

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

**California Independent System            )       Docket No. ER20-2360-000  
Operator Corporation                    )**

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF THE CALIFORNIA  
INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (CAISO)<sup>1</sup> submits this motion for leave to answer and answer to the comments filed by the Department of Market Monitoring (DMM) and the protest filed by the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities), in this proceeding on the CAISO tariff amendment to enable updates to default commitment cost and default energy bids (CCDEBE Tariff Amendment).<sup>2</sup> DMM and the Six Cities were the only entities that made

---

<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings set forth in appendix A to the CAISO tariff.

<sup>2</sup> The CAISO submits this motion for leave to answer and answer pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. The CAISO respectfully moves for waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer the Six Cities' protest. Good cause for this waiver exists here because the answer will 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 proceeding. *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 Servs., Inc.*, 124 FERC ¶ 61,011 at P 20 (2008).

substantive filings in the proceeding.<sup>3</sup> They state that they support the CCDEBE Tariff Amendment other than as to the limited issues they raise.<sup>4</sup>

As explained below, the Commission should reject the Six Cities' proposal to require the CAISO to revise its tariff to allow scheduling coordinators to submit requests to recover costs associated with gas company imbalance penalties. Requiring the CAISO to allow such requests is neither appropriate nor necessary. However, the CAISO agrees with DMM that the tariff revisions contained in the CCDEBE Tariff Amendment on the settlement of recoverable amounts should be clarified also to permit the recovery of incurred costs for exceptional dispatch energy. The Commission should accept the CCDEBE Tariff Amendment as filed, subject to a compliance filing to make DMM's suggested clarification.

**I. Answer**

**A. The Commission Should Reject the Six Cities' Proposal to Allow Scheduling Coordinators to Submit Requests to Recover Gas Company Imbalance Penalty Costs**

In the CCDEBE Tariff Amendment, the CAISO proposed to add tariff provisions that bar scheduling coordinators from requesting recovery of costs associated with gas company imbalance penalties (gas imbalance penalty costs),

---

<sup>3</sup> Motions to intervene were filed by: the California Department of Water Resources State Water Project; Calpine Corporation; City of Santa Clara, California; Modesto Irrigation District; Northern California Power Agency; NRG Power Marketing LLC; Pacific Gas and Electric Company; Powerex Corp.; San Diego Gas & Electric Company; and Southern California Edison Company.

<sup>4</sup> DMM at 2 ("DMM supports each of the elements of the CCDEBE proposal included in this tariff filing."); Six Cities at 1 ("With the exception of the elements discussed below, the Six Cities generally support the CAISO's Revised CCDEBE Amendments.").

pursuant to either reference level change requests or requests for uplift payments after the CAISO market process.<sup>5</sup> The Six Cities urge the Commission to direct the CAISO to delete those tariff provisions and thereby require it to permit such requests.<sup>6</sup> The Six Cities are the only entity that opposes the CAISO's proposal on this issue.<sup>7</sup>

The Commission should reject the Six Cities' alternative proposed tariff revision – which is, indeed, the complete opposite of the CAISO's. The matter before the Commission is to determine whether the CAISO's proposal, not the Six Cities' alternative, is just and reasonable. "Pursuant to section 205 of the FPA [Federal Power Act], the Commission limits its evaluation of a utility's proposed tariff revisions to an inquiry into 'whether the rates proposed by a utility are reasonable – and not to extend to determining whether a proposed rate schedule is more or less reasonable to alternative rate designs.'"<sup>8</sup> Therefore,

---

<sup>5</sup> New tariff sections 30.11.2.1 and 30.12.1. Any requested uplift payments must be for amounts in a reference level change request the CAISO did not approve in the before-market reference level change request process. New tariff section 30.12.1.

<sup>6</sup> Six Cities at 1-5.

<sup>7</sup> DMM supports the CAISO's proposal to exclude gas imbalance penalty costs from reference level change requests and after-the-market requests. DMM at 6-7.

