

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

California Independent System) Docket No. ER20-____-000
Operator Corporation)

PETITION FOR A LIMITED WAIVER OF TARIFF PROVISIONS

The California ISO (CAISO) submits this petition for a limited waiver of certain tariff provisions that govern its timeline for the settlement and invoicing process in order to adjust settlements for resource adequacy availability incentive mechanism (RAAIM) non-availability charges during April 2017.¹ This waiver is necessary to make the adjustment in a manner that allocates charges in a manner that market participants would expect, consistent with cost causation and readily transparent to the affected entities.

After careful review, the CAISO has concluded that it should adjust the RAAIM non-availability charges that were assessed to one market participant for the month of April 2017, by reducing its charge by approximately \$537,872. In order to credit this amount back to the affected market participant, the CAISO must also issue offsetting charges to other market participants. Two considerations – cost causation and the CAISO’s established practices for implementing the resolution of disputes – both dictate that the offsetting charges should reduce the credits that other market participants received as a result of the initially excessive non-availability charges, rather than simply being allocated to load and exports. In other words, because the RAAIM non-

¹ RAAIM is a set of financial incentives for resources designated to provide resource adequacy capacity that are designed to incent their availability for dispatch through bids into the market.

availability charges to the market participant that disputed the initial settlements were too high, the market participants who benefitted from the initial settlements should “pay for” the refund. The availability incentive awards that they initially received should be reduced in order to recover the refunds of the non-availability charges that the ISO will pay.

In other circumstances, these accounting adjustments would be straightforward, because the charges and credits would both affect transactions on the same trading day. For example, payments for energy are charged to load and exports during the same interval (and thus the same day) the energy was delivered. The same is true for nearly every other ISO charge – e.g., monthly charges are credited to entities that participated in that trade month. As a result, any subsequent adjustments to the charges and credits are issued simultaneously and later included on the same invoices, thereby ensuring that the CAISO’s market accounting balances and that amounts payable equal amounts receivable at invoicing time.

There is a complication in this case, however, due to an unanticipated interaction between the settlement rules for RAIM and the rules that govern the billing and payment process that can manifest during the recalculation of RAIM charges. The settlement adjustments to offset the refund the CAISO will be issuing implicate a different trading day than the refund, and that trading day must be resettled at a different time than the refund. Here, the refund credit reducing the non-availability charge will be issued as part of recalculating the April 2017 monthly settlement statement, issued April 30, 2017. The offsetting charges – assuming they are allocated consistent with cost causation and established ISO practice – would affect the August

2017 monthly settlement statement, issued August 31, 2017, which is when the excess funds from the initial non-availability charge were credited to scheduling coordinators that earned RAAIM availability incentive payments.

If the CAISO were to follow the otherwise applicable tariff rules for processing these adjustments, it would have to issue the credit and the charges at different times. This would cause the market to be out of balance when the CAISO issues the refund credit on the recalculation of April 30, 2017. The imbalance would, in turn, require the CAISO to reach a zero balance by issuing a neutrality charge to load and exports that would effectively equal the refund payment. The result would be that the refund would be “paid” by load and exports rather than to the participants that received the windfall credit in excess RAAIM availability incentive payments. This would contravene cost causation principles and the CAISO’s ordinary practices for implementing settlement adjustments. It would also be contrary to how market participants expected the RAAIM settlements to be allocated.

To avoid this result, and to implement this adjustment in a manner that is consistent with principles of cost causation, the CAISO is seeking a waiver of the rules about when it must recalculate and invoice these trade dates. The waiver would permit the CAISO to issue a one-time settlement statement with the reduction in the RAAIM non-availability charge and the offsetting reduction in the RAAIM availability incentive payment to the proper participants, which it would then promptly invoice. These circumstances meet the Commission’s criteria for a waiver, because the ISO is acting in good faith to resolve a limited and concrete problem (one settlement dispute), and is planning to begin a stakeholder process to change the tariff in a way that will avoid

recurrences. Moreover, the waiver will not cause other problems, but rather assure that the proper parties receive the charges associated with the settlement adjustment.

The ISO asks that the Commission rule within 90 days to facilitate a timely resettlement.

