

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

**California Independent System) Docket No. ER21-1790-000
Operator Corporation)**

**MOTION FOR CLARIFICATION OR
ALTERNATIVE REQUEST FOR REHEARING OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (CAISO) respectfully submits this motion for clarification or, in the alternative, request for rehearing of the “Order Accepting Tariff Revisions, Subject to Further Compliance” issued in the captioned proceeding on June 25, 2021.¹

I. Summary

In the June 25 Order, the Commission accepted tariff revisions proposed in the CAISO’s April 28, 2021 tariff amendment to revise the scheduling priorities for load, export, and wheeling through transactions in the day-ahead and real-time market optimization processes and establish related market rules (April 28 Tariff Amendment). The June 25 Order also directed the CAISO to submit a compliance filing within 30 days that incorporates into the relevant sections of the CAISO tariff the CAISO’s penalty pricing parameter values associated with the revised scheduling priorities. These values are currently included only in the applicable CAISO business practice manual (BPM).

¹ *Cal. Indep. Sys. Operator Corp.*, 175 FERC ¶ 61,245 (2021) (June 25 Order). The CAISO submits this filing pursuant to Section 313(a) of the Federal Power Act (FPA), 16 U.S.C. § 824(a), and Rules 212 and 713 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.713. Capitalized terms not otherwise defined herein have the meaning set forth in the CAISO tariff, and references to specific sections and appendices are references to sections and appendices in the CAISO tariff unless otherwise indicated.

Simultaneously herewith, the CAISO is incorporating the penalty pricing parameter values into its tariff in a filing to comply with the June 25 Order (July 26 Compliance Filing). The July 26 Compliance Filing also includes proposed tariff revisions implementing a procedure that will allow the CAISO to change these penalty pricing parameter values temporarily without amendment to the CAISO tariff, if and when necessary to address any market infeasibility or operational/reliability issues on the CAISO controlled grid (Parameter Change Procedure). The CAISO has modeled the Parameter Change Procedure on similar provisions the Commission has approved for other independent system operators (ISOs) and regional transmission organizations (RTOs).

The CAISO seeks clarification or, in the alternative, rehearing of the June 25 Order to confirm it is appropriate for the CAISO to include the Parameter Change Procedure in the July 26 Compliance Filing. Because the CAISO has authority today to change these penalty pricing parameter values in the BPM on an expedited basis when needed to address operational or reliability issues, the Parameter Change Procedure appropriately responds to the Commission's compliance directive. The Commission can accept a compliance filing containing changes that are consistent with the findings in the underlying order, even if the Commission did not expressly direct the exact changes. The Parameter Change Procedure is consistent with the finding in the June 25 Order that the CAISO must include the penalty pricing parameter values in the tariff. If the CAISO cannot include the Parameter Change Procedure in the tariff, the CAISO will lose its existing authority to change the penalty pricing parameter values on an

expedited basis in emergency circumstances. Nothing in the June 25 Order suggests the Commission intended that result.

The Commission will accept a compliance filing that includes changes not expressly required by the underlying order if those changes closely and plainly relate to the compliance requirement, share a common factual nexus with the compliance filing, and do not undo or contravene the compliance requirements. The Parameter Change Procedure constitutes such a change. As discussed below, the Commission has accepted tariff provisions filed by other ISOs RTOs that allow the ISO/RTO to make temporary changes to penalty factors comparable to the penalty pricing parameter values that are the subject of the Commission's compliance directive.

The Commission should clarify that the CAISO may include the Parameter Change Procedure in a filing to comply with the June 25 Order. The Commission can determine the justness and reasonableness of the specific Parameter Change Procedure the CAISO proposes in its order on the compliance filing.² If the Commission finds that including the Parameter Change Procedure in the tariff would not comply with the June 25 Order, the CAISO respectfully requests that the Commission grant rehearing and modify the June 25 Order for the limited purpose of allowing the CAISO to change the penalty pricing parameter values temporarily without an amendment to the CAISO tariff, if and when necessary to allow the CAISO to address operational or reliability issues on the CAISO controlled grid expeditiously.³

² In the June 25 Order, the Commission stated it would review the compliance filing under Section 205 of the Federal Power Act. June 25 Order at P 167.

