

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System)
Operator Corporation)

Docket ER07-127-000

**ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO THE MOTION OF SOUTHERN CALIFORNIA EDISON COMPANY
TO STAY THE DECEMBER 28, 2006 ORDER**

The California Independent System Operator (“CAISO”) respectfully submits this answer to the “Motion of Southern California Edison Company to stay the Federal Energy Regulatory Commission’s December 28, 2006 Order” (the “Motion”). *See* 18 C.F.R. § 385.213 (governing answers). Generally speaking, the CAISO agrees with the Motion’s apparent goal of extending the current waiver of tariff-based penalties related to late outage reporting, and thereby ensuring that penalties mandated in the CAISO tariff are enforced only after market participants are given sufficient time to perfect their systems and avoid unintentional violations. The CAISO wishes to raise a purely technical point about the relief requested by the Motion – namely, a stay of the Commission’s Order issued December 28, 2007 (the December 28 Order). As explained below, such relief might have unintended consequences that could undermine the goal of the Motion. Accordingly, the CAISO requests that, to the extent the Commission grants relief to SCE, it should not stay the December 28 Order or any portion of it.

I. BACKGROUND

A. The December 28 Order

The December 28 Order approved an amendment to the CAISO tariff that was filed October 31, 2006 in this docket. *See* Order Accepting for Filing, Subject to Modification, Tariff Revisions and Extending Temporary Waiver of Sanctions (December 28, 2006). The primary effect of the amendment was to narrow the requirements for outage reporting found in sections 9.3.10.2 and 9.3.10.5 of the tariff. Previously, these sections required operators of generating units to submit reports about “Forced Outage[s].”¹ The term “Forced Outage,” however, is defined quite broadly to include any “reduction in capacity.” Thus, no level of reporting would have been sufficient to provide absolute assurance that operators had complied with the requirement. The problem was exacerbated by separate tariff provisions that specified penalties for late reports.

To address this issue, the CAISO obtained a temporary waiver of the penalty provisions (tariff sections 37.4.1.2 and 37.4.3.2),² and conducted a stakeholder process that led to the tariff amendment. The amendment adopted certain specific minimum thresholds for reporting outages to replace the broad requirement that operators report “any reduction in capacity”. More specifically:

- **Availability Reporting** is a quick report of any material changes in availability, without additional detail. Under the amendment, 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.

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

² Order Granting Petition for Temporary Waiver of Certain Tariff Sanctions (September 8, 2006).

- **Forced Outage Reporting** is a more detailed report about the causes of an outage and corrective measure taken. Under the amendment, 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).

The December 28 Order accepted the amendment subject to minor modifications. In addition, it extended the waiver of penalties, which otherwise would have expired on October 31, 2006. Otherwise, the penalty provisions in sections 37.4.1.2 and 37.4.3.2 of the CAISO tariff were untouched by the order.³

CAISO has since requested to further extend the waiver of penalties. *See* Petition to Extend the Waiver of Sanctions (filed on March 30, 2007). That petition contains additional background on these issues. Since that filing, on April 10, the CAISO released the software upgrade to the outage reporting interface to the testing environment. A market notice announcing that release was issued on April 13.

B. SCE's Motion to Stay

The express purpose of SCE's Motion is to stay "[t]he imposition of sanctions" until certain software modifications are completed by the CAISO, tested, and "approved by market participants." To that end, SCE asks the Commission to stay the December 28 Order, or at least two aspects of it:

- 1) "the portion of the December 28, 2006 order relating to imposition of sanctions pursuant to sections 37.4.1.2 and 37.4.3.2 of the CAISO Tariff." *See* Motion at 3.

³ SCE had requested "that the Commission reject the CAISO's request for sanction authority," December 28 Order ¶ 23, but this was rejected as a collateral attack on the commission's orders in a separate docket. *See id.* ¶ 25.

- 2) “the portion of the December 28, 2006 order relating to Forced Outage reporting for units with a maximum capacity less than 40 MW.” *See* Motion at 4.

Other portions of the Motion seem to request a broad waiver of the entire December 28 Order. *See* Motion at 5 & 6 (two references on each page to stay of the December 28 Order).

II. ANSWER

The thrust of the Motion is to seek a further extension of the Commission’s waiver of penalties. The CAISO’s position on this issue remains as stated in its Petition to Extend the Waiver of Sanctions that was filed on March 30, 2007. The CAISO’s only concern is that a stay of the December 28 Order might achieve the opposite result, and leave CAISO Market Participants at greater risk of penalties than they presently face.

In particular, a stay of the December 28 Order as it “relat[es] to the imposition of sanctions,” *see* Motion at 3, would be problematic. Because the only portion of the order that relates to sanctions is the extension of the waiver of penalties, a stay would, on an overly technical reading, reinstate penalties retroactive to November 1, 2006, when the previous waiver expired.

Similarly, a stay of the December 28 Order as it “relat[es] to Forced Outage Reporting,” *see* Motion at 4, would be problematic as well. The only portion of the order that relates to Forced Outage Reporting is the approval of the new tariff language with narrower reporting requirements. A stay of that “portion” of the order would place a hold on this new language, and ensure that the previous, broad tariff language, which requires generators to report any “reduction in capacity,” would remain in place indefinitely.

The CAISO does not believe that any of these results are desired by SCE or other Market Participant.

III. CONCLUSION

For the foregoing reasons, the CAISO respectfully requests that, to the extent the commission granted relief to SCE, it should not stay the December 28 Order, or any portion of it.

April 16, 2007

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list for the captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, CA, on this 16th day of April, 2007.

/s/ Daniel J. Shonkwiler

Daniel J. Shonkwiler

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