I. Background

A. RAIM Settlements Generally

RAAIM includes a system of charges (called non-availability charges) and credits (called availability incentive payments) to scheduling coordinators for resources that have been designated to provide resource adequacy (RA) capacity.² These charges and credits are determined by an assessment of how often, over the calendar month, the RA capacity was made available to the CAISO by being bid into the CAISO's real-time market. This evaluation – conducted separately for each RA resource – translates the availability of the capacity during specified hours into a monthly availability percentage.

If a resource falls below 94.5 percent of its must-offer obligation, the CAISO imposes a non-availability charge for the month. If the resource exceeds 98.5 percent (up to a cap of 100 percent) of its must-offer obligation, it is eligible for an availability incentive payment for the month. And if a resource fulfills between 94.5 and 98.5 percent of its must-offer obligation, it neither receives an availability incentive payment nor pays a non-availability charge for the month.

² The terms and conditions of RAIM are reflected in Section 40.9 of the CAISO tariff.

The amount of availability incentive payments is determined by the amount of non-availability charges assessed, up to a specified limit. Any excess non-availability charges collected that would result in a payment exceeding the upper limit roll over to be used in future months. If funds are available, they are used to supplement the availability incentive payments in a month if the payment would not reach a specified minimum without the additional funds.³ But between this floor and ceiling on the RAAIM availability incentive payment, the amount of unavailable charges assessed in a month determines what is paid as an availability incentive.⁴ At the end of each year, any excess is distributed to market participants.⁵

B. The CAISO Agreed to Adjust RAAIM Settlements from April 2017

A CAISO market participant that owns generating resources that had been designated to provide RA during April 2017 was assessed approximately \$1.4 million in RAAIM non-availability charges based on its resources' performance during the month. The participant submitted a timely settlement dispute, which the CAISO settlement team denied. The participant continued to pursue its dispute through the dispute resolution process detailed in Section 13 of the tariff. After reviewing these submissions, holding discussions with the market participant and reviewing other information, the CAISO concluded that it should reverse approximately \$537,872 of the \$1.4 million in total non-availability charges.

³ See Section 40.9.6.2(d).

⁴ See Section 40.9.6.2(c).

⁵ Id.

The basis for the adjustment, which is explained in more detail in the Appendix, was that the relevant portion of the charges at issue resulted from the market participant bidding a resource in reliance on information that CAISO staff posted on the website about how non-availability charges would be calculated for certain units. This information, which was later recognized as erroneous and consequently removed a few months later, departed from CAISO policy governing RAIM settlements, and the relevant tariff language was not clear on this point. In these circumstances, Commission precedent requires that it consider extrinsic evidence, meaning the erroneous information that had been posted.⁶ In situations where a market participant relied on erroneous information and the relevant tariff provision was not clear, the Commission has granted relief to market participants.⁷ This was the only settlement dispute that stemmed from the erroneous information, and the dispute deadline has passed. Accordingly, the CAISO does not expect to make other adjustments as a result of this erroneous information.

C. Cost Causation Requires the Settlement Charges and Credits to be Issued for Different Trading Days (Credits to April 30 and Charges to August 31, 2017)

When the CAISO adjusts settlements as the result of a dispute,⁸ it must issue an

⁶ E.g., *Southwest Power Pool, Inc.*, 160 FERC ¶ 61,115 (2017), PP. 44, 45, order denying reh'g, 163 FERC ¶ 61,063 (2018), pet'n denied sub nom. *Mo. River Energy Servs. v. FERC*, 918 F.3d 954 (D.C. Cir. 2019).

⁷ E.g., *New York Independent System Operator, Inc. v. Astoria Energy LLC*, 118 FERC ¶ 61,216 (2007) PP. 34-39; see also *Midwest Independent Transmission System Operator, Inc.*, Order on Rehearing, 117 FERC ¶ 61,113 (2006) P. 94 (allowing participants to retain payments contrary to tariff due, in part, to statements made by ISO in a business practice manual); *New York Independent System Operator, Inc.*, 115 FERC ¶ 61,383 (2006) P. 29 (it is reasonable to rely on an ISO's own statements about how it implements its tariff, denying relief on other grounds).