³ Under the proposed Parameter Change Procedure, the CAISO must make a tariff amendment filing within 30 days after it changes a parameter.

II. Background

A. Relevant CAISO Tariff and BPM Provisions

The CAISO market processes include both day-ahead and real-time wholesale electricity markets.⁴ The market optimization schedules resources in two successive runs: the scheduling run, which produces resource schedules, followed by the pricing run, which produces locational marginal prices (LMPs).⁵

The CAISO's security constrained unit commitment (SCUC) and security constrained economic dispatch (SCED) optimization software utilizes configurable market scheduling and pricing parameters to reach a feasible solution and set appropriate prices for the market in instances where effective economic bids are insufficient for a feasible market solution.⁶ These market parameters used throughout the day-ahead and real-time markets include penalty prices that apply when constraints enforced by the CAISO market (e.g., transmission constraints) are binding. The various types of constraints have different price triggers that represent the cost at which the market will relax a constraint if it cannot reach a feasible solution while enforcing the constraint. The BPM for Market Operations lists market parameter values calibrated based on priorities in the tariff.⁷ If the market cannot reach a feasible solution, the

⁴ Tariff sections 31, *et seq.* and 34, *et seq.*; tariff appendix A, definition of "CAISO Markets Process." One of the market processes in the day-ahead market is the integrated forward market.

⁵ Tariff sections 31.3 and 34.4.

⁶ Tariff section 27.4.3, *et seq.* The SCUC and SCED software constitute the real-time dispatch the CAISO uses to determine which resources to dispatch and to calculate LMPs. Tariff appendix A, definition of "Real-Time Dispatch."

⁷ BPM for Market Operations, section 6.6.5. CAISO Business Practice Manuals can be found at: <http://www.caiso.com/rules/Pages/BusinessPracticeManuals/Default.aspx>.

optimization software calculates LMPs based on administratively determined relaxation prices (*i.e.*, penalty pricing parameter values) contained in the BPM.

The CAISO tariff and applicable BPMs also include language that allows the CAISO to change or clarify a provision in the BPM on an expedited basis, without following the usual process for revising the BPM, in emergency circumstances. Such circumstances exist whenever the CAISO requires a BPM change or clarification to address an emergency affecting the CAISO controlled grid or its operations, or the CAISO determines in good faith that (1) failure to implement the BPM change or clarification on an expedited basis would substantially and adversely affect system reliability or security or the competitiveness of the CAISO markets, and (2) there is insufficient time to follow the usual BPM revision process.⁸ The CAISO must take reasonable steps to communicate with market participants and any other directly affected entities prior to taking expedited action if practicable. If the CAISO takes expedited action to change or clarify a BPM provision in emergency circumstances, the CAISO must promptly issue a market notice and submit a BPM revision request to examine the necessity of the change and its impacts.⁹

This expedited process allows the CAISO to change the penalty pricing parameter values contained in the BPM when emergency circumstances arise.

⁸ CAISO tariff section 22.11.1.7.

⁹ CAISO tariff, sections 22.4.3 and 22.11.1.7; BPM for BPM Change Management, section 2.6.

B. The June 25 Order

Among other changes, the April 28 Tariff Amendment proposed changes to the CAISO tariff to revise the scheduling priorities for load, export, and wheeling through transactions in the day-ahead and real-time market optimization processes. The April 28 Tariff Amendment did not propose to include the specific penalty pricing parameters in the tariff.¹⁰ An intervener in the proceeding argued that the CAISO should include the specific penalty prices associated with wheeling through transactions and other scheduling priorities in the tariff, instead of only including those penalty prices in the BPM as the CAISO currently does. In an answer, the CAISO explained its understanding based on precedent and past practice that the rule of reason required including only the scheduling priorities – and not the specific penalty pricing parameters – in the tariff.¹¹

