

136 FERC ¶ 61,214  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

California Independent System Operator Corporation      Docket No.    ER11-4384-000

ORDER GRANTING TEMPORARY WAIVER REQUEST OF TARIFF  
PROVISIONS

(Issued September 29, 2011)

1. On August 26, 2011, the California Independent System Operator Corporation (CAISO) filed a request for a temporary waiver of provisions in section 30.7.3.6.3.2 of its tariff<sup>1</sup> that require CAISO to automatically increase the position limits for convergence bids at the CAISO intertie scheduling points on October 1, 2011. As discussed further below, we grant CAISO a temporary waiver effective October 1, 2011, as requested, until the Commission acts on CAISO's proposal to permanently suspend convergence bidding at intertie scheduling points, which is currently before the Commission in Docket No. ER11-4580-000. Our grant of this temporary waiver does not prejudice the outcome of the proceeding in Docket No. ER11-4580-000.

**I. Background**

2. On February 1, 2011, CAISO implemented convergence bidding, or virtual bidding. Convergence bidding is a market feature that involves the submission of bids to buy or sell electric energy in the day-ahead market, without any obligation to provide or consume electricity. CAISO states that convergence bidding enables market participants to hedge their physical market positions and manage their exposure to the differences between day-ahead prices and real-time prices.

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<sup>1</sup> California Independent System Operator Corporation, FERC Electric Tariff, Fifth Replacement (CAISO Tariff).

Convergence bids that clear in the day-ahead market and settle at day-ahead prices are then automatically liquidated with the opposite buy or sell position at either hour-ahead scheduling process prices or the real-time prices. Virtual positions at intertie scheduling points are settled at the hour-ahead scheduling process price, while virtual positions cleared at eligible internal nodes are settled at the real-time dispatch price.<sup>2</sup>

3. CAISO proposed, and the Commission accepted, temporary position limits at intertie points and internal nodes.<sup>3</sup> The position limits restrict the total megawatts of convergence bids that a scheduling coordinator can place on behalf of a single convergence bidding entity at any one internal node or intertie scheduling points. The temporary position limits were intended for the early stages of convergence bidding to ensure that no single market participant can exercise market power at an individual node. The position limits are scheduled to be phased out over 12 months for internal nodes and 16 months for intertie scheduling points.<sup>4</sup> CAISO explains that the position limits on the interties are set to increase from the current limit of five percent of the applicable operating transfer capability to 25 percent of the applicable operating transfer capability on October 1, 2011.<sup>5</sup>

## **II. CAISO's Proposed Waiver**

4. On August 26, 2011, CAISO submitted the instant petition for waiver of the provisions in CAISO Tariff section 30.7.3.6.3.2 that would require CAISO to

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<sup>2</sup> CAISO explains that these two separate market clearing processes are unique to the CAISO market, where it must manage interconnections with non-ISO regions that operate on hourly transmission schedules. CAISO Filing at 3-4.

<sup>3</sup> *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,039, at P 121 (2010) (Convergence Bidding Order), *order on reh'g*, 134 FERC ¶ 61,070, *order on reh'g*, 136 FERC ¶ 61,156 (2011).

<sup>4</sup> The Commission approved separate position limits for internal nodes and interties, finding the potential adverse impacts of market issues related to convergence bidding at interties is greater than internal nodes. *See* Convergence Bidding Order, 133 FERC ¶ 61,039 at P 125.

<sup>5</sup> *See* CAISO Tariff section 30.7.3.6.3.2.

increase position limits for convergence bids at intertie scheduling points on October 1, 2011.

5. CAISO argues that good cause exists for the requested waiver. CAISO contends that allowing the position limits to automatically increase from five percent to 25 percent on the interties on October 1, 2011, could exacerbate the adverse impacts of the market design, discussed further below.

6. According to CAISO, following the implementation of convergence bidding on February 1, 2011, it identified adverse market impacts at the interties resulting from market design features adopted to manage hour-ahead schedules at the interties. As discussed above, CAISO maintains two separate settlements for intertie scheduling points, settled at the hour-ahead scheduling process price, and internal nodes, settled at the real-time dispatch price.<sup>6</sup> CAISO states that since the start of the CAISO locational marginal pricing-based market in 2009, the hour-ahead scheduling process prices have been consistently lower than the real-time dispatch prices. The persistent average price differential has encouraged certain market participants to submit balanced virtual demand bids at internal nodes and virtual supply bids at the intertie scheduling points, enabling these market participants to recover the difference between the hour-ahead scheduling process price and the real-time dispatch price. CAISO states that bidding in such a way has contributed to the increase in the real-time imbalance energy offset that reconciles settlement values to maintain neutrality.<sup>7</sup> As a result, CAISO argues that convergence bidding is not driving the intended market efficiencies to facilitate better price convergence between the day-ahead prices and real-time dispatch market prices. CAISO states that it has not been able to identify an alternative near term option that effectively addresses the identified issues without creating new market efficiency issues or reliability concerns. Accordingly, CAISO has submitted a proposal to suspend bidding on the interties on September 20, 2011 in Docket No. ER11-4580-000 to address these issues in more detail.

