO Tariff § 9.3.10.2.1.
- **Forced Outage Reporting:** a more detailed report about the causes of an outage and corrective measure taken. Generators must provide this information for any change in availability below PMax greater than 40 MW and 10% of PMax that lasts for 15 minutes or longer and – significantly for the second waiver requested in this petition – any separation from the grid. *See* CAISO Tariff § 9.2.10.5 (first sentence).

Through the stakeholder process, it became clear that it was necessary to enhance SLIC so that Market Participants could more quickly submit the Availability Reports due within 30 minutes, and also to confirm their submissions and thereby avoid incurring penalties through keystroke errors.

The tariff amendment was filed on October 31, 2006. The amendment was approved December 28, 2006, with an effective date after the CAISO notified FERC that it had completed upgrades of SLIC. *See* Order Accepting for Filing, Subject to Modification, Tariff Revisions and Extending Temporary Waiver of Sanctions (December 28, 2006), ¶ 26. The upgrades are now complete and undergoing final testing by the CAISO. The CAISO anticipates that the upgrades will be released for testing by Market Participants within approximately one week.

B. The Current Waiver of Penalties

To allow sufficient time for Market Participants to provide input on new tariff language, the CAISO obtained from the Commission a temporary waiver of penalties under Sections 37.4.1.2 and 37.4.3.2 of the CAISO Tariff. The initial request, filed July 12, 2006, asked the Commission to waive these penalties through October 31, 2006, retroactive to December 19, 2005. The only party that commented, Williams, asked the Commission to extend the waiver so that it would end only when certain conditions were satisfied.

The Commission granted the CAISO's request on September 8, 2006. It rejected Williams' request for an open-ended waiver, but added that "the CAISO may seek a further extension" "[t]o the extent that the stakeholder review process has not concluded

its deliberations by the end of the waiver period.” Order Granting Petition for Temporary Waiver of Certain Tariff Sanctions (September 8, 2006), ¶ 8.

When the initial waiver period expired after October 31, 2006, the CAISO filed, along with the amendment, a request to extend the waiver of penalties. An extension, the CAISO contended, would permit it to “complete the upgrades to its SLIC system . . . , including testing of these upgrades and familiarizing Market Participants with their operation.” CAISO Transmittal Letter, October 31, 2006, p. 7. “The CAISO anticipates that this process will be completed by the end of December, 2006, but in any event no later than March 31, 2007.” *Id.* The only comment on this issue was submitted by Southern California Edison, which urged that the waiver should be extended longer, “until such time as the SLIC system modifications are completed and tested” without any particular time limit. December 28, 2006 Order, ¶ 24.

The order approving the amendment extended the waiver of sanctions through the March 31, 2007. The Commission explained:

[W]e agree with SoCal Edison that the CAISO’s SLIC modifications should be completed and tested before the outage reporting sanctions become effective. . . . While the CAISO states that the SLIC improvements should take no longer to complete than March 31, 2007, we will not leave open the termination date of the waiver. Therefore, we will grant temporary waiver . . . until the earlier of March 31, 2007, or within 3 business days of the date the CAISO submits a filing to terminate the temporary waiver.

December 28, 2006 Order ¶ 26.

C. Recent Developments that Affect Requirements for Outage Reporting

On March 16, 2007, the Commission adopted several NERC-proposed mandatory reliability standards for the bulk power system. *See* Order 693. The standards include

rules about outage reporting that were adopted by NERC on November 1, 2006. The requirements of Rule TOP-006-1 are phrased broadly, as they apply to “all” generation:

R1. Each Transmission Operator and Balancing Authority shall know the status of *all generation* and *transmission resources available for use*.

R1.1. Each Generator Operator shall inform its Host Balancing Authority and the Transmission Operator of *all generation resources available for use*.

R1.2 Each Transmission Operator and Balancing Authority shall inform the Reliability Coordinator and other affected Balancing Authorities and Transmission Operators of *all generation* and *transmission resources available for use*.

(Emphasis added); *see also id.* Measure 2.² The timing of generator reports is governed by TOP-002-2, which forbids “any intentional time delay”:

R14. Generator Operators shall, *without any intentional time delay*, notify their Balancing Authority and Transmission Operator of changes in capabilities and characteristics including, but not limited to:

R14.1. Changes in real and reactive output capabilities. (Retired August 1, 2007)

R14.1. Changes in real output capabilities. (Effective August 1, 2007)

(Emphasis added); *see also* Measure 7.³

² The standards are available at www.nerc.com/~filez/standards/Reliability_Standards.html. TOP-006-1, reads:

M1. Each Generator Operator shall have and provide upon request evidence that could include . . . operator logs, voice recordings, electronic communications, or other equivalent evidence that will be used to confirm that it informed its Host Balancing Authority and Transmission Operator of all generation and transmission resources available for use. (Requirement 1.1)

M2. Each Transmission Operator and Balancing Authority shall have and provide upon request evidence that could include . . . operator logs, voice recordings, electronic communications, or other equivalent evidence that will be used to confirm that it informed its Reliability Coordinator and other affected Balancing Authorities and Transmission Operators of all generation and transmission resources available for use. (Requirement 1.2).”

