

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

**California Independent System) Docket No. ER15-1875-000
Operator Corporation)**

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO COMMENTS AND PROTESTS**

The California Independent System Operator Corporation (“CAISO”)¹ answers the comments and limited protest filed in the above-captioned proceeding² in response to the CAISO’s June 5, 2015, tariff amendment. The June 5 tariff amendment addresses start-up and transition cost calculations for multi-stage generation units in a way that aligns with current cost calculation methodologies for start-up costs generally, and narrows and clarifies the definition of “use-limited” resources.³ The Commission should accept the June 5 tariff filing as submitted by the CAISO.

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

² The following entities filed motions to intervene in the proceeding: the California Department of Water Resources State Water Project (“CDWR”); Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; the City of Santa Clara, California; the Cogeneration Association of California and the Energy Producers and Users Coalition; Northern California Power Agency; the NRG Companies; Pacific Gas and Electric Company (“PG&E”); San Diego Gas & Electric Company (“SDG&E”); Southern California Edison Company (“SCE”); and Western Power Trading Forum (“WPTF”). In addition, CDWR, PG&E and SCE filed comments, and SDG&E and WPTF filed protests.

³ The CAISO files 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. The CAISO requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to make an answer to SDG&E’s and WPTF’s protests. Good cause for this waiver exists here because the 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 case. See, e.g., *Equitrans, L.P.*, 134 FERC ¶ 61,250, at P 6 (2011); *California Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,023, at P 16 (2010); *Xcel Energy Services, Inc.*, 124 FERC ¶ 61,011, at P 20 (2008).

The majority of the comments received on the June 5 tariff filing relate to the modification that the CAISO proposed to the definition of use-limited resource. SDG&E protests the June 5 filing, arguing that the CAISO must “clarify” that resource start limits contained in some SDG&E power purchase agreements qualify as “non-economic” limits under the definition of use-limited resource. This request has no relevance to the justness and reasonableness of the proposed tariff amendment. The June 5 tariff filing did not propose any change to the definition of use-limited resource with regards to the requirement that use limits must be non-economic in nature. The CAISO merely narrowed the definition to eliminate resources such as wind and solar resources that do not have opportunity costs to reflect in bids from the definition. The Commission should decline to entertain what is, in effect, a request for a declaratory order in the guise of a protest.

PG&E and SCE raise a related but somewhat different concern about the definition of use-limited resources and the status of contractually specified resource limitations. PG&E discusses the implementation of environmental restrictions through contracts, while SCE’s comments refer to design considerations. As a general matter, the mere fact that a resource limitation is specified in a contract does not mean that it is, per se, non-economic. For example, if a contract specifies the same limit that is reflected in an environmental permit, then the CAISO will consider the limit eligible because of the underlying environmental permit. Just because the limit is also reflected in the contract will not alter the eligibility for use-limited status. In response to

SCE's concern, the amended definition of use-limited continues to specifically refer to limits related to design considerations. If a market participant believes that a specific technology had design considerations that warrant use-limited status, it can explain to the CAISO why use-limited status is justified.

Finally, WPTF asks the Commission to require the CAISO to adopt a mechanism, by the spring of 2016, whereby start-up and minimum load costs are biddable. WPTF's request goes beyond the scope of this proceeding. The purpose of the present tariff amendment was limited to addressing a gap in how the current rules applies to multi-stage generators and to narrowing the scope of use-limited resources in anticipation of changes proposed in the reliability services initiative tariff amendment.⁴ The CAISO has already begun a separate stakeholder initiative to examine issues relating to direct bidding of start-up and minimum load costs. WPTF provides no compelling reason for why the Commission should short-circuit this process by mandating a specific result by a date certain, and the Commission should decline to do so. Moreover the CAISO is under an obligation to file an informational report concerning the status of its efforts to enhance start-up and minimum cost bidding rules on August 1, 2015.⁵

I. BACKGROUND

In the June 5 tariff filing, the CAISO proposed two tariff modifications: (1) to simplify the provisions regarding the calculation and bidding of transition costs

⁴ Tariff Amendment to Implement Phase 1A of Reliability Services Initiative, Docket No. ER15-1825-000 (May 29, 2015).