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<sup>6</sup> CAISO Filing at 1-2, 9-10.

<sup>7</sup> The real-time imbalance energy offset is a neutrality account used to reconcile the settlement dollar values for all real-time energy charge codes to ensure that, after all payments and charges have been calculated, there is neither a shortage nor surplus in revenue. *See* CAISO Board of Governors Memorandum and Motion at 3, Attachment to CAISO Filing.

7. CAISO argues that allowing the position limits to increase from five percent to 25 percent on October 1, 2011, would create an opportunity for market participants to increase their bidding strategy five-fold, resulting in further market inefficiencies and the potential for the expansion of uplift associated with balanced virtual bids in the form of real-time imbalance energy offset.<sup>8</sup>

8. CAISO argues that the waiver will not unfairly disadvantage any market participant. CAISO states that load serving entities will benefit from not being exposed to a substantial increase in balanced virtual supply and virtual demand bids that will undermine the convergence of prices between the day-ahead and real-time market, as intended by convergence bidding. As discussed above, CAISO argues that the balanced virtual supply and virtual demand bids at intertie scheduling points cause an unwarranted increase in the real-time imbalance energy offset.<sup>9</sup>

9. CAISO proposes that if its proposed tariff revisions in Docket No. ER11-4580-000 are accepted, then the requested waiver would apply from October 1, 2011, until the effective date of the accepted tariff revisions in Docket No. ER11-4580-000. CAISO states that if the Commission does not accept the proposed tariff revisions, then the requested waiver would expire and the position limits would be reinstated.<sup>10</sup>

10. CAISO requests Commission action by September 29, 2011, in order to provide sufficient time to adjust the position limits in the CAISO system in advance of the automatic increase on October 1, 2011.

### **III. Notice of Filing and Responsive Pleadings**

11. Notice of CAISO's filing was published in the *Federal Register*, 76 Fed. Reg. 55,376 (2011), with interventions, comments, and protests due on or before September 8, 2011. Timely motions to intervene were filed by: the City of Santa Clara, CA and M-S-R Public Power Agency; Constellation Energy Commodities

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<sup>8</sup> CAISO also argues that a waiver is a more procedurally efficient approach to prevent further inefficiencies than a separate tariff amendment to modify the position limits, which would apply only for the time that the Commission reviews the proposed revisions in Docket No. ER11-4580-000. CAISO Filing at 13.

<sup>9</sup> CAISO Filing at 14.

<sup>10</sup> CAISO Filing at 13.

Group and Constellation NewEnergy Inc.; DC Energy California, LLC; Modesto Irrigation District; Northern California Power Agency; and NRG Power Marketing LLC, Cabrillo Power I, LLC, Cabrillo Power II, LLC, El Segundo Power LLC, Long Beach Generation LLC, NRG Solar Blythe LLC (together, NRG Companies). Pacific Gas and Electric Company (PG&E) and Western Power Trading Forum (WPTF) filed timely motions to intervene and comments. Brookfield Energy Marketing, LP. (Brookfield) and Gila River Power LLC (Gila River) filed motions to intervene out-of-time. California Department of Water Resources State Water Project (SWP) filed a motion to intervene out-of-time and comments.

12. PG&E supports CAISO's petition for waiver and agrees that it is inappropriate to increase the position limits from five percent to 25 percent where CAISO has concerns of possible market inefficiencies. PG&E notes that, at the current five percent level, uplifts associated with convergence bidding at the interties have been estimated by the CAISO Department of Market Monitoring to be \$45 million since February 1, 2011.<sup>11</sup> SWP also supports CAISO's petition for waiver, stating that it is concerned about excessive charges associated with the real-time imbalance energy offset. SWP states that the Commission should urge CAISO to develop solutions for effectively reducing the real-time imbalance energy offset to protect ratepayers from unjust and unreasonable rates.

