

150 FERC ¶ 61,086
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
Norman C. Bay, and Colette D. Honorable.

California Independent System Operator
Corporation

Docket No. ER15-861-000

ORDER GRANTING EXTENSION OF WAIVER

(Issued February 12, 2015)

1. In this order, we grant the California Independent System Operator Corporation's (CAISO) request in its January 15, 2015 filing (January 15 Filing) to extend the waiver granted in the December 1, 2014 order in Docket No. ER15-402-000.¹ Specifically, we grant CAISO's request for a limited extension of the waiver of the pricing parameters in sections 27.4.3.2 and 27.4.3.4 of its tariff, effective February 13, 2015, and ending the earlier of March 16, 2015 or the date the Commission issues a subsequent order in this proceeding. The Commission will address the tariff modifications proposed by CAISO and address further extension of the waiver in a further order in this proceeding.

I. Background

2. On November 13, 2014, CAISO filed in Docket No. ER15-402-000 a petition (Initial Waiver Petition) seeking limited waiver of the pricing parameters in sections 27.4.3.2 and 27.4.3.4 of its tariff for the 90-day period from November 14, 2014 to February 12, 2015. In the Initial Waiver Petition, CAISO explained that transitional conditions in the Energy Imbalance Market (EIM)² caused the transmission and system

¹ *California Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,194 (2014) (December 1 Order).

² The EIM enables entities with balancing authority areas (BAAs) outside of CAISO to voluntarily take part in the imbalance energy portion of the CAISO locational marginal price-based real-time market alongside participants from within the CAISO balancing authority area. *California Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231, *order on rehearing, clarification, and compliance*, 149 FERC ¶ 61,058 (2014) (conditionally accepting proposed tariff revisions to implement the EIM).

energy-balance constraints described in these tariff sections to bind more frequently than expected since the EIM began operation on November 1, 2014, resulting in high prices that were not always indicative of actual physical conditions on the system.³ CAISO asserted that these high prices reflected challenges in providing timely and complete data to ensure system visibility under the new procedures, exacerbated by limitations on the resources available to PacifiCorp for use in the EIM and several forced outages of large EIM participating resources.⁴

3. In the December 1 Order, the Commission granted the limited waiver for the period from November 14, 2014 through February 12, 2015⁵ and directed CAISO to file informational reports at 30-day intervals during the waiver period providing supporting data demonstrating progress towards identifying and eliminating the problems giving rise to the Initial Waiver Petition.⁶ CAISO submitted its first informational report on December 15, 2014 (December 15 Report) and filed its second informational report on January 15, 2015 (January 15 Report).⁷

II. Request for Extension of Waiver

4. In this proceeding, CAISO filed an amendment under section 205 of the Federal Power Act⁸ to the EIM pricing provisions in the CAISO tariff that would apply to each new entity joining the EIM (EIM Entity) during such EIM Entity's initial year of EIM operation. First, and consistent with the waiver granted in the December 1 Order, proposed tariff section 29.27(b)(1) provides that CAISO will determine prices for intervals that experience transmission or system balance constraints within the new EIM Entity's BAA by using the last economic bid to establish the market clearing price, rather than using the existing tariff's \$1,000/MWh penalty price.⁹ Second, proposed tariff

³ Initial Waiver Petition at 3, 11.

⁴ *Id.* at 8-11.

⁵ On December 31, 2014, CAISO filed an additional waiver petition, which seeks to apply the same relief granted in the December 1 Order to the period from November 1, 2014 through November 13, 2014. This petition is currently pending in Docket No. ER15-817-000.

⁶ December 1 Order, 149 FERC ¶ 61,194 at PP 22-23, 25-26.

⁷ The December 15 and January 15 Reports are included as Attachments E and F to the January 15 Filing.

⁸ 16 U.S.C. § 824d (2012).