⁵ *California Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,284 at P 33 (2014).

for multi-stage generating resources and align these provisions with other existing commitment cost mechanisms recently accepted by the Commission⁶; and (2) to narrow and clarify the definition applicable to “use-limited” resources.⁷ The CAISO requested that the Commission accept the proposed tariff revisions relating to the transition costs effective as of September 15, 2015 and the revisions relating to use-limited resources effective as of March 1, 2016, the same date as the tariff changes proposed by the CAISO in the May 29, 2015 Reliability Services Initiative amendment.⁸

II. ANSWER

A. **SDG&E’s Request for Clarification of the Definition of Use-Limited Resource is Not Relevant to the Justness and Reasonableness of the June 5 Tariff Filing**

SDG&E argues that the CAISO must “clarify” that certain of SDG&E’s existing generator contracts, which contain start limitations, will be deemed “non-economic” limitations and, therefore, will be treated as use-limited resources and “eligible to receive an opportunity cost adder.”⁹ This request for clarification, however, has no relevance to the June 5 tariff filing. The purpose of the modification to the definition of use-limited resources was to remove from the classification those resources that do not have opportunity costs that cannot be optimized by the CAISO’s market commitment processes, such as wind and

⁶ *California Indep.t Sys. Operator Corp.*, 149 FERC ¶ 61,284 (2014).

⁷ The CAISO also proposed to relocate the tariff provision addressing the registration process for resources with use-limited capacity because use-limited status is not contingent on a resource being a Resource Adequacy resource.

⁸ Tariff Amendment to Implement Phase 1A of Reliability Services Initiative, Docket No. ER15-1825-000 (May 29, 2015).

⁹ SDG&E at 5.

solar resources. No party has protested or commented on the substance of this proposed modification. The June 5 tariff filing did not propose to change the types of limitations that are eligible to qualify a unit's capacity as use-limited. Absent this clarification, SDG&E contends that the CAISO has failed to support the conclusion that contractually based limits are "non-economic" in nature. Thus, although SDG&E styles its pleading as a protest of the June 5 tariff filing, it is actually a request for a declaratory order regarding the application of an element of the CAISO's existing tariff definition of use-limited resource, which has consistently restricted use-limited status to non-economic limitations.

The June 5 tariff filing proposed several modifications to the definition of use-limited, including adding further clarifying details concerning the non-economic bases for obtaining use-limited status. However, as the CAISO explained in the accompanying transmittal letter, the amendment did not change the basic requirement that use limits must continue to be non-economic in nature. This is clear in comparing the existing definition with the proposed amended definition:

A resource that, due to design considerations, environmental restrictions on operations, cyclical requirements, such as the need to recharge or refill, *or other non-economic reasons*, is unable to operate continuously. . . .

(Emphasis added.)

As amended:

Capacity with limitations or restrictions on its operation established by statute, regulation, ordinance, court order, design considerations, *or other non-economic reasons* that cannot be optimized by the appropriate CAISO commitment process without considering opportunity costs.

(Emphasis added.)

SDG&E raises a number of arguments as to why the start limits contained in certain of its power purchase agreements should be considered “non-economic” under the CAISO tariff definition of use-limited resource. None of these arguments address the justness and reasonableness of the tariff modifications proposed by the CAISO in the June 5 filing, which did not change the requirement that use limits must be non-economic in nature. Therefore, the Commission should decline to entertain any of these arguments in this proceeding because they are entirely outside of the scope of the June 5 tariff filing. If SDG&E believes that there is ambiguity as to whether the start limitations contained in certain of its contracts qualify under the CAISO tariff definition of use-limited resource, and that a Commission ruling is required for clarity, then the appropriate avenue to seek such guidance is through a request for a declaratory order. The Commission should decline to grant such relief in the guise of a protest on a Section 205 filing that does not modify the controlling tariff language.