⁸ This is the case whether a dispute is pursued under the settlement dispute process detailed in Section 11.29.8 of the tariff or the dispute resolution process in Section 13.

offsetting charge in an amount equal to the credit in order to maintain the neutrality of the market. For example, if the CAISO mistakenly failed to credit a supplier for all of the energy that it had provided, and thus adjusted the supplier's settlements to increase its credits for energy, the CAISO must issue an equal and offsetting charge. The CAISO's practice is to allocate these offsetting charges to the market participants that benefitted from the initial settlements. In the previous example, the charge would be assessed to the entities that purchased energy during the times of the settlement credits that are being adjusted, because they benefitted by being undercharged in the initial settlement. This practice helps ensure that settlement charges are consistent with the CAISO's tariff, as well as the general principle of cost causation. Both considerations are reflected in Section 13.5.3.1 of the tariff, which requires the CAISO, when allocating charges to offset awards under the Section 13 dispute resolution process, to consider both the tariff in effect on the trading days and the market activity on those days.⁹

Ordinarily, the offsetting charges are issued for the same trading interval as the relevant credits. As explained below, that simplifies the billing and payment process. In this instance, however, issuing the offsetting charge is complicated by a unique feature of RAIM settlements.

Unlike nearly every other CAISO settlement charge, RAIM charges are not designed to automatically balance during a relevant settlement interval, which in the

⁹ Section 13.5.3.1 reads, with emphasis added for the relevant language:

The CAISO will use best efforts to determine which Market Participant(s) is or are responsible for and/or benefit from payment of an award by or to the CAISO and to allocate receipt of or payment for the award equitably to such Market Participant(s). In undertaking the allocation, the CAISO shall *consider the extent of a Market Participant's participation in the affected markets and the CAISO Tariff in effect on the applicable Trading Day(s)*, and may consider any other relevant factor, including but not limited to, applicable contracts.

case of RAAIM would be over the month. For most other charge types, including energy and ancillary services, total charges always equal total credits because the charges simply allocate the credits from the same interval. RAAIM is a monthly charge that is calculated and assessed after the month has concluded. The charges and credits for each month, however, do not necessarily balance. As discussed above, RAAIM has special rules to ensure that payments in equal payments out. These rules include a ceiling on the payments for RAAIM availability incentives during any given month. Any excess of charges that were assessed, above this ceiling, is rolled forward to the next month. Any balance is used to supplement the payments for RAAIM availability incentive payments in a future month if those payments would not otherwise meet a specified minimum.

In April 2017, the CAISO assessed significantly more RAAIM non-availability charges than it awarded in RAAIM availability incentive payments. The excess above the cap on monthly RAAIM availability incentive payments was rolled forward and ultimately distributed as part of the August 2017 RAAIM settlements.

While this rule helps maintain cash neutrality during the initial settlement run, it causes a complication when settlements are recalculated later. In this case, the refunds for the market participant that was overcharged in April 2017 should be recovered from (i.e., charged to) to the entities that benefitted through the increase in their availability incentive payments in August 2017.¹⁰ The obstacles to doing this are explained in the next section.

¹⁰ There is no standing account that holds excess RAAIM funds that the CAISO could use to pay the refund. While the “carry forward” aspect of RAAIM settlements means that the CAISO is occasionally holding funds collected from RAAIM unavailability charges, any such funds are effectively earmarked by

D. A Waiver is Necessary to Issue the Charges to the Right Market Participants, Consistent with Cost Causation

Resolving this dispute consistent with cost causation and standard CAISO practices would require the CAISO to do two things:

- 1) Adjust the settlements for trading day April 30, 2017 by crediting one market participant by approximately \$537,872, and
- 2) Issue the offsetting charges on the settlements for trading day August 30, 2017, to the market participants that benefitted from the initial excess payments, which was carried forward to August 2017 and paid based on activity in that month.

But the tariff poses obstacles to doing this.

The tariff sets the schedule for recalculating past trading dates.¹¹ Under that schedule, four months will pass between the recalculation of the two affected trading days. As a result of this time lag, tariff rules about market neutrality and cash flow would prevent the CAISO from issuing charges in a manner consistent with cost causation and its established practice. Specifically, if the CAISO were to issue the refund credit (but not the offsetting charges) on a recalculation of April 30, 2017, that would trigger the tariff rule about neutrality.¹² The credit to resolve the RAIM issue

the tariff rules for either payment in a future trade month, or to be distributed to market participants at the end of a year. Consequently all RAIM unavailability charges that were collected in 2017 have long since been distributed.