⁹ January 15 Filing at 15.

section 29.27(b)(2) states that, for the 12-month transition period after a new EIM Entity commences operations, CAISO will set the flexible ramping constraint relaxation parameter specified in tariff section 27.10 for the new EIM Entity's BAA between \$0 and \$0.01.¹⁰ CAISO notes that the revised tariff provisions would also apply to PacifiCorp for the remainder of its first 12 months of participation in the EIM.¹¹

5. CAISO indicates that it held an expedited stakeholder process in December 2014.¹² While "stakeholders generally supported providing PacifiCorp with additional time beyond the current 90-day waiver period" to resolve the issues causing the price spikes, CAISO reports that some stakeholders raised concerns with various aspects of the proposed tariff amendment.¹³

6. CAISO requests that the Commission waive its notice requirements¹⁴ for the proposed amendment and act expeditiously to issue an order no later than February 12, 2015, accepting the amendment effective February 13, 2015, i.e., the day after the waiver previously granted in the December 1 Order expires.¹⁵ Should the Commission not approve the proposed tariff amendment by the requested date, CAISO requests that the Commission grant a modest extension of the waiver because the December 15 and January 15 Reports demonstrate that PacifiCorp remains susceptible to continued price spikes due to the same issues that gave rise to the Initial Waiver Petition.

7. CAISO provides figures, based on the data in the December 15 and January 15 Reports, which it claims demonstrate that, while the frequency of the issues causing the price spikes has lessened over time, these issues have not been fully resolved.¹⁶ In fact, CAISO contends that the communications issues, limitations on resources available for use in the EIM, and forced outages that contributed to the price spikes experienced during the initial weeks of PacifiCorp's participation in the EIM may recur during the course of the year due to seasonal and system condition changes. According to CAISO, the findings in the December 15 and January 15 Reports further demonstrate that the prices

¹⁰ *Id.* at 15-16.

¹¹ *Id.* at 2.

¹² *Id.* at 8-9.

¹³ *Id.* at 16-17.

¹⁴ 18 C.F.R. § 35.11 (2014).

¹⁵ January 15 Filing at 18-19.

¹⁶ *Id.* at 9-12.

resulting from the waiver granted in the December 1 Order are closely aligned with average prices in the Western bilateral markets, whereas the prices resulting from the EIM pricing parameters would have deviated materially from prices elsewhere in the West.¹⁷ CAISO states that it and PacifiCorp have made progress in addressing the circumstances causing the price spikes, but asserts that it will not be possible to address all of the pertinent issues prior to February 12, 2015, when the waiver granted in the December 1 Order is set to expire.¹⁸

8. CAISO explains that, if the Commission does not issue an order accepting the tariff amendment by February 12, 2015 and the waiver granted in the December 1 Order is not extended, it will need to reconfigure its market software systems to re-apply the pricing parameters set forth in tariff sections 27.4.3.2 and 27.4.3.4.¹⁹ Accordingly, while CAISO states that it would be possible to rerun the market for any period between February 13, 2015 and the date of a Commission order in this proceeding, “this would require significantly more time and subject market participants to unnecessary uncertainty.”²⁰

III. Notice and Responsive Pleadings

9. Notice of CAISO’s filing was published in the *Federal Register*, 80 Fed. Reg. 3961 (2015), with interventions and protests due on or before January 26, 2015. Timely motions to intervene were filed by the California Municipal Utilities Association; the Modesto Irrigation District; the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; the Sacramento Municipal Utility District; the Cities of Santa Clara, California and Redding, California, and the M-S-R Public Power Agency; Truckee Donner Public Utility District; and Pacific Gas and Electric Company. NV Energy, Inc. on behalf of its utility subsidiaries Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy (collectively, NV Energy), PacifiCorp, and Puget Sound Energy, Inc. (Puget) each filed a timely motion to intervene and comments. Western Power Trading Forum (WPTF) and Powerex Corporation (Powerex) each filed a timely motion to intervene and protest. On January 27, 2015, the Alliance for Retail Energy Markets filed a motion for leave to intervene out-of-time. The Public Utilities Commission of Nevada and Exelon Corporation each submitted a motion to intervene out-of-time on January 28, 2015. On February 4, 2015, Powerex filed a motion to supplement and a supplement to its initial

¹⁷ *Id.* at 12-14.

¹⁸ *Id.* at 14.

¹⁹ *Id.* at 19.

²⁰ *Id.*

protest. WPTF filed a motion to supplement and a supplement to its initial protest on February 5, 2015. CAISO, PacifiCorp, and NV Energy each filed an answer to comments and protests on February 5, 2015, February 6, 2015, and February 9, 2015, respectively.