<sup>8</sup> *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,135, at P 44 n.43 (2012) (quoting *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984)). In that same order, the Commission also explained that the revisions proposed by the utility "need not be the only reasonable methodology" and that "even if an intervenor develops an alternative proposal, the Commission must accept a section 205 filing if it is just and reasonable, regardless of the merits of the alternative proposal. 141 FERC ¶ 61,135, at P 44 n.43 (citing federal court and Commission precedent). See also *New Eng. Power Co.*, 52 FERC ¶ 61,090, at 61,336 (1990), *aff'd*, *Town of Norwood v. FERC*, 962 F.2d 20 (D.C. Cir. 1992) (proposed rate design need not be perfect, it merely needs to be just and reasonable); *Louisville Gas & Elec. Co.*, 114 FERC ¶ 61,282, at P 29 (2006) (the just and reasonable standard under the FPA is not so rigid as to limit rates to a "best rate" or "most efficient rate" standard, but rather a range of different approaches often may be just and reasonable).

“[u]pon finding that CAISO’s Proposal is just and reasonable, [the Commission] need not consider the merits of alternative proposals.”<sup>9</sup>

Requiring the CAISO to allow scheduling coordinators to request recovery of gas imbalance penalty costs is inappropriate or, at best, unnecessary. As explained in the CCDEBE Tariff Amendment, allowing such requests could provide a disincentive for suppliers to follow gas pipeline instructions, thereby threatening gas system reliability.<sup>10</sup> The Commission made this same point in its 2016 order on interim CAISO tariff revisions to address the limited operability of the Aliso Canyon gas storage facility (Aliso Canyon). The Commission rejected a commenter’s argument that a resource that incurs gas imbalance penalty costs pursuant to a CAISO dispatch instruction should be entitled to recover them after the market pursuant to an FPA 205 filing. In particular, the Commission reiterated its own previous finding that “[a]llowing generators to recover costs and penalties associated with unauthorized natural gas consumption could jeopardize the reliability of natural gas pipeline and transmission systems and is therefore at odds with the reliability and cost benefits otherwise associated with allowing generators to recover actual fuel costs in reference levels.”<sup>11</sup> The Commission stated that this finding applied “with equal force” in the Aliso Canyon proceeding.<sup>12</sup>

---

<sup>9</sup> *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,135, at P 44.

<sup>10</sup> Transmittal letter for CCDEBE Tariff Amendment at 56.

<sup>11</sup> *Cal. Indep. Sys. Operator Corp.*, 155 FERC ¶ 61,224, at P 96 (2016) (quoting *N.Y. Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,111, at P 39 (2016)).

<sup>12</sup> *Cal. Indep. Sys. Operator Corp.*, 155 FERC ¶ 61,224, at P 96.

The Six Cities quote language from the same order indicating that the Commission “acknowledge[d] the possibility of extraordinary situations under which a gas generator might be able to support a request” to recover gas imbalance penalty costs.<sup>13</sup> But the Six Cities fail to cite a single instance in which such an extraordinary situation has ever occurred. In fact, to the CAISO’s knowledge, there have been no instances in which an entity has sought recovery of gas imbalance penalty costs pursuant to the directives in the 2016 Aliso Canyon order in the four years since it was issued, let alone made the showing required to obtain such cost recovery.<sup>14</sup> If a resource wants to recover gas imbalance penalty costs associated with a CAISO dispatch instruction after the CAISO has dispatched the resource, it can seek relief from the pipeline or local distribution company.<sup>15</sup>

Also, DMM has provided data that shows that the fuel price indices the CAISO uses seem to capture the bulk of the costs associated with gas imbalance charges.<sup>16</sup> Specifically, DMM showed that gas imbalance penalties and limitations on gas supply are reflected in gas price indices that reflect the prices

---

<sup>13</sup> *Id.* at P 93. The Commission also stated it did not believe prohibiting such requests “is appropriate at this time” (*id.*), which left open the possibility that the Commission could find it appropriate to prohibit them at a later time.