13. WPTF argues that the Commission should take no action on the waiver request until it first makes a decision on whether intertie convergence bidding is no longer just and reasonable. WPTF argues that action on the waiver request presumes that the Commission will find that convergence bidding at intertie scheduling points is not just and reasonable in Docket No. ER11-4580-000. For that reason, WPTF argues that the Commission should not act on CAISO's petition for waiver until the Commission accepts CAISO's proposal to eliminate convergence bidding at the interties. WPTF states that, if the Commission grants the petition for waiver prior to action in Docket No. ER11-4580-000, the Commission should grant the waiver conditionally, to be in effect only until the Commission has ruled on the CAISO's proposal to eliminate intertie convergence bidding. If the Commission does not approve CAISO's request in Docket No. ER11-4580-000, WPTF argues that the conditional waiver should be immediately revoked.<sup>12</sup>

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<sup>11</sup> PG&E Comments at 3.

<sup>12</sup> WPTF Comments at 3-5.

#### **IV. Discussion**

##### **A. Procedural Matters**

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding.

15. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2011), the Commission will grant Brookfield's, Gila River's, and SWP's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

##### **B. Commission Determination**

16. The Commission finds good cause to grant a temporary waiver of CAISO's tariff provisions in section 30.7.3.6.3.2 that will automatically increase the position limits at intertie scheduling points from five percent to 25 percent. As discussed in more detail below, CAISO has made a corresponding filing in Docket No. ER11-4580-000 to address a more permanent solution. CAISO argues here that the submission of convergence bids at intertie scheduling points has resulted in market inefficiencies and increased uplift and that such issues may be exacerbated if the position limits are increased. Thus, while the Commission considers the complete record on CAISO's proposal, there may be the potential for adverse market outcomes related to the automatic increase of position limits for intertie scheduling points on October 1, 2011. Therefore, we find that this temporary waiver will avoid potentially unnecessary adverse market impacts that may result from increasing the position limits at intertie scheduling points when a persistent price differential exists between the hour-ahead scheduling process and the real-time dispatch market.

17. The Commission historically has granted certain waiver requests involving an emergency situation or an unintentional error.<sup>13</sup> Waiver, however, is not

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<sup>13</sup> See, e.g., *ISO New England Inc.*, 117 FERC ¶ 61,171, at P 21 (2006) (granting limited and temporary change to tariff to correct an error); *Great Lakes Transmission LP.*, 102 FERC ¶ 61,331, at P 16 (2003) (granting emergency waiver involving *force majeure* event for good cause shown); and *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330, at P 5 (2003) (granting waiver for good cause shown to address calculation in variance adjustment).

limited to those circumstances. Where good cause for waiver of limited scope exists, there are no undesirable consequences, or the resultant benefits to customers are evident, the Commission has found that a one-time waiver is appropriate.<sup>14</sup> We find that the requested waiver in the instant proceeding meets the criteria.

18. CAISO claims that it has identified market inefficiencies related to convergence bidding at intertie locations related to the two separate settlements for intertie scheduling points and internal nodes. Accordingly, CAISO has filed a proposal to eliminate convergence bidding at intertie scheduling points in Docket No. ER11-4580-000. CAISO contends that the potential adverse market outcomes, in part, may result from the persistent price differential between the hour-ahead scheduling process and the real-time market. We find that good cause exists to grant a temporary waiver to avoid the potential for balanced virtual demand and virtual supply to increase by five-fold and result in an increase to the real-time energy imbalance offset while the Commission evaluates CAISO's proposed revisions along with parties comments.

19. Further, we are not aware of, nor have commenters provided evidence of, undesirable consequences associated with the grant of temporary waiver. Rather, we note waiver will provide benefits to customers by protecting market participants from the potential for increased market inefficiencies. We also emphasize that the waiver granted here is of limited scope, becoming effective on October 1, 2011, and staying in effect only until the time the Commission acts on the pending filing in Docket No. ER11-4580-000. We disagree with WPTF that by granting waiver here, we are prejudging the outcome of the proceeding in Docket No. ER11-4580-000. Instead, the waiver is simply protecting market participants from potential increased market inefficiencies during the time the Commission considers the record in the CAISO's proposal to eliminate convergence bidding at the interties. Last, if CAISO's proposal in Docket No. ER11-4580-000 is not accepted as proposed, the Commission may reinstate the required CAISO increase of position limits, as previously scheduled.

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<sup>14</sup> See, e.g., *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226 (2007); *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031 (2008); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,132 (2010); *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,020 (2010); *Coso Energy Developers*, 134 FERC ¶ 61,088 (2011).

The Commission orders:

CAISO's petition for waiver is hereby granted effective October 1, 2011, as requested, until the Commission acts on CAISO's proposal to permanently suspend convergence bidding at intertie scheduling points in Docket No. ER11-4580-000, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.