

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

**California Independent System
Operator Corporation**

)
)

**Docket Nos. ER15-861-000
and EL15-53-000**

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO THE ANSWER OF POWEREX CORP.**

The California Independent System Operator Corporation (CAISO) respectfully requests leave to answer and submits this answer to the answer (Powerex Answer) filed on April 28, 2015, by Powerex in this proceeding. Powerex's answer purportedly responds to the CAISO's April 15, 2105 motion seeking relief pending the Commission's final order in the above-identified proceeding or, in the alternative, request for rehearing on a discrete aspect of the Commission's March 16, 2015 order in this proceeding.¹ The CAISO requested that the Commission either: (1) revise the refund effective date to September 2, 2015, and extend the existing waiver of sections 27.4.3.2 and 27.4.3.4 of the CAISO's tariff to that date, or (2) extend the existing waiver of sections 27.4.3.2 and 27.4.3.4 of the CAISO's tariff to the date of the CAISO's compliance with an order resolving proceeding Docket No. EL15-53 (Motion). The Commission should reject Powerex's answer as procedurally improper.

¹ *Cal. Indep. Sys. Operator Corp.*, 150 FERC ¶ 61,191 (2015) (March 16 Order). The CAISO files this answer pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2014). The CAISO requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to make an answer to Powerex's answer. Good cause for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in the case. See, e.g., *Equitrans, L.P.*, 134 FERC ¶ 61,250, at P 6 (2011); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,023, at P 16 (2010); *Xcel Energy Serv., Inc.*, 124 FERC ¶ 61,011, at P 20 (2008).

I. Background

The background facts are set forth in the Motion. The Powerex Answer, does not support or oppose the motion. Powerex asserts, however, that the CAISO is making an implied request to permit it to unilaterally broaden the existing waiver.² Specifically, Powerex contends that the CAISO intends to also waive or modify the pricing requirements of Section 27.10 of its Tariff.³ Section 27.10 establishes a pricing parameter of \$60 for relaxation of the flexible ramping constraint.

Powerex relies on footnote 2 of the CAISO's motion in which the CAISO explained that to effectuate its waiver of Sections 27.4.3.2 and 27.4.3.4 for setting prices in the Energy Imbalance Market, it was necessary to adjust the penalty price for the flexible ramping constraint relaxation parameter.⁴ According to Powerex, this violates the Section 27.10 of the ISO tariff.⁵

II. Answer

A. Powerex's Answer Is Procedurally Improper

Powerex is wrong. The CAISO submitted its motion to extend the existing waiver to allow sufficient time to implement any additional requirements ordered by the Commission in this proceeding, and to ensure market participants face a seamless transition to those new requirements. The Commission should reject Powerex's answer and grant the CAISO's motion.

Contrary to Powerex's assertion, the CAISO's motion does not in any manner seek to broaden the existing waiver. Footnote 2 in the CAISO's Motion is a factual

² Powerex Answer at 2.

³ *Id.*

⁴ *Id.* at 2-3.

⁵ *Id.* at 2-3.

statement informing the Commission of the manner in which the CAISO has been implementing the waiver.

Powerex's real issue is that it believes that the CAISO's implementation of the waiver is contrary to the CAISO tariff. The Commission did not institute this proceeding to investigate how the CAISO implemented the waiver. The Commission instituted this proceeding under section 206 of the Federal Power Act to examine whether the CAISO's pricing provisions applicable when the CAISO relaxes constraints are just and reasonable.⁶ The waiver allows the CAISO to avoid unjust and unreasonable pricing during the pendency of the investigation.

Powerex is attempting, under the guise of an answer, to expand the Commission's investigation without filing its own complaint under section 206. This Commission should reject this effort to circumvent proper procedure. This is not the first time Powerex has improperly attempted to raise an issue outside the proceeding. On February 4, 2015, in Docket No. ER15-861 (which gave rise to this proceeding) Powerex filed a "supplemental protest" in which it challenged the CAISO's revision of its business practice manual regarding the actions the CAISO takes when the EIM entity fails the flexible ramping sufficiency test.⁷ The Commission rejected this filing as a new protest submitted out-of-time.⁸ The Commission should similarly reject Powerex's most recent attempt to expand the proceedings.

⁶ March 16 Order at 31.

⁷ Motion for Leave to File Supplemental Protest and Supplement to January 26, 2015 Protest of Powerex Corp., filed February 5, 2015, in Docket No. ER15-861-000.

⁸ March 16 Order at P 28.

