

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

California Independent System) Docket No. ER16-1649-000
Operator Corporation)

**MOTION FOR CLARIFICATION OR, IN THE ALTERNATIVE, PETITION FOR
LIMITED WAIVER OF THE CALIFORNIA INDEPENDENT SYSTEM
OPERATOR CORPORATION**

The California Independent System Operator Corporation (CAISO) respectfully submits this motion for clarification of the Commission’s June 1, 2016 order accepting the CAISO’s tariff amendment to address conditions related to the Aliso Canyon natural gas storage facility.¹ In the alternative, the CAISO requests a limited waiver of the June 1 Order to enable the CAISO to proceed with the implementation of the interim improved gas price calculation procedures approved by the Commission in the June 1 Order.

In the June 1 Order, the Commission accepted “CAISO’s proposal to use an ICE-generated index” in implementing proposed tariff revisions to improve the accuracy of the natural gas price index the CAISO uses to calculate commitment costs, generated bids, and default energy bids in the day-ahead market, to be effective on an interim basis from July 6, 2016 until November 30, 2016.² Under the revised tariff provisions, the CAISO would calculate these amounts using a volume-weighted average gas price that is reported by the Intercontinental

¹ *Cal. Indep. Sys. Operator Corp.*, 155 FERC ¶ 61,224 (2016) (June 1 Order).

² *Id.* at P 12 & nn.13-14.

Exchange (ICE) between 8:00 a.m. and 9:00 a.m.,³ *i.e.*, prior to the running of the CAISO's day-ahead market.⁴ The Commission noted, however, that "in order to use an index reported by ICE, the index must conform" to the Commission's policy statement on price indices.⁵

On July 1, 2016, the CAISO filed in this proceeding a petition for limited tariff waiver to suspend the effectiveness of these tariff revisions while it evaluated whether the volume-weighted gas price the CAISO plans to draw from the ICE system between 8:00 a.m. and 9:00 a.m. conforms to the Commission's Policy Statement. That waiver request is still pending before the Commission.

The CAISO is not in a position to represent that the volume-weighted average price it will draw from ICE between 8:00 a.m. and 9:00 a.m. "conforms" to the Policy Statement. However, the volume-weighted average price is based on cleared gas trades that are executed on ICE's platform up until the time that the CAISO draws the volume-weighted price from ICE. ICE has informed the CAISO that it calculates the volume-weighted price in the same manner as the "official" index it publishes at 11:30 a.m., which ICE has publicly represented complies with the Policy Statement.⁶ Therefore, there is no reason to believe that the volume-weighted average price is any less robust than ICE's other indices, which the CAISO and other market operators have used and continue to

³ All times listed in this filing are Pacific time.

⁴ This price is reported prior to the official index reported by ICE at 11:30 a.m.

⁵ June 1 Order at P 12 n.14 (citing *Policy Statement on Natural Gas and Electric Price Indices*, 104 FERC ¶ 61,121, *order on clarification*, 105 FERC ¶ 61,282 (2003)) (Policy Statement).

⁶ See *infra* note 18.

use in their markets.⁷ Moreover, as the CAISO demonstrated in its Aliso Canyon tariff amendment, there are clear benefits to using the volume-weighted average price reported between 8:00 a.m. and 9:00 a.m. For these reasons, the CAISO requests that the Commission clarify that the CAISO is authorized to implement the interim tariff revisions relating to the improved gas price calculation process.

In the alternative to its request for clarification, the CAISO requests that the Commission grant limited waiver of the June 1 Order, to permit the CAISO to implement the tariff revisions on an interim basis until November 30, 2016. Such waiver would be of limited scope because it would only apply until that date. Further, the limited waiver would remedy the concrete problem that the CAISO might otherwise be unable to implement the improved gas price calculations procedures until much later in the summer or fall, if at all. The limited waiver would also have no undesirable consequences, such as harm to third parties, because no party opposed the tariff revisions at issue, and they will provide the benefits previously described by the CAISO and recognized by the Commission.