In the June 25 Order, the Commission found that the CAISO should include the specific penalty pricing parameter values that determine the relative scheduling priorities of transactions in the CAISO market optimization software in the tariff, instead of only including them in the BPM.¹² The Commission found that, “[a]lthough these values have historically been specified in the business practice manual and the Commission has not previously required CAISO to include them in the Tariff, CAISO’s proposed revisions here have elucidated the significance of the penalty prices and, given this opportunity to fully consider their role in the scheduling priority framework, we

¹⁰ As noted above, the tariff provisions regarding the penalty pricing parameters are contained in tariff section 27.4.3, *et seq.*

¹¹ See June 2, 2021, Answer of the CAISO at 60-65.

¹² June 25 Order at PP 164-65.

find that these values must be included in the Tariff.”¹³ Accordingly, the Commission directed the CAISO to “submit a compliance filing within 30 days of the issuance of [the June 25 Order] that incorporates the penalty pricing parameters associated with the revised scheduling priorities into the relevant sections of the CAISO Tariff.”¹⁴ The Commission also stated it “will review the penalty pricing parameters pursuant to section 205 of the Federal Power Act to ensure that they are just and reasonable and not unduly discriminatory or preferential.”¹⁵

III. Statement of Issue and Specification of Error

The CAISO specifies the following issue and error in accordance with Commission Rule 713(c) if the Commission denies the motion for clarification of the June 25 Order contained in this filing:

1. The Commission erred by not allowing the CAISO to include a procedure in its tariff for temporarily changing penalty pricing parameter values. Including such a procedure in the CAISO tariff is appropriate under Commission precedent. *ISO New Eng. Inc. and New Eng. Power Pool Participants Comm.*, 155 FERC ¶ 61,319 (2016); *Peetz Logan Interconnect, LLC*, 151 FERC ¶ 61,282 (2015); *Avista Corp., et al.*, 148 FERC ¶ 61,212 (2014); *Midwest Indep. Transmission Sys. Operator, Inc.*, 112 FERC ¶ 61,169 (2005).

IV. Motion for Clarification or, in the Alternative, Request for Rehearing

The Commission will accept a compliance filing that contains changes that are consistent with the findings in the underlying order even if the Commission did not expressly direct some of the changes in the compliance filing. For example, the Commission explained in one proceeding that “[w]hile the additional revisions made in

¹³ *Id.* at P 166.

¹⁴ *Id.* at P 167.

¹⁵ *Id.*

the [compliance filing] were not specifically dictated by the Commission, they are consistent with the findings in the [underlying o]rder. Therefore, we accept this additional OATT [Open Access Transmission Tariff] revision for filing, as requested by” the public utility.¹⁶ Similarly, in the second in a series of orders on a public utility’s efforts to revise its tariff in compliance with the Commission’s Order No. 1000, the Commission found that the “additional proposed revisions noted above and not specifically directed in the First Compliance Order [issued in the proceeding] are reasonable and consistent with Order No. 1000.”¹⁷

The Commission should likewise find that including the Parameter Change Procedure in the July 26 Compliance Filing is consistent with the June 25 Order. The June 25 Order directed the CAISO to include the penalty pricing parameter values in the tariff, not just the BPM. Today, with the penalty pricing parameter values contained only in the BPM, the CAISO has the authority to change those values on an expedited basis when emergency circumstances challenging system reliability arise.¹⁸ Because the penalty pricing parameter values in question historically were not in the tariff, the existing tariff does not include a similar procedure that allows the CAISO to make such expedited changes to these values *in the tariff*. Therefore, once the penalty pricing parameter values are included in the tariff, the CAISO will lose its existing ability to change those values on an expedited basis to address operational or reliability needs absent Commission acceptance of the Parameter Change Procedure.

¹⁶ *Peetz Logan Interconnect, LLC*, 151 FERC ¶ 61,282, at P 14 (2015).