¹¹ See Sections 11.29.7.1 and 11.29.24.

¹² For each trading day, settlement charges and credits must balance. Section 11.29.6 states: “[S]ettlements shall not be cleared for final processing until the accounting trial balance is zero.” See also section 11.29.14, which directs the ISO charge or credit neutrality – i.e., the charge designed to make each day net to zero – in order to reach a trial balance of zero. In fact, the CAISO’s daily settlements (though not invoices, which are subject to different rules) net to zero.

This requirement that settlement charges balance is reinforced by the CAISO’s central counterparty status and rules that insulate the CAISO from having to cover shortfalls with corporate funds. To the extent that payments due to market participants on a payment date exceed the funds that

would cause an imbalance for that trading day because total credits would exceed total charges. The neutrality rule would then require the CAISO to reach zero balance for the day by assessing a neutrality charge to load and exports.¹³ The result of these steps would be that the charges to offset or pay for the RAIM refunds, which should go to the market participants that initially received excess RAIM availability payments, would instead be assessed to load and exports. This would be contrary to how market participants expected RAIM availability incentives to be funded, general principles of cost causation, and the CAISO's established practices related to resolving disputes.

To avoid this complication, the charges to offset the RAIM refunds must be issued at the same time as the refund credit and invoiced together.¹⁴ This requires a waiver of rules governing the schedule for issuing recalculation settlement statements in Sections 11.29.7 and 11.29.24 to permit CAISO to issue recalculation settlement statements and invoices for the affected trading days on a schedule different than what

the CAISO has collected – which would be the case if the CAISO did not issue a neutrality charge to reach a zero balance – the tariff requires that the CAISO must reduce payments to all market creditors, with the shortfall spread according to a formula. See Section 11.29.17, which describes the shortfall allocation formulae and processes, and especially 11.29.17.1.

¹³ See Section 11.29.14. A further complication from the CAISO's perspective is that a \$537,872 charge through neutrality would significantly exceed the typical neutrality charge. Because other charges types are designed to balance on a daily basis, neutrality charge are typically very small, reflecting rounding errors and other small mismatches.

While the CAISO arguably might, four months later, charge the participants that received excess RAIM availability incentives in August 2017 and issue a credit back to neutrality, this would not resolve all issues. For one thing, this would make the accounting (from the standpoint of market participants and their regulators) even more complex and hardly transparent. More important, it would not achieve cost causation. Due to seasonal and other differences between load and exports in April and in August, the credit to neutrality would not actually reimburse the parties that funded the initial refunds.

¹⁴ This is the reason the CAISO does not view Section 11.29.7.3.2 as a solution. It authorizes the ISO to issue unscheduled settlement statements at the direction of the Commission or the Board. But such a settlement statement would nevertheless require a waiver from the Commission because it would not meet the tariff requirement that the balance of settlement statements for each trading day must net to zero. See Section 11.29.14. A waiver filing with the Commission, moreover, is the only forum in which potential disputes could be addressed effectively for such a factually complex issue.

is mandated by the tariff. (So that CAISO does not have to address this issue again in the future, we will initiate a stakeholder process in 2020 to amend the tariff in a way that would prevent a recurrence.)

III. Petition for Limited Waiver to Issue a Special Recalculation Settlement Statement and Special Invoice

The CAISO requests the Commission grant a limited waiver of tariff provisions that otherwise would restrict the timing of recalculation settlement statements the CAISO may issue. The waiver will permit the CAISO to recalculate the settlements affected by the resolution of this dispute, issue a settlement statement that balances, and issue a single invoice that contains only the results of this adjustment. The settlement statement and the invoice would be issued outside the tariff schedule that otherwise applies to recalculation of settlement statements and issuance of invoices and payment advices.

The Commission has granted requests for tariff waivers where: (1) the applicant has acted in good faith; (2) the waiver was limited in scope; (3) the waiver addressed a concrete problem; and (4) the waiver did not have undesirable consequences.¹⁵ This waiver request satisfies all four of these elements under Commission precedent, and thus good cause exists to grant the requested relief.

