

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

California Independent System            )  
Operator Corporation                    )  
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Docket No. ER14-971-000

**Answer of the California Independent System Operator Corporation to  
Comments and Protest**

The California Independent System Operator Corporation (ISO) submits this answer to comments and a protest filed in response to the ISO's petition for limited waiver of ISO tariff sections 8.2.3.1.1 and 8.4.1.1(h) and part A 1.1.5 of tariff appendix K (the ISO's ancillary service requirements protocol), for the period from June 1, 2013 up to and including December 31, 2014.<sup>1</sup> These tariff sections, which became effective June 1, 2013 as part of the ISO's Order 755<sup>2</sup> market design, apply a minimum performance threshold to resources certified to provide regulation up and regulation down services.

The ISO requested this waiver to permit resources certified to provide regulation up or regulation down to continue to offer their capacity into the ISO's regulation market without the need to recertify their capacity for the applicable service, even though these resources have failed to meet the minimum performance

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<sup>1</sup> The ISO submits this answer pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213 (2010). The ISO requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer PG&E and ESA pleadings. Good cause for this waiver exists here because the answer will assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case. See, e.g., *Entergy Services, Inc.*, 116 FERC ¶ 61,286, at P 6 (2006); *Midwest Independent Transmission System Operator, Inc.*, 116 FERC ¶ 61,124, at P 11 (2006); *High Island Offshore System, L.L.C.*, 113 FERC ¶ 61,202, at P 8 (2005).

<sup>2</sup> *Frequency Regulation Compensation in the Organized Wholesale Power Markets*, FERC Stats. & Regs. ¶ 31,324 (2011) (Order 755), *rehearing denied*, 138 FERC ¶ 61,123 (2012) (Order 755-A). Order 755 addresses compensation of resources providing regulation service in the ISO's market.

threshold.<sup>3</sup> Pacific Gas and Electric Company (PG&E) and Southern California Edison filed supportive comments. The Energy Storage Association (ESA) filed a protest.<sup>4</sup>

While supporting the waiver request, PG&E asks the Commission to extend the waiver period until December 31, 2015, or until the ISO has completed and the Commission has reviewed and approved changes to the ISO's Order 755 market design. In contrast, ESA asks the Commission to shorten the waiver period to between 3 and 6 months should the Commission accept the waiver. The Commission should reject these alternative proposals and grant the waiver as requested.

**I. The ISO's requested timeframe for waiver up to and including December 31, 2014 is reasonable**

In its comments supporting the waiver, PG&E asks the Commission to require the ISO to extend the expiration date for the waiver until December 31, 2015, or until the Commission accepts a new Order 755 market design that addresses the concerns identified by the petition.<sup>5</sup> PG&E argues that the ISO may not be able to complete this process prior to December 31, 2014 because the review may entail significant changes to the ISO's Order 755 market design.

As explained in its petition, the Commission directed the ISO to submit an informational report providing a review of its Order 755 market design by August 1,

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<sup>3</sup> Under the ISO's minimum performance threshold, If a resource's measured accuracy, based on a simple average of fifteen (15) minute intervals during a calendar month, is less than fifty (50) percent for Regulation Up or Regulation Down, the resource must re-certify to provide the respective service within ninety (90) days from the date the ISO provides notice to the resource's scheduling coordinator of the resource's failure to meet the minimum performance threshold.

<sup>4</sup> The ISO solicited written stakeholder input on its proposed waiver request through a market notice and on a telephone call with market participants. ESA did not submit any comments to the ISO or raise concerns on the ISO's telephone call with market participants.

<sup>5</sup> Comments of PG&E dated January 31, 2014 at 3.

2014 based on one year of operational data, including a review of the minimum performance threshold.<sup>6</sup> The Commission also directed the ISO to propose appropriate software or market rule changes as a result of its operational review.<sup>7</sup> The ISO plans to act expeditiously after completing its operational review. Accordingly, the ISO intends to initiate a stakeholder process prior to submitting its informational report and will aim to present any policy design changes to its Board of Governors later in 2014 before filing any tariff revisions for Commission review and approval. If the ISO proposes significant changes to its Order 755 design that would necessitate an extension of the waiver of the minimum performance threshold tariff provisions, it can renew its request at that time.

In its protest, ESA does not appear to oppose the waiver itself but only the requested duration of the waiver.<sup>8</sup> ESA argues that should the Commission accept the waiver it should shorten the period of the waiver to between 3 and 6 months. This suggestion ignores the realities of the time it takes to discuss proposed refinements to the ISO's market design with stakeholders and obtain approval from the ISO's Board of Governors. ESA's proposal also runs counter to the Commission's direction that the ISO propose any software or market rule changes as a result of the ISO's review based on 12 months of operational data. The ISO acknowledges that it can start its operational review before it receives 12 months of operational data and, in fact intends to do so, but the ISO will not complete that review until after it has 12 months of operational data. Although the ISO could also initiate a stakeholder process now to refine the minimum performance threshold, this

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<sup>6</sup> *Cal. Ind. Sys. Operator Corp.* 140 FERC ¶ 61,206 at P 75.