¹⁷ *Avista Corp., et al.*, 148 FERC ¶ 61,212, at P 160 (2014).

¹⁸ See *supra* section II.B of this filing (discussing CAISO tariff sections 22.4.3 and 22.11.1.7, and section 2.6 of the BPM for BPM Change Management).

Nothing in the June 25 Order suggests the Commission intended this result. The Commission recognized that the April 28 Tariff Amendment appropriately addressed “potential reliability risks related to allocating scarce transmission capacity on the CAISO system between capacity to serve internal CAISO load and external load.”¹⁹ As such, it is consistent with the June 25 Order to permit the CAISO to continue to be able to change temporarily the penalty pricing parameter values when necessary to address reliability challenges. Therefore, the Commission should clarify that the CAISO may include the Parameter Change Procedure in its July 26 Compliance Filing.

Further, the Commission will accept a compliance filing that includes changes not expressly required by the underlying order if those changes are “closely and plainly related to the compliance requirement that the Commission placed on” the public utility, and the changes “share a common factual nexus with the compliance filing and do not undo or contravene the compliance requirements.”²⁰ The Parameter Change Procedure will allow the CAISO to change temporarily the penalty pricing parameter values on an expedited basis when necessary to address market infeasibilities and operational/reliability issues. Thus, the Parameter Change Procedure is clearly and plainly related to, and shares a common factual nexus with, the requirement in the June 25 Order to include the penalty pricing parameter values in the tariff. The Parameter Change Procedure also does not undo or contravene the requirement to include the penalty pricing parameter values in the tariff. Under the proposed Parameter Change

¹⁹ June 25 Order at P 161.

²⁰ *ISO New Eng. Inc. and New Eng. Power Pool Participants Comm.*, 155 FERC ¶ 61,319, at P 32 (2016); *Midwest Indep. Transmission Sys. Operator, Inc.*, 112 FERC ¶ 61,169, at P 15 (2005).

Procedure, the CAISO will make a tariff amendment filing within 30 days after it changes any parameter. Consequently, it is appropriate for the Commission to clarify that the Parameter Change Procedure is properly within the scope of compliance.²¹

The CAISO's clarification request is appropriate because other ISOs and RTOs have Commission-accepted tariff provisions allowing them to make temporary changes to penalty factors where necessary to address operational or reliability needs, avoid operator intervention outside of normal scheduling processes, address congestion issues, or ensure feasible market solutions. Insofar as those tariff provisions permit temporary penalty factor changes, they are comparable to the Parameter Change Procedure. The Commission has found those tariff provisions to be just and reasonable in the compliance proceedings and FPA section 205 proceedings in which the ISO/RTO filed them.

Specifically, the Commission accepted tariff provisions filed pursuant to FPA section 205 to allow the New York Independent System Operator, Inc. (NYISO)

²¹ The Commission has also "accepted a section 205 filing in combination with a compliance filing when the compliance directives in question warranted changes to other, related tariff provisions." 112 FERC ¶ 61,169, at P 15 (citing *New Eng. Power Pool*, 85 FERC ¶ 61,141, at 61,550 (1998), *order on reh'g*, 87 FERC ¶ 61,043, *reh'g denied*, 88 FERC ¶ 61,276 (1999)). As explained above, the directive in the June 25 Order to include the penalty pricing parameter values in the tariff warrants the addition of the related Parameter Change Procedure. The Commission should therefore accept the submittal of the Parameter Change Procedure even if it finds that submittal constitutes a filing under section 205 of the FPA in combination with the July 26 Compliance Filing. The Commission explained in the June 25 Order that it "will review the penalty pricing parameters pursuant to section 205 of the Federal Power Act to ensure that they are just and reasonable and not unduly discriminatory or preferential."²¹ June 25 Order at P 167. As such, there is no difference between the standard the Commission would use to review the July 26 Compliance Filing and the standard it would use to review a separate FPA section 205 filing that contained the Parameter Change Procedure. Nor would there be any difference in the opportunity interveners have for comment because the Commission's notice of filing will presumably make all comments regarding the CAISO's proposals due on the same date.