Violations are subject to significant penalties. “Level 4” penalties, the highest level in the NERC compliance program, apply to any Transmission Operator that “[d]id not inform the Reliability Coordinator and/or other affected Balancing Authorities and Transmission Operators of all generation and transmission resources available for use in accordance with R1.2” of TOP-006-1. Level 4 penalties also apply to any Generator Operator that violates Rule 1.1 of TOP-006-1 or Rule 14 of TOP-002-2. Level 4 sanctions begin at the greater of \$2000 or “\$2 per MW,” for an initial violation, and escalate to \$10,000 or “\$10 per MW” for the fourth and subsequent violations.

Both standards were “approved as mandatory and enforceable” in Order No. 693, ¶¶ 1599 & 1659.

III. DISCUSSION

A. Request to Extend Waiver of Penalties in Sections 37.4.1.2 and 37.4.3.2

Although the upgrades to SLIC are due to be released soon, the CAISO believes that its Market Participants should have additional time to test the system and adapt to it. Given the stakes – *i.e.*, automatic penalties for Availability Reports not submitted within 30 minutes – Market Participants should be afforded enough time to perfect their compliance. The CAISO believes that it could take Market Participants three months to fully test the software, recommend further adjustments that might be appropriate, and adapt their own systems. Accordingly, the CAISO asks that the waiver be extended to June 30, 2007.

³ “**M7.** Each Generator Operator shall have and provide upon request evidence that could include . . . voice recordings or transcripts . . . electronic communications or other equivalent evidence that will be used to confirm that without any intentional time delay, it notified its Balancing Authority and Transmission Operator of changes in real and reactive capabilities and AVR status.”

The limited scope of this continued waiver is worth emphasizing. It waives only sanctions specified in the CAISO tariff for late submission of Availability Reports or Forced Outage Reports. Other sanctions in the CAISO tariff that might apply to improper outage reports would remain in place, in particular sanctions for providing inaccurate information under Section 37.5.1.2. The waiver does not in any way impair the CAISO's ability to investigate suspicious outages and sanction them or report them to the Commission. Nor does it hinder the Commission's ability to impose penalties for violations of the CAISO tariff, Commission rules about Market Behavior, 18 C.F.R. § 35.37, or the Prohibition of Electricity Market Manipulation, 18 C.F.R. § 1c.2. The waiver affects only the non-discretionary penalties administered by the CAISO for late reports.

To be clear, the CAISO continues to believe that EP sanctions are an important tool in ensuring long-term reliability of grid. But CAISO also understands that sanctions should only be imposed on Market Participants that fully understand the requirements and have ample time to prepare for 100% compliance, because the sanctions in its tariff do not leave CAISO discretion to excuse inadvertent violations.

A three month extension is necessary for Market Participants to become familiar with the new software and adjust their systems and procedures. In the CAISO's experience, three months can be required to complete the iterative steps that are part of a successful adaptation process. After initial roll out on a test basis, which the CAISO will have completed within one week, there is possible debugging and modification based on Market Participant experience. This is followed by roll out on a production basis, sometimes with further debugging and modification. In addition, the Department of

Market Monitoring frequently must address questions about regulatory and procedural issues that are currently unforeseeable because they arise only in the context of real situations that Market Participants encounter as they use the software and interpret the new requirements. While the CAISO hopes that three months will not be needed, experience indicates it can easily take this long. But barring discovery of a critical error, the CAISO expects that the new software will be sufficiently tested such that sanctions should be reinstated on July 1.

During the continued waiver, the CAISO expects that Market Participants will continue to report Outages in timely fashion, as they did last summer and throughout the waiver period. The CAISO Department of Market Monitoring will continue to monitor Outage reporting practices, and will report any non-compliance to FERC Enforcement. Although this process is somewhat more cumbersome than the application of tariff Sanctions, it should provide a sufficient incentive to ensure the maintenance of the current high level of compliance, and thus is adequate for the short term.

For all of these reasons, the CAISO requests a waiver through June 30, 2007, and believes that this extension should not interfere with the reliable operation of grid.

B. Request to Waive of Forced Outage Reporting Requirement for Small Generating Units

The CAISO also asks that the Commission temporarily waive the requirements of Forced Outage Reporting for units with maximum capacity less than 40 MW, beginning with the effective date of the Outage Reporting Tariff Amendment. This requirement is found in Section 9.3.10.5, the first sentence of which reads:

With Respect to Forced Outages of Generating Units that result in a reduction in maximum output capability of 40MW or more below the value registered in the Master File and 10% of the value registered in the

Master File, *or which result in the unit being separated from the ISO Controlled Grid*, the Operator shall provide to the ISO an explanation of the Forced Outage, including a description of the equipment failure or other cause and a description of all remedial actions taken by the Operator, and the estimated return time, within two (2) Business Days from the Discovery of the Forced Outage.