10. Powerex and WPTF protest CAISO's proposal for continued waiver of the EIM pricing parameters in the PacifiCorp BAAs for an additional nine months.²¹ Powerex, however, states that it would support granting CAISO a limited extension of the waiver granted in the December 1 Order for an additional 30 to 60 days to provide protection to customers in the PacifiCorp BAA while CAISO and PacifiCorp develop a long-term solution to the identified issues of PacifiCorp's participation in the EIM.²² While PacifiCorp and NV Energy do not directly address CAISO's alternative request for a limited extension of the waiver granted in the December 1 Order, they express support for CAISO's request for an effective date of February 13, 2015, i.e., the day after the waiver granted in the December 1 Order expires, for the proposed tariff amendment.²³ PacifiCorp asserts that such effective date is necessary to address any ongoing material risk posed by use of the EIM pricing parameters absent implementation of CAISO's proposed tariff amendment.²⁴

11. No other party has commented on the requested waiver.²⁵

IV. Discussion

A. Procedural Matters

12. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding. Pursuant to Rule 214(d) of the

²¹ See WPTF Protest at 7-10; Powerex Protest at 21-24. WPTF also suggests that the December 1 Order stresses the need for capturing fundamental changes to market design in the tariff and did not particularly note or encourage extended waiver applications. WPTF Protest at 5.

²² Powerex Protest at 11, 24.

²³ PacifiCorp Comments at 4; NV Energy Comments at 5.

²⁴ PacifiCorp Comments at 4.

²⁵ Comments and answers submitted by Powerex, WPTF, NV Energy, PacifiCorp, Puget, and CAISO regarding CAISO's proposed tariff amendment (and not addressing the request for waiver) will be addressed in a subsequent order in this proceeding.

Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2014), the Commission will grant the late-filed motions to intervene of the Alliance for Retail Energy Markets, the Public Utilities Commission of Nevada, and Exelon Corporation given their interests in the proceeding, the early stage of the proceeding, and absence of undue prejudice or delay.

B. Commission Determination

13. The Commission grants the limited extension of the waiver previously granted in the December 1 Order for good cause shown. Accordingly, we direct CAISO to continue to waive the applicability of section 27.4.3.2 and the second sentence of section 27.4.3.4 of its tariff for constraints that are within PacifiCorp's BAAs or affect EIM transfers between PacifiCorp's BAAs, effective February 13, 2015, subject to a further order in this proceeding.²⁶ The Commission has previously granted one-time waivers of tariff provisions in situations where, as relevant here: (1) the waiver is of limited scope; (2) a concrete problem needed to be remedied; and (3) the waiver did not have undesirable consequences, such as harming third parties.²⁷

14. We find that the further waiver requested in the January 15 Filing meets these criteria. Specifically, we continue to find, as we found in the December 1 Order, that CAISO's requested waiver is of limited scope, addresses a concrete problem, and will not have undesirable consequences, such as harming third parties. The requested waiver pertains only to the PacifiCorp BAAs and will apply only for a limited period of time between February 13, 2015 and the earlier of March 16, 2015 or the date the Commission issues a subsequent order in this proceeding. In the meantime, the waiver will address the concrete problem of the pricing anomalies in the EIM. The December 15 and January 15 Reports demonstrate that the circumstances underlying the price spikes have not been fully resolved, and suggest that EIM participants in PacifiCorp's BAAs would be at risk of experiencing similar anomalous pricing were the waiver to expire at the end of the originally-requested 90-day period. Extending the waiver for a limited period of time will provide CAISO and PacifiCorp additional time to continue to address the issues giving rise to the price spikes, while the Commission considers the proposed tariff provisions and commenters' positions. Finally, we conclude that extending the waiver

²⁶ The waiver granted in this order is limited to an extension of the same waiver of pricing parameters in these tariff sections granted in the December 1 Order. CAISO's request to revise its tariff to set the flexible ramping constraint relaxation parameter specified in tariff section 27.10 between \$0 and \$0.01 will be addressed in a subsequent order in this proceeding.

²⁷ See, e.g., December 1 Order, 149 FERC ¶ 61,194 at PP 22-23; *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,078, at P 38 (2014); *California Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,218, at P 22 (2014).

will not lead to undesirable consequences. CAISO represents that all parties participating in the expedited stakeholder process related to this proceeding supported providing PacifiCorp with additional time beyond the initial waiver period to resolve the circumstances contributing to the pricing anomalies. While WPTF and Powerex raise concerns with CAISO's proposal to extend the waiver for an additional nine months under the proposed tariff amendment, Powerex acknowledges, and we agree, that a limited extension of the waiver is appropriate to avoid exposing customers to further price spikes pending a further order addressing the proposed tariff amendment.

The Commission orders:

CAISO's request for an extension of the limited waiver of sections 27.4.3.2 and 27.4.3.4 of its tariff is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.