I. Background

A. Existing Tariff Language Relevant to the Day-Ahead Gas Price Index

Under the CAISO tariff language currently in effect, the CAISO uses a natural gas price index to estimate the formulaic natural gas cost values for a gas-fired resource for purposes of calculating certain commitment costs, default

⁷ See, e.g., existing CAISO tariff sections 30.4.1.1.1(a), 30.4.1.1.3 (calculation of resource commitment costs under the proxy cost methodology), 39.7.1.1 (calculation of default energy bids under the variable cost option). For the sake of clarity, this filing distinguishes between existing tariff provisions (*i.e.*, provisions in the CAISO tariff that are currently in effect) and suspended tariff provisions (*i.e.*, existing tariff provisions as revised and temporarily suspended in this proceeding).

energy bids, and generated bids. Under this process, the CAISO calculates the gas price index between 7:00 p.m. and 10:00 p.m. using up to four (but at least two) natural gas commodity prices published that day from several sources, including ICE. The CAISO uses this gas price index in the day-ahead market run for the following trading day.⁸

In market situations involving a spike in gas commodity prices, however, the CAISO uses a more recent gas price. Specifically, if a daily gas price reported by ICE on the morning of the day-ahead market run exceeds 125 percent of the gas price index calculated for the day-ahead market between 7:00 p.m. and 10:00 p.m. on the preceding day, the CAISO will utilize the daily gas price published by ICE on the morning that the day-ahead market is running in all CAISO cost formulas and market processes for the day-ahead market running that day.⁹ The Commission approved this procedure in 2014.¹⁰

B. The Revisions to the Day-Ahead Gas Price Calculation Process in this Proceeding

The CAISO proposed tariff revisions in this proceeding to improve the accuracy of the gas commodity price indices that it uses to calculate commitment costs, default energy bids, and generated bids used in the day-ahead market so they reflect the most recent gas commodity price information that is available.¹¹

⁸ Existing tariff section 39.7.1.1.1.3(a).

⁹ Existing tariff section 39.7.1.1.1.3(b). This tariff section is also cross-referenced in existing tariff sections 30.4.1.2(b) and 31.6.1(v).

¹⁰ *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,284, at P 31 (2014).

¹¹ Transmittal letter for Aliso Canyon tariff amendment, Docket No. ER16-1649-000, at 12-14 (May 9, 2016) (Aliso Canyon Tariff Amendment).

Specifically, the CAISO proposed to revise the tariff to provide that, for the day-ahead market, the CAISO will use a volume-weighted average price calculated by ICE, and made available by ICE between 8:00 a.m. and 9:00 a.m., based on trades transacted on ICE during its next-day trading window, *i.e.*, on the morning of the CAISO's day-ahead market.¹² The CAISO also proposed that if, for any reason, the volume-weighted average price is not available from ICE during this period, the CAISO will use the most recently calculated price indices.¹³ The CAISO proposed that these new procedures become effective July 6, 2016 and expire on November 30, 2016 absent Commission action to maintain their effectiveness beyond November 30.¹⁴

In the June 1 Order, the Commission stated:

With respect to those elements of the proposal not expressly discussed herein, we find that they are just and reasonable because they constitute appropriate improvements upon CAISO's current tariff provisions that should enable CAISO to address limitations in the gas delivery system in southern California and facilitate fuel cost recovery by generators.¹⁵

The Commission did not discuss the gas price calculation process in the main text of the order and, in the footnote associated with the aforementioned

¹² Suspended tariff section 39.7.1.1.1.3(b). To make the organization of the provisions in section 39.7.1.1.1.3 clear, the CAISO broke the section out into new subsections (a) through (d), with subsections (c) and (d) solely concerning the real-time market. Some of the language in subsections (a)-(c) was left unchanged from existing tariff section 39.7.1.1.1.3.

¹³ Suspended tariff section 39.7.1.1.1.3(a).

¹⁴ Transmittal letter for Aliso Canyon Tariff Amendment at 13, 40-41. The CAISO proposed the same November 30 expiration date for the rest of the revisions contained in the tariff amendment.

