

136 FERC ¶ 61,238  
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 Nos. ER11-4151-000  
ER11-4151-001

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS  
SUBJECT TO COMPLIANCE FILING

(Issued September 30, 2011)

1. On July 29, 2011, California Independent System Operator Corporation (CAISO) submitted, pursuant to section 205 of the Federal Power Act (FPA)<sup>1</sup> and section 35 of the Commission's regulations,<sup>2</sup> a proposed tariff amendment to provide for generated bids and outage reporting for non-resource specific system resources with resource adequacy contracts, and to address the treatment of resource adequacy resources with subset-of-hours contracts.<sup>3</sup> On August 9, 2011, CAISO filed an errata to include proposed tariff provisions inadvertently omitted from its original filing. In this order, we conditionally accept the proposed tariff amendment to be effective January 1, 2012, subject to a compliance filing, as discussed below.

**I. Background**

2. CAISO states that it developed a resource adequacy program to ensure that adequate resources are available to serve load, meet reserve requirements, and support the

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<sup>1</sup> 16 U.S.C. § 824d (2006).

<sup>2</sup> 18 C.F.R. § 35 (2011).

<sup>3</sup> A subset-of-hours contract requires a non-resource specific system import to make resource adequacy capacity available to CAISO on designated days and/or during a specified number of hours, less than seven days a week, twenty-four hours a day.

reliable operation of the CAISO grid.<sup>4</sup> Under CAISO's resource adequacy program, a load serving entity can meet all or part of its resource adequacy obligations with capacity provided from imported resources that are not resource-specific. All import resources that supply resource adequacy capacity have an obligation to offer their full capacity into the integrated forward market. CAISO submits generated bids on behalf of resource adequacy resources with offer obligations in the event that they fail to meet their obligation to offer the full contracted capacity into the market.

3. On June 26, 2009, the Commission generally accepted CAISO's tariff amendment to establish a resource adequacy standard capacity product to enhance the ability of CAISO to ensure reliable grid operations.<sup>5</sup> The resource adequacy standard capacity product includes uniform metrics to measure the availability of resource adequacy capacity, as well as incentives or penalties for exceeding or failing to achieve the target availability; however, the Commission found that CAISO's proposal to apply a 100 percent availability standard to non-resource specific system imports was not just and reasonable, and directed a compliance filing.<sup>6</sup> On May 20, 2010, the Commission accepted CAISO's compliance filing to initially hold imports to the same availability standard as in-area resources until CAISO developed performance data on these system resources.<sup>7</sup> In the compliance filing, CAISO stated that it was unable to compile performance data on system imports, but would evaluate the availability of non-resource specific system imports after the 2010 compliance year to determine appropriate availability standards.<sup>8</sup> The Commission directed CAISO to report on its progress on this issue and/or file a revised proposal no later than 60 days prior to the start of the 2011 compliance year.<sup>9</sup>

## **II. Notice, Intervention, and Responsive Pleadings**

4. Notice of the original CAISO Filing was published in the *Federal Register*, 76 Fed. Reg. 47,571 (2011), with interventions, comments, and protests due on or before August 19, 2011. Notice of the CAISO errata filing was published in the

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<sup>4</sup> CAISO Filing at 3.

<sup>5</sup> *Cal. Indep. Sys. Operator Corp.*, 127 FERC ¶ 61,298 (2009) (SCP Order).

<sup>6</sup> *Id.* P 26-27.

<sup>7</sup> *Cal. Indep. Sys. Operator Corp.*, 131 FERC ¶ 61,148 (2010) (Order on Compliance).

<sup>8</sup> *Id.* P 8.

<sup>9</sup> *Id.* P 16.

*Federal Register*, 76 Fed. Reg. 53,121 (2011), with interventions, comments, and protests due on or before August 30, 2011. Timely motions to intervene were filed by California Department of Water Resources State Water Project; the Cities of Anaheim, Azusa, Banning Colton, Pasadena, and Riverside, California; the City of Santa Clara, California and the M-S-R Public Power Agency; Modesto Irrigation District; Northern California Power Agency; NRG Companies; Pacific Gas and Electric Company; and Powerex Corp. (Powerex). Powerex submitted comments.

5. On September 6, 2011, CAISO submitted an answer to Powerex's comments.

### **III. Discussion**

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

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2010), the notice of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

7. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2010), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answer filed by CAISO because it has provided information that assisted us in our decision-making process.