<sup>14</sup> The CAISO explained in the CCDEBE Tariff Amendment that, since the 2016 Aliso Canyon order was issued, there have been three filings in which parties have sought after-the-market recovery of costs. See transmittal letter for CCDEBE Tariff Amendment at 19 & n.67. In none of those three filings, however, did a party request recovery of gas imbalance penalty costs.

<sup>15</sup> *Id.* at 57.

<sup>16</sup> See *id.* at 27 (citing pages 8-10 of the deficiency letter response the CAISO filed on November 22, 2019, in the proceeding on the similar tariff amendment the CAISO submitted in 2019 to implement changes regarding default commitment costs and default energy bid enhancements (Docket No. ER19-2727-000)).

gas suppliers face in procuring gas. DMM demonstrated that the difference between next-day gas prices at the SoCal Citygate hub correlates with the declaration of operational flow orders (OFOs) and the different gas imbalance charges associated with these OFOs.<sup>17</sup> Thus, most of the gas imbalance penalties should already be captured in the gas price indices used to calculate the resource's reference levels. Six Cities provide no data to dispute DMM's analysis.

For these reasons, the Commission should accept the CAISO's just and reasonable proposal, and reject the Six Cities' alternative proposal to require the CAISO to revise the provisions in the CCDEBE Tariff Amendment on requests to recover gas imbalance penalty costs.

**B. The CAISO Agrees with DMM's Suggestion to Clarify the Tariff Provisions on Settling Recoverable Amounts**

In the CCDEBE Tariff Amendment, the CAISO proposed to revise the tariff to state that, to the extent a CAISO after-market evaluation of fuel costs results in verification that a resource's actually incurred costs were not recovered through the bid cost recovery process, the CAISO will resettle bid cost recovery using revised bid costs for the resource and issue revised settlement statements.<sup>18</sup> DMM recommends that the CAISO revise the tariff section to explicitly also include resettlement of verified exceptional dispatch energy that is settled at default energy bid reference levels.<sup>19</sup>

---

<sup>17</sup> DMM comments, Docket No. ER20-2727-000, at 17-18 (Sept. 20, 2019).

<sup>18</sup> New tariff section 30.12.4.3.

<sup>19</sup> DMM at 8.

The CAISO agrees this clarification is appropriate and would make it in a compliance filing if so directed by the Commission. Specifically, on compliance the CAISO would revise tariff section 30.12.4.3 to read:

To the extent the CAISO's evaluation results in verification that the resource's actually incurred costs claimed by the Scheduling Coordinator were not recovered through the Bid Cost Recovery process, the CAISO will resettle Bid Cost Recovery and Exceptional Dispatch using revised Bid Costs and revised Default Energy Bids, as applicable, for the resource and will issue Recalculation Settlement Statement(s) within the normal Recalculation Settlement Statements timelines specified in Section 11.29.

## II. Conclusion

For the foregoing reasons and the for the reasons explained in the CCDEBE Tariff Amendment, the Commission should accept the tariff amendment as filed, subject to the submittal of a filing on compliance as described above.

Respectfully submitted,

Roger E. Collanton  
General Counsel  
Anthony J. Ivancovich  
Deputy General Counsel  
Anna A. McKenna  
Assistant General Counsel  
California Independent System  
Operator Corporation  
250 Outcropping Way  
Folsom, CA 95630  
Tel: (916) 608-7144  
Fax: (916) 608-7222  
[amckenna@caiso.com](mailto:amckenna@caiso.com)

Michael Kunselman  
Bradley R. Miliauskas  
Davis Wright Tremaine LLP  
1301 K Street, NW  
Suite 500 East  
Washington, DC 20005  
Tel: (202) 973-4200  
Fax: (202) 973-4499  
[michaelkunselman@dwt.com](mailto:michaelkunselman@dwt.com)  
[bradleymiliauskas@dwt.com](mailto:bradleymiliauskas@dwt.com)

Counsel for the California Independent System Operator Corporation

Dated: August 14, 2020

## 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, pursuant to 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 14<sup>th</sup> day of August, 2020.

/s/ Bradley R. Miliauskas  
Bradley R. Miliauskas