Even assuming that the contractual start limits in SDG&E’s contracts do not qualify as use limits under the CAISO tariff,¹⁰ SDG&E fails to identify how

¹⁰ In the June 5 tariff filing, the CAISO explained why it is appropriate not to include in the definition of use-limited *purely* contractual limitations that: (1) preclude a resource from being available in the circumstances set forth in the agreement, or (2) impose a limitation that may merely result in higher costs for the resource. June 5 Tariff Filing at 12-15. Nothing in SDG&E’s protest undermines the CAISO’s explanation. SDG&E takes the position that its contractually specified limitations should be treated as a “regulation” or “statute” because they were approved by the California Public Utilities Commission. This argument is specious. The majority of utility power purchase agreements are reviewed by some regulator. However, regulatory approval thereof does not mean that each individual provision included in such contracts is tantamount to a regulatory

such a determination would adversely impact it in the context of the modifications proposed in the June 5 tariff filing. To the contrary, SDG&E explicitly acknowledges that all five of the contracts as to which it seeks “clarification” are currently treated as use-limited by the CAISO, and *will continue to be treated as use-limited by the CAISO under the June 5 tariff filing*, based on their air permit restrictions.¹¹ SDG&E states that the contract-based start limitations would “be reached before their air permit limitations.”¹² However, SDG&E does not explain how this distinction would matter to the treatment of these units under the CAISO tariff as amended by the June 5 filing. SDG&E contends that if its contractually based start limitations are not treated as non-economic under the definition of use-limited resource, then “SDG&E cannot apply an opportunity cost adder to manage the start appropriately to ensure reliability for the entire year.” This is incorrect. The CAISO’s current commitment cost rules do not explicitly account for opportunity costs and the CAISO does not calculate opportunity costs. However, use-limited resources are permitted to utilize the registered cost methodology for commitment cost reimbursement, which allows a use-limited resource to register start-up and minimum load costs up to 150 percent of its projected proxy costs. There are no rules in the CAISO tariff that limit the specification of costs under the registered cost option except for the 150% cap. Nothing in this tariff amendment changes that. Therefore, SDG&E’s arguments

mandate. Treating them as such would eviscerate the distinction between economic and non-economic limitations, which, as the CAISO explained in the June 5 filing, is a distinction consistently utilized by not only by the CAISO, but other ISOs and RTOs as well.

¹¹ SDG&E at 3, n.7.

¹² *Id.*

are simply not applicable to the modifications to the definition of use-limited resources proposed in the June 5 tariff filing.

B. Response to Comments from PG&E and SCE

In its comments, PG&E states that it generally agrees that not all contract limitations should be accepted as defining use-limited resources, but that there are “circumstances in which the CAISO should accept contractual start and run-hour limitations in determining whether a resource should be categorized as use-limited.” In particular, PG&E indicates that although the tariff language proposed by the CAISO does not preclude accepting contractual limitations based on environmental restrictions, “the CAISO has not proposed a clear methodology for translating environmental restrictions into start and run-hour limitations,” and therefore the CAISO should “accept existing contractual limitations in contracts subject to regulatory approval at the CPUC if those limitations can be shown to reflect environmental restrictions.”¹³ Similarly, SCE states that it generally supports the CAISO’s proposal but expresses concern that “[d]esign considerations, among other things, are necessary attributes that can be inappropriately excluded by an overly restrictive definition” of use-limited resources.¹⁴

As explained above, the CAISO has consistently applied the rule that use limitations must be non-economic, and the June 5 tariff filing merely adds clarity as to what constitutes non-economic limitations. With respect to contractually

¹³ PG&E at 3-4.