¹⁵ E.g., California Independent System Operator Corp., 162 FERC ¶ 61,280 (2018), P. 30 (granting waiver to exempt certain demand response resources from RAIM bidding requirement); California Independent System Operator Corp., 158 FERC 61,108 (2017), P. 10 (granting waiver to delay implementation of RAIM settlements so that market participants could review additional advisory settlements).

A. The CAISO Has Acted in Good Faith

In addressing this settlement dispute, the CAISO identified a discrete unintended issue that can result from the interaction between RAIM settlement rules and the tariff requirements governing billing and settlements when it is necessary to recalculate RAIM charges. The CAISO seeks this tariff waiver proactively, as a way to avoid settlement consequences that would be unintended, and to ensure transparency and cost causation in the resolution of a dispute. Unlike many cases in which the Commission has granted tariff waivers, no tariff violation has occurred. The CAISO is thus acting in good faith.

B. The Requested Waiver is Limited in Scope

The requested waiver is limited in scope because it is confined to resolving one settlement dispute. The CAISO plans to initiate a stakeholder process in 2020 to amend its tariff to resolve the tension between RAIM and its settlement and billing rules that can occur when RAIM charges are recalculated. CAISO expects that the resulting tariff amendment will avoid the need for any further tariff waiver requests while RAIM is in place.

C. The Requested Waiver Will Remediate a Concrete Problem

The requested waiver will address the concrete and clearly defined tension between the CAISO's ordinary practices for adjusting settlements consistent with cost causation after a dispute and the ordinary rules of billing and settlement. Without a waiver, the refund of the RAIM unavailability charges will be paid by load and exports through the neutrality charge. This would not adhere to cost causation principles,

because these market participants have no necessary connection to the participants who benefitted from the initial erroneous settlements.

D. The Requested Waiver Would Not Pose Undesirable Consequences

There will be no undesirable consequences if the Commission grants the limited waiver. Because the waiver applies to a single settlements correction, the CAISO anticipates no harm to other market participants.¹⁶ Rather, the waiver will only benefit market participants by allowing the ISO to resolve this settlement dispute in a manner that is consistent with cost causation.

IV. Service

The ISO has served copies of this filing upon the California Public Utilities Commission and all parties with effective scheduling coordinator service agreements under the ISO tariff. In addition, the ISO has posted this filing on its website.

V. Correspondence

The ISO requests that all correspondence, pleadings and other communications concerning this filing be served upon:

Daniel Shonkwiler
Assistant General Counsel –
Corporate & Litigation
California Independent System
Operator Corporation
250 Outcropping Way
Folsom, CA 95630
Tel: (916) 351-4400
Fax: (916) 608-7222
dshonkwiler@caiso.com

¹⁶ While some market participants will receive the offsetting charges (assuming the waiver is granted), they will be the market participants that initially received RAIM availability incentive awards that were higher than they should have been as a result of the initial settlement. Without a waiver, these charges would be assessed instead to market participants that did not benefit from the initial settlements.

VI. Conclusion

The Commission should find that good cause exists to grant a one-time waiver of the requirements in Sections 11.29.7 and 11.29.24 of the CAISO tariff to permit the CAISO to make the settlement adjustments described above, refunding the timely disputed RAIM unavailability charges from April 2017, issuing the offsetting charges to participants that received RAIM unavailability payments in August 2017, and issuing invoices and payments advices for the resulting charges and credits on the same day.

Respectfully submitted,

By: /s/ Daniel Shonkwiler

Roger E. Collanton

General Counsel

Burton Gross

Deputy General Counsel

Daniel Shonkwiler

Assistant General Counsel

California Independent System

Operator Corporation

250 Outcropping Way

Folsom, CA 95630

Tel: (916) 351-4400

Fax: (916) 608-7222

dshonkwiler@caiso.com

Counsel for the California Independent
System Operator Corporation

Date: _____

Appendix: Details of the Adjustment

The settlement adjustment concerns how to properly calculate the availability percentage for a resource that was designated to provide more than one “category” of Flexible RA Capacity. The ISO assesses availability of resources over different ranges of hours depending on the category of Flexible RA Capacity the resource is designated to provide.