B. The Adjustment of the Penalty Price Is an Integral Part of the Existing Waiver

The purpose of the waiver of Sections 27.4.3.2 and 27.4.3.4 was to allow the ISO to “retain the ability to relax the constraints described in those sections, but would use the same pricing mechanism that applies when there are sufficient economic bids—i.e., the last marginal economic bid would set the price—instead of setting the price at \$1,000/MWh.”⁹ In order to implement the waiver, and enable the ISO to establish pricing based on the last economic bid when the constraints are relaxed in the scheduling run, the CAISO must set the flexible ramping constraint to \$0, or a value close to zero, for the individual PAC East and PAC West EIM BAAs, in the pricing run.¹⁰ Otherwise, the pricing run will establish prices based on the value of the flexible ramping constraint parameter and not the last economic bid, which would be contrary to the stated purpose of the waiver.

This is not new information that the CAISO revealed only in its Motion. The Department of Market Monitoring explained the CAISO’s rationale for setting the parameter to zero or close to zero in its January 23, 2015 report.¹¹ There the Department of Market Monitoring noted that when the CAISO implemented the waiver pricing, it had set the flexible ramping constraint to \$0 instead of the then existing \$247 flexible ramping constraint parameter. The Department of Market Monitoring explained that the CAISO did this to ensure prices would be based on the last economic bid signal when the scheduling run relaxed the power balancing constraint. If the CAISO had used the \$247 flexible ramping constraint, that parameter would have set the energy

⁹ *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,194 (2015).

¹⁰ The flexible ramping parameter was set to \$0 only for the PAC East and PAC West because the waiver only applies for purposes of addressing transmission and power balance constraints in the EIM BAAs.

¹¹ http://www.caiso.com/Documents/Jan23_2015_DMMAssessment_December2014EIMPerformance.pdf

price instead set the flexible ramping constraint parameter to \$247, energy prices would have been set by that parameter instead of a lower economic bid.

On November 14, 2014, the time the waiver went into effect, the flexible ramping in the CAISO tariff did not specify the pricing parameter. On January 15, 2015, Section 27.10, the tariff provision specifying the flexible ramping constraint pricing parameter to be \$60 became effective.¹² Because prior to January 15, 2015, the CAISO had determined that using a \$0 flexible ramping constraint was an integral part of a implementing the waiver, the CAISO did not believe it was necessary to seek an explicit waiver of the tariff provision containing the \$60 parameter. For similar reasons, the CAISO did not interpret footnote 87 of the March 16 Order,¹³ as directing a change the manner in which the CAISO had been implementing the waiver since its approval. The CAISO continues to believe that use of the \$0 flexible ramping constraint is an essential in order to fully implementing the existing waiver.

The Commission need not institute any further investigation of this matter. During the technical conference in this proceeding, the Mr. Mark Rothleder, CAISO Vice-President of Market Quality and Renewable Integration, discussed this issue and explained why it was necessary to set it to \$0 during the term of the waiver when the CAISO implemented the waiver requirements in its market systems in December 2014.¹⁴ He also indicated that, more recently, the CAISO had determined that the

¹² See *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,256 at P 23 (2015).

¹³ “The waiver granted in this order is limited to an extension of the same waiver of pricing parameters in these tariff sections granted in the December 1 Order. As discussed above, we do not grant CAISO’s request to revise its tariff to set the flexible ramping constraint relaxation parameter specified in tariff section 27.10 between \$0 and \$0.01.”

¹⁴ The waiver became effective on November 14, 2014. The Commission issued its order granting the waiver on December 1. The ISO implemented changes to effectuate the waiver requirements through its market systems on December 1, and later resettled payments and charges going back to November 14, consistent with the waiver.

flexible ramping constraint was set to \$0 in all intervals for the individual PAC East and PAC West areas, and not only those in which the power balancing constraint was relaxed in the scheduling run. This is not consistent with the implementation of the waiver pricing because when the power balancing constraint is not relaxed, the waiver pricing does not apply. The CAISO is working with the Department of Market Monitoring do determine the impact of this error and will be issuing a Market Issue bulletin to explain the impact of this issue consistent with the CAISO's Market Issue process explained in the BPM for Market Operations.¹⁵ The CAISO will take all necessary steps to remedy this issue based on its impact assessment.

III. Conclusion

For the foregoing reasons, the CAISO requests that the Commission reject Powerex's Answer.

Respectfully submitted,
By: /s/ Anna A. McKenna

Kenneth G. Jaffe
Michael E. Ward
Alston & Bird, LLP
The Atlantic Building
950 F Street NW
Washington, DC 20004
T – (202) 239-3300
F – (202) 654-4875
michael.ward@alston.com

Roger E. Collanton
General Counsel
Anna A. McKenna
Assistant General Counsel
John C. Anders
Lead Counsel
California Independent System
Operator Corporation
250 Outcropping Way
Folsom, CA 95630
T – (916) 608-7146
F - (916) 608-7222
amckenna@caiso.com

Attorneys for the California Independent
System Operator Corporation

Dated: May 13, 2015

¹⁵ April 9 Tr. at 194-95.

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 13th day of May, 2015.

Is/ Anna Pascuzzo

Anna Pascuzzo