¹⁵ June 1 Order at P 12. *See also id.* at P 12 n.13 (specifically listing among these just and reasonable elements the CAISO's proposed tariff revisions to "improve the accuracy of the gas price index that it uses to calculate commitment costs, generated bids, and default energy bids used in the day-ahead market").

statement, the Commission stated that it was “accepting CAISO’s proposal to use an ICE-generated index.”¹⁶ However, the Commission noted that “currently, ICE does not report an index between 8 and 9 a.m.” and “remind[ed] CAISO that in order to use an index reported by ICE, the index must conform to the Commission’s *Policy Statement on Natural Gas and Electric Price Indices*.”¹⁷

On July 1, 2016, the CAISO filed a petition for limited tariff waiver to suspend the effectiveness of the tariff revisions to implement the improved day-ahead gas price procedures described above, *i.e.*, temporarily maintain the existing tariff provisions on the day-ahead gas price index. The CAISO explained that it was in the process of seeking to confirm whether the volume-weighted average price made available by ICE between 8:00 and 9:00 a.m. conforms with the Commission’s Policy Statement. Therefore, out of an abundance of caution, the CAISO requested that the Commission suspend the effectiveness of the tariff revisions until no later than August 5, 2016. The CAISO stated that by no later than August 5 it would either: (1) confirm its understanding that using the volume-weighted average price conforms to the Policy Statement, in which event the CAISO would endeavor to implement the tariff revisions and issue a market notice and make an informational filing with the Commission to announce their implementation; or (2) submit some other type of filing seeking appropriate relief. That petition is still pending before the Commission.

¹⁶ *Id.* at P 12 n.14.

¹⁷ *Id.*

II. Motion for Clarification

After further consideration and research, the CAISO is unable to represent that the volume-weighted average price made available by ICE between 8:00 a.m. and 9:00 a.m. conforms to the criteria set forth in the Policy Statement. The CAISO does not produce the indices made available by ICE. Therefore, the CAISO is not in a position to represent that the volume-weighted average price conforms to the Policy Statement. However, based on discussions with ICE, the CAISO understands that ICE calculates the volume-weighted average price that it makes available between 8:00 a.m. and 9:00 a.m. in exactly the same manner as the index that it publishes at 11:30 a.m. The only difference between the two is that the earlier index is based on gas trades executed on ICE's platform between 8:00 a.m. and 9:00 a.m., while the 11:30 a.m. index represents all trades for that date. ICE has previously stated that its indices conform to the Policy Statement.¹⁸ Therefore, the CAISO requests that the Commission clarify that the CAISO is permitted to use the index made available by ICE between 8:00 a.m. and 9:00 a.m. This volume-weighted average price is sufficiently robust for purposes of calculating the commitment cost proxy costs, default energy bids, and generated bids used by the CAISO's day-ahead market.

Moreover, as demonstrated in the Aliso Canyon Tariff Amendment, using the volume-weighted average price has significant benefits relative to the CAISO's current calculation procedure. The CAISO explained that using the

¹⁸ See Comments of Intercontinental Exchange, Inc., Docket No. PL03-3-000, at 2 (Jan. 7, 2004) ("Intercontinental and its market data subsidiary, 10x, have adopted all standards for index publishers as issued by the Commission in the Policy Statement.").

volume-weighted average price provides the benefit of using more up-to-date price information compared with the current procedure that requires the CAISO to use price data from the evening before the day-ahead market run for the market price of gas deliveries on the morning of the day-ahead market run. Using this more relevant, up-to-date price information reflects the market's expectation of the cost of gas deliveries for the electric operating day, thereby better reflecting resources' fuel cost exposure when they purchase gas for the operating day. This, in turn, enables the day-ahead market to conduct a more efficient and informed dispatch because the resources' bids will incorporate more relevant, timely information regarding the resources' potential gas price exposure. It also means that resources cleared in the day-ahead market will be compensated based on fuel prices that reflect better their expectations of actual costs of procurement.¹⁹

In addition, the new procedures would obviate the need for the CAISO to retain its existing manual gas price spike procedure described above. The CAISO adopted the existing manual procedure based, in part, on the fact that ICE's morning publication time (almost always 10:00 a.m.) coincided with the timing of the CAISO's day-ahead market, which normally closes at 10:00 a.m. and issues its results by 1:00 p.m. As of April 1, 2016, however, ICE began publishing its next-day gas price index at 11:30 a.m., *i.e.*, after the day-ahead

¹⁹ In the Aliso Canyon Tariff Amendment filing, the CAISO also explained that these improvements will be particularly helpful in reflecting constrained gas conditions resulting from the limited operability of the Aliso Canyon gas storage facility. However, the changes will apply to all resources in the CAISO balancing authority area so that the day-ahead market uses consistent and more accurate gas prices system-wide.

market closes. As explained in its July 1 waiver filing, although the CAISO was able to implement successfully the manual price-spike procedure on a single occasion this summer, it would be difficult to utilize this process on a routine basis.