- Category one is “base ramping,” which is assessed for 17 hours a day (5 am to 10 pm), seven days per week;
- Category two is “peak ramping,” which is assessed for a 5 hour block (hours determined seasonally), seven days per week; and
- Category three is “super-peak ramping,” which is assessed for a 5 hour block (hours determined seasonally), on non-holiday weekdays.

When a resource is designated to provide Flexible RA from more than one category during the same day, the ISO assesses the resource’s availability percentage against the expectation that it will provide the total amount of Flexible RA Capacity designated in all categories during all of the hours required for the “highest quality”¹⁷ category designated – i.e., category one, if some amount in category one was designated. This would mean that a unit designated to provide 200 MW of category one and 100 MW of category two during the same day would be expected to provide 300 MW of Flexible RA Capacity for 17 hours during the day, even though the 100 MW designated in category two would have been assessed over only 5 hours had the unit been designed to provide Flexible RA Capacity in category two only.

For a brief period, however, the CAISO provided contrary advice via a spreadsheet posted on its website, and the relevant tariff language did not clearly state

¹⁷ The ISO use of the term “highest quality” refers to category one (and to category two, if a unit were designated to provide only category two and category three). See 40.9.3.4(b)(2) (final two sentences).

the rule. During April 2017, the ISO had posted on its website a spreadsheet that calculated RAAIM non-availability charges. It was intended to help market participants determine the effect that certain bidding practices or outages would have on their RAAIM settlements. The calculator showed that a resource designated to provide, for example, 200 MW of category one Flexible RA and 100 MW of category two Flexible RA during a single day would have its availability assessed based on an expectation that it provide the combined total of 300 MW, but only for the five hours associated with category two. During the remainder of the 17 hours from 5 am to 10 pm, the calculator showed the resource was expected to provide only 200 MW.

This spreadsheet was erroneous. In July 2017, the CAISO identified the issues, removed the spreadsheet from its website, and notified stakeholders about the error. While it was posted, however – meaning transactions in April 2017¹⁸ – the market participant in question relied on the spreadsheet. Moreover, the market participant would have had strong arguments that its reliance on the spreadsheet was reasonable, because its implicit message about resources designated to provide more than one category of Flexible RA was not clearly contradicted by the tariff. The only subsection of the tariff that directly addresses this issue, 40.9.3.2(c), states that the ISO “will assess the availability of the resource” designated to provide Flexible RA in more than one category “using the must-offer obligation for the highest quality of Flexible Capacity Category designated.”¹⁹ But this language did not indicate to the spreadsheet user that

¹⁸ In May, June and July 2017, the CAISO paid RAAIM incentive awards at the tariff minimum. August 2017, which was supplemented with the excess funds from April, was thus the only month that benefitted from the excess funds.

¹⁹ The full section reads:

the assessment would expect the resource to offer the combined total of Flexible RA in all categories for all 17 hours. The term “must-offer obligation” – as in the requirement that the ISO “assess the availability of the resource using the must-offer obligation for the highest quality of Flexible Capacity Category designated” – is not defined. And the surrounding sections hint that the term refers to a time period rather than a quantity.²⁰ See section 40.9.3.2(a) (“The Availability Assessment Hours shall be the same period as the must-offer obligation for the Flexible Capacity Category that is designated”) Finally, the spreadsheet itself is evidence of ambiguity, because it is not an oral statement that could have been imprecise or taken out of context, but rather an attempt to show how the tariff rules would apply.

Under the circumstances, the charges should be adjusted to reflect the interpretation that the market participant relied on. Accordingly, the ISO will be granting a settlement dispute that was timely raised during the period before the ISO corrected the information by adjusting the RAIM non-availability charge for the disputing market participant to be consistent with the way the RAIM non-availability charge was calculated on the spreadsheet.

Flexible Capacity Category. If a Flexible RA Resource is designated to provide RA Capacity and/or RA Substitute Capacity in more than one Flexible Capacity Category on the same day, the CAISO will assess the availability of the resource using the must-offer obligation for the highest quality of Flexible Capacity Category designated.

²⁰ Had the issue been litigated, the ISO would have raised contrary arguments. Nevertheless, the CAISO acknowledges that the market participant would have had strong arguments that its reliance on the spreadsheet was not unreasonable, and thus a probability of success in the event of litigation, which is why the ISO agreed to grant relief.