<sup>7</sup> *Id.*

<sup>8</sup> Protest of ESA at 1 and 8-9.

approach is not an efficient use of resources because there may be other elements of the Order 755 market design the ISO may propose to change after conducting its operational review. The ISO's proposed waiver period still requires expeditious action but allows for the ISO to conduct a review based on a year of operational data as well as adequate time to submit tariff provisions to the Commission for review and approval.

**II. ESA offers no evidence to support its arguments that the waiver will result in undesirable consequences**

In its protest, ESA argues the ISO's requested waiver will have negative consequences on ISO ratepayers and will hinder the development and investment in fast-responding, environmentally-friendly storage technologies.<sup>9</sup> The Commission should reject these arguments for which ESA offers no evidentiary support.

ESA asserts that requiring a resource to meet the minimum performance threshold will improve operational and economic efficiency of the resource fleet and, in turn, lower costs to consumers.<sup>10</sup> As the ISO explained in its petition for a waiver, an assessment of the reasons resources are performing below the minimum performance threshold is worthwhile given the performance of the fleet as a whole that reflects all resource types – including limited energy storage resources - have failed the minimum performance standard. There is, at this time, no evidence in the record to demonstrate that if additional storage technologies entered the ISO's regulation market they would meet the minimum performance threshold and provide more operational efficiency than the current fleet.

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<sup>9</sup> Protest of ESA at 3-6.

<sup>10</sup> Protest of ESA at 3.

The ISO's requested waiver will not alter how the ISO compensates existing resources for providing regulation. These resources will remain subject to accuracy adjustments and the ISO will continue to assess the accuracy of resources' responses to control signals in evaluating capacity bids and self-provisions. These provisions ensure that the ISO continues to select the most efficient rules pool of available resources offering regulation capacity and mileage bids.

ESA also argues that, if granted, the ISO's requested waiver will deter fast-ramping resources, such as storage, from entering the regulation market and will stifle investment in new storage resources in the region. But ESA offers no actual evidence that granting the waiver will preclude any resource, whether a storage device or other resource, from providing regulation or obtaining an investment from the financial community. Under the ISO's Order 755 market design, if a resource is faster and more accurate than other resources, then - all else being equal - more of its capacity will clear the market and it will receive higher performance payments.<sup>11</sup> The ISO's requested waiver will not change this element of the market design.

ESA asserts the requested waiver is also preferential to incumbent resources and ignores the consequences that resources performing below the minimum performance threshold have on price signals to new resources. In making this assertion, ESA ignores the evidence submitted by the ISO in its petition that all categories of resources, whether owned or operated by incumbent utilities or independent merchants have failed to meet the minimum performance threshold.<sup>12</sup> The ISO's requested waiver merely allows all resources certified to provide

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<sup>11</sup> ISO tariff section 8.2.3.1.1.

<sup>12</sup> ISO Petition at 7, Table 2.

regulation to continue to do so until such time as the ISO can conduct a more thorough review of the minimum performance threshold.

### **III. Electric ratepayers will benefit from the ISO's requested waiver**

In its protest, ESA argues that the ISO's proposed waiver will not benefit ratepayers.<sup>13</sup> ESA's argument fails for at least two reasons. First, ratepayers will benefit from continuing to have regulation capacity available to meet electric grid needs. Without the waiver, the ISO will need to need to undertake a significant re-testing program of resources currently certified to provide regulation. Given the data the ISO has so far collected, it appears that even after a resource re-certifies to provide regulation it may immediately fail the minimum performance threshold again. This occurrence could drive resources otherwise capable of providing regulation service out of the ISO market and create unnecessary market disruptions. Second, without maintaining a liquid supply of resources offering regulation to the ISO market, regulation costs could increase. Ratepayers benefit from avoiding this outcome.

### **IV. Conclusion**

The ISO's request for a waiver meets the criteria for limited waivers. For the reasons set forth in its petition and this answer, the ISO respectfully requests that the Commission grant a limited waiver of tariff sections 8.2.3.1.1 and 8.4.1.1(h) and section A 1.1.5 of tariff appendix K, for the period from June 1, 2013 up to and including December 31, 2014.

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<sup>13</sup> Protest of ESA at 6-7.

Dated: February 14, 2014

Respectfully submitted,

**By: /s/ Andrew Ulmer**

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**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 Folsom, CA this 14<sup>th</sup> day of February, 2014.

*/s/ Sarah Garcia*  
Sarah Garcia