(Emphasis added.)

The CAISO is considering whether to eliminate this requirement in the version of Section 9.3.10.5 that will become effective soon,⁴ as it would apply to units with maximum capacity less than 40 MW. Such an amendment would require a stakeholder process. And looking ahead, a second stakeholder process concerning outage reporting seems imminent, because it will be necessary to reconcile or harmonize the CAISO's tariff rules with those approved for NERC.

The NERC standards require operators of generation and transmission to be aware of the status of "all" generating units, and do so "without intentional delay," under threat of sanctions. It is not yet clear what these requirements will mean for small units. It would be unreasonable to expect generators to report continually on the status of all generating units regardless of size. Smaller units may not have telemetry links, and are frequently unstaffed. The CAISO expects that NERC will set some minimum threshold for reporting – a smallest unit size, or a minimum change in capacity – like the CAISO did when presented with the same issue.

Whatever NERC does, CAISO probably will have to adjust its Availability Reporting requirement to avoid incurring NERC penalties, and it might have to harmonize its other requirements with NERC's for the convenience of Market

⁴ The language quoted above is from the Outage Reporting Tariff Amendment, which is not yet effective. The CAISO expects to notify the Commission in the near future that the sections should become effective. The CAISO would advise Market Participants to adhere to the requirements as submitted in the CAISO's compliance filing on February 2, 2007, on which the Commission has yet to rule.

Participants. The CAISO wishes to avoid multiple stakeholder processes for the same tariff sections, as they will involve the same staff from Market Participants, and overlapping subject matters. To reduce the burden on Market Participants, its Board of Governors and the Commission, the CAISO wants to present only one amendment.

In the meantime, the CAISO is asking that the Commission to waive the requirement of Forced Outage Reporting for units with a PMax less than 40 MW until further notice no later than November 30, 2007. This waiver would not diminish the information available to the CAISO in real time about unit availability, as these smaller generating units would remain subject to Availability Reporting. The difference would be that, after the operator of such a smaller unit submits an availability report promptly (within 30 minutes) after a change in availability of 10 MW and 5% of its maximum, it would not be required to submit a second report two business days later with additional information about the cause of the outage and remedial measures taken. While this means that no report will be required if a generating unit with a maximum capacity less than 10MW disconnects from the grid, this would not affect the CAISO's real-time knowledge of generating unit availability. As things stand, the CAISO does not learn of such disconnections until a day or two later.

Without a waiver, the Outage Reporting Tariff Amendment imposes an arguably unnecessary burden on owners of multiple units. This burden is somewhat disparate, in the sense that small units must complete a second report (the Forced Outage Report) about disconnections that have less impact than other reductions in capacity that need not be the subject of a second report. For example, without this waiver, a 12 MW unit that disconnected would have to submit two reports, including one in detail, where a 49 MW

unit that cuts back to 19 MW need only complete a single summary report. Or, a 9 MW unit that disconnected from the grid would be required to submit a Forced Outage Report within two days, but no Availability Report within 30 minutes. In contrast, a larger unit that suffered a 9 MW reduction in capacity would not have to submit any report.

The result of the waiver will be that owners of small units will not be subject to sanctions from FERC for failure to timely complete the two-day reports or, when the waiver discussed above expires, sanctions from the CAISO. As noted there, the CAISO would retain its authority to investigate and report suspicious outages, including for small units. *See generally* CAISO Tariff §§ 37.5.1.1 (providing inaccurate information is a violation subject to penalty); 37.6.2.1 (requiring Market Participants to provide information requested by the CAISO for an authorized investigation); 9.3.10.5 (standards for reporting suspicious outages).

Recognizing that the Commission dislikes open-ended waivers of tariff provisions, the CAISO asks that the waiver extend to a date by which the CAISO might be able to complete the process, specifically November 30, 2007, or until such earlier time when the CAISO notifies FERC that a waiver is no longer necessary. Of course, the CAISO's ability to complete its stakeholder processes by November 30 will depend on completing the vetting process with NERC. Until then, the CAISO asks the Commission to waive the requirements of the first sentence of Section 9.3.10.5 as they relate to Generating Units with a PMax less than 40MW.

III. CONCLUSION

For the reasons discussed above, the CAISO requests that the Commission 1) extend until June 30, 2007, its waiver of sanctions under Section 37.4.1.2 and 37.4.3.2 of the CAISO Tariff, and 2) for generating units with maximum capacity less than 40 MW, waive until further notice from CAISO, but no later than November 30, 2007, the requirements in the first sentence of CAISO Tariff 9.3.10.5.

March 30, 2007

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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 30th day of March, 2007 at Folsom, California.

/s/ Charity N. Wilson

Charity N. Wilson