temporarily to modify “Transmission Shortage Costs in order to avoid future operational or reliability problems the resolution of which would otherwise require recurring operator intervention outside normal market scheduling procedures.”²² In another FPA section 205 proceeding, the Commission accepted tariff provisions filed by the Midcontinent Independent System Operator, Inc. (MISO) that allow it to “temporarily override a Group 1 or Group 2 TCDC [Transmission Constraint Demand Curve] applicable to a constraint” when “the flow over a constraint is greater than or is expected to be greater than the constraint’s binding limit for more than two intervals or raises . . . elevated reliability concerns.”²³

The Commission also accepted similar tariff provisions filed by PJM Interconnection, L.L.C. (PJM) to comply with Commission Order No. 844.²⁴ Among other things, Order No. 844 directed ISOs and RTOs to file any tariff revisions needed to comply with a new rule requiring them to include in their tariff transmission constraint penalty factor values, any circumstances under which those penalty factors can set LMPs, and “the procedure, if any, for temporarily changing the transmission constraint penalty factor values” with “notice of the [temporary] change to market participants.”²⁵

²² NYISO Market Administration and Control Area Services Tariff, section 17.1.4. The Commission accepted the original version of these tariff provisions in *New York Independent System Operator, Inc.*, 119 FERC ¶ 61,237 (2007). The NYISO later made incremental changes to the tariff provisions.

²³ MISO Tariff, schedule 28A, section 3.3. The Commission accepted the original version of these tariff provisions in *Midcontinent Independent System Operator, Inc.*, 145 FERC ¶ 61,128 (2013). MISO later made incremental changes to the tariff provisions.

²⁴ *Uplift Cost Allocation and Transparency in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 844, 163 FERC ¶ 61,041 (2018) (Order No. 844).

²⁵ 18 CFR § 35.28(g)(10)(iii); see also Order No. 844 at PP 121-22. In Order No. 844, the Commission clarified that it was not requiring any ISO/RTO to include procedures in its tariff for temporarily changing its transmission constraint penalty factor values, but that any such procedures the ISO/RTO did have must be included in its tariff to comply with Order No. 844. Order No. 844 at P 122. The Commission also clarified that ISOs/RTOs “may propose any changes they deem appropriate to their

The Commission found the tariff provisions entitled “Modifications to Transmission Constraint Penalty Factor Values” that PJM filed to comply with Order No. 844 were “just and reasonable” and satisfied the directive in Order No. 844 that “any procedures for temporarily changing transmission constraint penalty factor values must provide for notice of the change to market participants as soon as practicable.”²⁶

The precedent of comparable penalty factor change procedures in other ISO and RTO tariffs is an additional reason why the Commission should clarify that the CAISO properly may include the Parameter Change Procedure in a filing to comply with the June 25 Order. If the Commission concludes that the Parameter Change Procedure would not comply with the June 25 Order, the CAISO respectfully requests in the alternative that the Commission grant rehearing and modify the June 25 Order for the limited purpose of allowing the CAISO to change the penalty pricing parameter values temporarily without an amendment to the CAISO tariff, when necessary to allow the CAISO expeditiously to address operational or reliability issues, or ensure feasible solutions on the CAISO controlled grid.

current practices related to transmission constraint penalty factors in a separate filing pursuant to section 205 of the Federal Power Act.” *Id.*

²⁶ *PJM Interconnection, L.L.C.*, 166 FERC ¶ 61,015, at PP 24-25 (2019) (quoting Order No. 844 at P 121). These tariff provisions are contained in the PJM OATT, Attachment K – Appendix, section 5.6.3.

V. Conclusion

For the reasons discussed herein, the CAISO respectfully requests that the Commission clarify or, in the alternative, grant rehearing of the June 25 Order as discussed above.

Respectfully submitted,

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July 26, 2021

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 Folsom, CA this 26th day of July, 2021.

/s/ Jacqueline Meredith
Jacqueline Meredith