#### **B. CAISO Filing**

8. On July 29, 2011, CAISO filed a proposed tariff amendment to resolve issues related to determining the target availability of and generating bids for non-resource specific system imports. CAISO states that, since non-resource specific system imports do not have an obvious cost basis, in the event that a non-resource specific system imports resource does not meet its capacity obligation, CAISO proposes to offer the scheduling coordinators to choose from among three calculation methodologies for their generated bids: (1) a price taker bid, set to an estimate of the per-megawatt-hour grid management charge; (2) a bid based on the locational marginal price, calculated as a weighted average of the lowest quartile of locational marginal price in periods when the resource was dispatched during the past 90 days; or (3) a negotiated bid, which the scheduling coordinator will submit along with supporting documentation and information to justify the bid level.<sup>10</sup> In the event that the scheduling coordinator chooses the locational marginal price based bid option, it must elect one of the other two options as a

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<sup>10</sup> If the scheduling coordinator does not select a bid option, CAISO proposes to apply the price taker option to calculate its generated bid.

back-up.<sup>11</sup> CAISO states that if a non-resource specific system import submits a bid that is less than the full capacity specified in its supply plan, it will extend the last segment of the resource's energy bid curve to its full resource adequacy capacity, consistent with the treatment for internal generators providing resource adequacy capacity.

9. As discussed above, the Commission accepted CAISO's proposal to temporarily hold non-resource specific system imports to the same availability standards as in-system resources, but directed a progress report or a revised proposal.<sup>12</sup> Here, CAISO proposes to account for outages when calculating availability standards for non-resource specific system imports. CAISO will accept explanations of generation or transmission circumstances that cause a non-resource specific system import not to meet its resource adequacy must-offer obligation, so long as the resource submits notice of the availability to CAISO through the outage-reporting interface and provides reasons for the outage. For resources that submit an outage report before 10:00 a.m. on the trade day, CAISO proposes to use this information to inform the market software not to insert bids for the resource's outage hours in the day-ahead market. This information will allow CAISO to calculate the resource's standard capacity product availability.

10. CAISO explains that, after this tariff amendment is implemented, its current method of measuring standard capacity product availability will no longer be meaningful. Therefore, CAISO proposes to apply new reporting requirements and an assessment methodology equivalent to what is used for internal resource adequacy resources.<sup>13</sup>

11. Under the current tariff, CAISO inserts generated bids on behalf of all resource adequacy resources with offer obligations as if they are contracted to provide capacity seven days a week, twenty-four hours a day. Here, CAISO proposes to insert generated bids for non-resource specific system imports only for the hours specified in the resource adequacy contractual arrangement.<sup>14</sup>

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<sup>11</sup> CAISO does not propose to limit the frequency with which a scheduling coordinator can change its election among the three proposed generated bid options. However, CAISO states that if changes become too frequent to manage then CAISO may consider adopting a limit for these system resources.

<sup>12</sup> SCP Order at P 27; Order on Compliance at P 16.

<sup>13</sup> CAISO Filing at 7.

<sup>14</sup> CAISO Filing at 8-9. CAISO also notes that while it wished to implement the subset-of-hours enhancement for internal resources in time for the 2012 resource adequacy compliance year, current software limitations prevent this outcome. Instead, CAISO determined that staggered implementation would be more favorable than

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12. CAISO requests an effective date of January 1, 2012; however, CAISO asks that the Commission issue a determination on its proposal no later than September 30, 2011. CAISO states that Commission approval by this date will allow for sufficient time to develop new charge codes, make the required settlement system changes, and test system changes with stakeholders.

### **C. Powerex Comments**

13. Powerex supports CAISO's proposed tariff amendment, but asks that the Commission consider directing CAISO to revise proposed section 9.3.10.6.1, which establishes the outage reporting requirements for non-resource specific resources. As proposed, this provision states that if CAISO determines that a forced outage or constraint results from "gaming or other questionable behavior," it will submit a report describing the basis of its determination to the Commission.<sup>15</sup> Powerex claims that it is unclear from this language whether CAISO intends to follow the procedures in current tariff sections 37.8.4 through 37.8.7, which dictate how CAISO will proceed in the event of an investigation and/or sanction.<sup>16</sup>

14. To address this concern, Powerex requests that CAISO add language to proposed section 9.3.10.6.1 to clarify that it will follow the procedures in sections 37.8.4 through 37.8.7.<sup>17</sup> Powerex asserts that incorporating this language will provide market participants with needed specificity and certainty that they will receive due process in the event of a CAISO investigation or sanction. Powerex also contends that the added language will not impose an additional burden on CAISO beyond what its current tariff already requires.

### **D. CAISO Answer**

15. CAISO argues that there is no valid basis for the Commission to modify its proposal based on Powerex's request. CAISO asserts that Powerex has misunderstood the intent of section 9.3.10.6.1, which CAISO contends does not establish a new obligation or authority for it or its Department of Market Monitoring (DMM) to make a

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delaying the implementation of this functionality to non-resource specific system resources while the tools are enhanced to accommodate the new feature for internal resources. CAISO states its intention to expand the application of the subset-of-hours treatment when the necessary system modifications are completed.

<sup>15</sup> Proposed tariff section 9.3.10.6.1.

<sup>16</sup> Current tariff sections 37.8.4 and 37.8.7.