¹⁴ SCE at 2.

specified limitations, the CAISO explained in the June 5 filing that “*purely* contractual arrangements” would not qualify as a basis for resources to obtain use-limited status. To PG&E’s and SCE’s concerns, the CAISO recognizes that start and run-hour limitations can be included in contracts as a means of reflecting non-economic obligations such as environmental requirements or physical limitations, and that as a general matter, doing so should not preclude a unit from being treated as use-limited in and of itself. However, the Commission should decline to mandate that the CAISO simply accept contractual limitations that “can be shown to reflect environmental restrictions” as beyond the scope of this proceeding. The question of how specific limitations are translated into opportunity costs is only relevant once the CAISO files a tariff amendment proposing a methodology for calculating opportunity costs. Also, regarding SCE’s concern, the definition of use-limited resource will continue to explicitly include design considerations as a non-economic limitation that would justify use-limited status when justified.

PG&E also requests that if storage resources are not considered default use-limited, they should be exempt from bid insertion and residual unit commitment (RUC) obligations.¹⁵ PG&E contends that such exemptions are necessary to prevent infeasible dispatches based on inserted bids, because the CAISO does not manage the state of charge of storage resources in its optimization. This issue also goes beyond the scope of modifications proposed in the June 5 tariff filing. Again, to the extent that design considerations or other

¹⁵ PG&E at 1.

non-economic factors create opportunity costs for storage resources that cannot be optimized by the CAISO's commitment processes, such resources are fully eligible to request and obtain use-limited status under the CAISO tariff.

C. WPTF's Request that the Commission Direct the CAISO Adopt a Specific Commitment Cost Mechanism by a Date Certain Should be Rejected

WPTF requests that if the Commission approves the June 5 tariff filing, it should require the CAISO to move to a mechanism whereby start-up and minimum load costs are biddable by the spring of 2016 or otherwise order the CAISO to address what WPTF perceives is an inconsistency between the CAISO's statements with respect to commitment cost recovery and its current tariff provisions.¹⁶

The Commission should reject WPTF's requests to require the CAISO to make a future filing by a date certain or direct the CAISO to implement direct bidding of start-up and minimum load costs. WPTF's request goes well beyond the scope of this proceeding as discussed above. WPTF's protest fails to address the justness and reasonableness of the current proposal, but instead seeks additional, new rule changes that are not the subject of this tariff amendment. Moreover, there is already an ongoing CAISO stakeholder process -- the bidding rules enhancements initiative -- in which the CAISO and market participants are considering issues regarding the structure of commitment cost bidding and compensation. As the CAISO explained in response to a nearly identical WPTF request raised in the context of its previous commitment cost

¹⁶ WPTF at 3-5.

refinement amendment, it would be premature to attempt to predetermine the scope or nature of any tariff provisions to come out of the stakeholder process, or to set a deadline for submittal of such tariff provisions for Commission acceptance. The Commission declined to provide the relief requested by WPTF then,¹⁷ and it should do the same now, particularly given that the stakeholder process committed to by the CAISO in that proceeding is now in full swing. Moreover, there is already a process in place to ensure that the CAISO acts on these issues in a reasonable timeframe -- in its order approving the CAISO's previous commitment cost amendment, the Commission required the CAISO to file, by August 1, 2015, either relevant tariff revisions addressing start-up and minimum cost bidding rules or an informational report concerning the status of the stakeholder process.¹⁸

¹⁷ *California Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,284 at P 34 (2014).

¹⁸ *Id.* at P 33.

III. CONCLUSION

For the foregoing reasons, the Commission should accept the June 5 tariff filing as submitted in the captioned proceeding without condition or modification.

Respectfully submitted,

Roger E. Collanton
General Counsel
Sidney L. Mannheim
Assistant General Counsel
California Independent System
Operator Corporation
250 Outcropping Way
Folsom, CA 95630

Michael Kunselman
Bradley R. Miliauskas
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004

Counsel for the California Independent System Operator Corporation

Dated: July 13, 2015

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, 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, DC this 13th day of July, 2015.

/s/ Michael Kunselman
Michael Kunselman