The parties that commented specifically on the interim gas price calculation procedures utilizing the volume-weighted average price supported the CAISO's proposal.²⁰ No party opposed it.

For these reasons, and given that ICE calculates the index available between 8:00 a.m. and 9:00 a.m. in the same manner as its 11:30 a.m. index that it has explicitly represented as consistent with the Policy Statement, the Commission should clarify that the CAISO is permitted to use the index made available between 8:00 a.m. and 9:00 a.m. The CAISO can implement the tariff revisions that use that index within two business days after the Commission issues an order providing the requested clarification.

III. Petition for Limited Waiver in the Alternative

If, however, the Commission declines to grant the CAISO's requests for clarification, the CAISO requests that the Commission grant a limited waiver of the directive in the June 1 Order until November 30, 2016, in order to permit the

²⁰ See Comments of Calpine Corporation, Docket No. ER16-1649-000, at 5 (May 16, 2016) ("Use of the more up-to-date ICE index calculated on the morning of the CAISO's day-ahead market should improve the efficiency of day-ahead dispatch and reduce uplift."); Comments of the Financial Marketers Coalition, Docket No. ER16-1649-000, at 4 (May 16, 2016) (stating that the CAISO's proposal "appear[s] to be directly linked to the issue CAISO has identified, of potential gas shortages to electric generators, and [is] tailored to particular gas-electric coordination issues which are likely to alleviate issues arising in the Day-Ahead" market).

CAISO to implement the tariff revisions on an interim basis until November 30.²¹

The Commission may grant waiver of a prior Commission directive for good cause shown.²²

This CAISO believes this request for a limited waiver of the directive in the June 1 Order is analogous to a request for limited tariff waiver, insofar as the CAISO seeks limited waiver of an obligation imposed by the Commission directly, whereas a request for limited tariff waiver concerns an obligation indirectly imposed by the Commission pursuant to its prior acceptance of the subject tariff provision. The Commission has granted requests for tariff waivers in situations where (1) the waiver is of limited scope; (2) a concrete problem needs to be remedied; and (3) the waiver did not have undesirable consequences, such as harming third parties.²³ The instant waiver petition in the alternative meets all three conditions applicable to an analogous request for limited tariff waiver.

The waiver in this proceeding would be of limited scope because it would only apply until November 30, 2016. Further, the limited waiver would remedy the concrete problem that the CAISO and its market participants would otherwise be unable to realize the benefits associated with the improved gas price

²¹ The CAISO does not, however, seek an impermissible permanent waiver of the directive in the June 1 Order. *See Cal. Indep. Sys. Operator Corp.*, 148 FERC ¶ 61,173, at P 25 (2014).

²² *See, e.g., Cal. Indep. Sys. Operator Corp.*, 139 FERC ¶ 61,206, at PP 23, 31 (2012) (granting waiver of the obligation in a 2006 Commission order to implement an interface between the CAISO's outage reporting interface and the system that accepted and validated bids, on the grounds that the interface was unnecessary and the CAISO's waiver request was uncontested).

²³ *See, e.g., N.Y. Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,061, at P 19 (2014); *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,041, at P 5 (2014); *ISO New England, Inc.*, 134 FERC ¶ 61,182, at P 8 (2011); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,004, at P 10 (2010).

calculation procedures, as detailed above and in the Aliso Canyon Tariff Amendment, until much later this summer or fall, if at all. Lastly, the limited waiver would have no undesirable consequences, such as harm to third parties, because the tariff revisions were unopposed by any party.

For these reasons, good cause exists to grant the CAISO's alternative request for limited waiver of the directive in the June 1 Order.

IV. Conclusion

For the foregoing reasons, the Commission should grant clarification or, in the alternative, limited waiver of the June 1 Order.

Respectfully submitted,

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Dated: August 3, 2016

CERTIFICATE OF SERVICE

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

Dated at Washington, D.C. this 3rd day of August 2016.

/s/ Bradley R. Miliauskas

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