<sup>17</sup> Powerex Comments at 6.

referral to the Commission in the event that CAISO finds that a non-resource specific system imports reporting of a forced outage or constraint is the result of “gaming or other questionable behavior.” Instead, CAISO explains that a Commission referral is a possible outcome of making such a finding.<sup>18</sup> CAISO also argues that tariff sections 37.8.4 through 37.8.7, which Powerex recommends CAISO incorporate by reference into section 9.3.10.6.1, apply to “traffic ticket” penalties, not the type of violation that CAISO or its DMM may refer to the Commission.<sup>19</sup> Thus, CAISO claims that it is unnecessary and would be inaccurate to reference these sections in proposed section 9.3.10.6.1.

16. As to Powerex’s concern, CAISO offers, for the Commission’s consideration, an alternative change to the contested tariff section. If directed by the Commission, CAISO would add language to proposed section 9.3.10.6.1 to clarify that a Commission referral by the DMM is a possible outcome when the review of a non-resource specific system imports reporting of a forced outage or constraint creates suspicion that the reporting involves market manipulation, the submission of false information, or any other market violation other than those subject to “traffic ticket” penalties.<sup>20</sup> CAISO states that such language will help market participants avoid similar misunderstandings of this tariff provision in the future.

### **Commission Determination**

17. We conditionally accept CAISO’s Filing to be effective January 1, 2012, subject to a compliance filing, as discussed below. We find that CAISO’s proposed tariff changes adequately address issues raised previously by the Commission regarding the standard capacity product.<sup>21</sup> Unlike internal resource adequacy resources, imports may be subject to transmission outages at the interties, or constrained generation and transmission resources beyond the ties, which would prevent resources from meeting the availability standards as internal resources. We find that the proposed tariff changes to the availability standard recognize the concerns related to non-resource specific system imports previously expressed by the Commission. Further, we find that the options provided for generated bids provide flexibility to elect the appropriate cost representation

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<sup>18</sup> CAISO Answer at 3-4.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> SCP Order, 127 FERC at P 26-27.

where no obvious cost basis exists.<sup>22</sup> Therefore, we accept CAISO's Filing to be effective January 1, 2012. In addition, we reject Powerex's recommendation and CAISO's additional proposed modification.

18. We reject Powerex's recommendation that CAISO incorporate additional language in proposed tariff section 9.3.10.6.1 to state that it will follow the procedures in tariff sections 37.8.4 through 37.8.7 in the event that it determines that a forced outage or constraint results from "gaming or other questionable behavior." We agree with CAISO that Tariff sections 37.8.4 through 37.8.7 concern the procedures that CAISO must follow when investigating market violations that the tariff defines as "traffic ticket" violations. Proposed section 9.3.10.6.1, however, concerns non-traffic ticket market violations, which CAISO must refer to the Commission and are, thus, not subject to investigation and sanction by CAISO as provided in sections 37.8.4 through 37.8.7.<sup>23</sup> Therefore, we agree with CAISO that it would be inappropriate and unnecessary to reference the procedures for investigating and sanctioning "traffic ticket" procedures in proposed section 9.3.10.6.1.

19. We also reject the alternative change CAISO submits in its answer because it does not adequately reflect our regulations describing the Commission's market monitoring policies and requirements. In the event CAISO determines that a forced outage or constraint may have resulted from "gaming or questionable behavior," section 9.3.10.6.1 provides for CAISO to submit a report describing the basis for its determination to the Commission.<sup>24</sup> However, we note that section 35.28(g)(3)(ii)(C) of the Commission's regulations states that an independent system operator (ISO) or regional transmission organization's (RTO) Market Monitoring Unit should identify and notify the Commission's Office of Enforcement staff of instances in which a market participant's behavior may require investigation, including suspected market violations.<sup>25</sup> If the ISO or RTO obtains sufficient credible information to warrant further investigation by the Commission, section 35.28(g)(3)(iv)(A) of the Commission's regulations requires the Market Monitoring Unit to immediately refer the matter to the Commission.<sup>26</sup>

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<sup>22</sup> Finally, we note CAISO's commitment to expand the application of the subset-of-hours treatment to internal resources when necessary system modifications are completed. We encourage CAISO to continue this effort as quickly as practicable.

<sup>23</sup> *Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,050, at P 35 (2011).

<sup>24</sup> Proposed tariff section 9.3.10.6.1.

<sup>25</sup> 18 C.F.R. § 35.28(g)(3)(ii)(C) (2011).

<sup>26</sup> 18 C.F.R. § 35.28(g)(3)(iv)(A) (2011).

20. We find that CAISO's proposed tariff language does not sufficiently reflect the language as contained in the Commission's regulations and, thus, requires further revision to ensure that CAISO notifies the Commission of behavior that may require investigation, including suspected market violations. Therefore, we direct CAISO to submit a compliance filing to revise section 9.3.10.6.1 to incorporate verbatim the requirements of sections 35.28(g)(3)(ii)(C) and 35.28(g)(3)(iv)(A) of our regulations within 15 days of the date of this order.

The Commission orders:

(A) CAISO's tariff amendment is conditionally accepted effective, January 1, 2012, subject to a compliance filing as discussed in the body of this order.

(B) CAISO is hereby directed to submit a compliance filing in this docket within 15 days of the date of this order, as discussed in the body of the order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

Document Content(s)

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