

147 FERC ¶ 61,132
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;
Philip D. Moeller, John R. Norris,
and Tony Clark.

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

ORDER ON WAIVER REQUEST

(Issued May 19, 2014)

1. On January 10, 2014, the California Independent System Operator Corporation (CAISO) filed a petition for limited waiver of certain sections in its tariff that apply a minimum performance threshold to resources certified to provide regulation up and regulation down services from June 1, 2013, through December 31, 2014. In this order, we grant CAISO's waiver request, as discussed below.

I. Background

2. In Order No. 755, the Commission required regional transmission organizations (RTO) and independent system operators (ISO) to revise their tariffs to compensate frequency regulation resources based on a two-part, market-based payment system and to account for a resource's accuracy in its compensation.¹ As part of its Order No. 755 compliance filing, CAISO proposed tariff revisions to establish a minimum performance threshold for resources providing regulation.² Under the proposal, CAISO would measure a resource's accuracy by sending control signals in four-second increments and averaging a resource's responses to those signals over 15-minute intervals during the calendar month. In order to remain eligible to offer regulation services into the CAISO market, CAISO proposed requiring regulation resources to meet a minimum performance threshold of 50 percent accuracy each month. If a resource failed the minimum performance threshold, CAISO proposed requiring the resource to be recertified within 90 days from the date that CAISO provided notice of the resource's failure.

¹ *Frequency Regulation Compensation in the Organized Wholesale Power Markets*, Order No. 755, FERC Stats. & Regs. ¶ 31,324 (2011), *order denying reh'g*, Order No. 755-A, 138 FERC ¶ 61,123 (2012).

² Order No. 755 did not require RTOs/ISOs to implement a minimum performance threshold.

3. On September 20, 2012, the Commission conditionally accepted CAISO's Order No. 755 market design.³ In the Order No. 755 Compliance Order, the Commission directed CAISO to conduct an operational review based on one year of data after the proposal's implementation, including the appropriateness of the minimum performance threshold, and to propose any software or market rule changes that are appropriate as a result of the review.⁴ The Commission also directed CAISO to file an informational report based on the operational review within 14 months of the effective date of the proposed tariff provisions. The informational report is due August 1, 2014.

II. Waiver Request

4. On January 10, 2014, CAISO requested waiver of tariff sections 8.2.3.1.1 and 8.4.1.1(h), as well as part A 1.1.5 of tariff appendix K, which apply a minimum performance threshold to resources certified to provide regulation up and regulation down services, for the period from June 1, 2013, through December 31, 2014. CAISO explains that, since the minimum performance threshold became effective on June 1, 2013, a large number of resources certified to provide regulation up and regulation down services have failed to meet the threshold and thus face potential decertification. CAISO argues that poor performance among some regulated service providers has had no effect on the reliable operation of its grid and seeks to do further research into the design of the minimum performance threshold to see if that helps to explain why so many resources have failed to meet the threshold.

5. Upon reviewing and evaluating one year of data culminating on June 1, 2014, CAISO states that it will determine whether to recommend modifying its Order No. 755 market design, including the minimum performance threshold. Since it would not file these changes with the Commission until later this year after submitting the informational report, CAISO requests that the Commission grant its request for waiver through December 31, 2014. CAISO explains that granting the waiver through December 31, 2014, will accommodate its potential filing of tariff revisions that modify the minimum performance threshold following the submission of the informational report.

6. In support of its request for waiver, CAISO argues that good cause exists because the waiver is of limited scope, does not create undesirable consequences, and provides benefits to customers. First, CAISO argues that its waiver request is of limited scope because it concerns a limited timeframe—June 1, 2013, through December 31, 2014—during which time CAISO will complete its review of its Order No. 755 market design and propose any necessary tariff revisions, as directed by the Commission. CAISO

³ *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,206 (2012) (Order No. 755 Compliance Order), *additional order on compliance*, 142 FERC ¶ 61,233 (2013).

⁴ Order No. 755 Compliance Order, 140 FERC ¶ 61,206 at P 75.

asserts that its waiver request does not undermine the main purpose of Order No. 755 and that the scope of the waiver will only extend to its enforcement of the minimum performance threshold.

7. Next, CAISO maintains that its waiver request will not result in undesirable consequences and will, instead, benefit customers. CAISO affirms that the participation of resources that have failed the minimum performance threshold in its market has had no effect on system reliability. In addition, CAISO argues that granting its request for waiver will provide benefits to customers, such as maintaining a liquid supply of regulation resources and ensuring the safe and reliable operation of the grid. CAISO adds that the waiver will also benefit customers by providing time to work with stakeholders to assess the one year of operational data and to recommend any appropriate design changes as directed by the Order No. 755 Compliance Order.

8. Alternatively, should the Commission deny the waiver request, CAISO contends that undesirable consequences, such as market and operational disruptions and higher costs, may result from these resources being unable to offer regulation service. CAISO also argues that requiring resources to continually recertify even though no reliability concerns exist is not a reasonable use of CAISO or market participants' resources.

III. Notice of Filing and Responsive Pleadings

9. Notice of CAISO's waiver request was published in the *Federal Register*, 78 Fed. Reg. 61,944 (2013), with protests or motions to intervene due on or before January 31, 2014. Timely motions to intervene were filed by the NRG Companies;⁵ Beacon Power, LLC; the City of Santa Clara, California; the California Department of Water Resources State Water Project; Northern California Power Agency; and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California. Timely motions to intervene and comments/protests were submitted by Southern California Edison Company (SoCal Edison); the Electric Storage Association (ESA);⁶ and Pacific Gas and Electric Company (PG&E). CAISO filed an answer.

⁵ For purposes of this proceeding, the NRG Companies are NRG Power Marketing LLC; GenOn Energy Management, LLC; Cabrillo Power I LLC; Cabrillo Power II LLC; El Segundo Power LLC; NRG Delta LLC; NRG Marsh Landing LLC; NRG California South LP; High Plains Ranch II, LLC; Long Beach Generation LLC; NRG Solar Alpine LLC; NRG Solar Borrego I LLC; NRG Solar Blythe LLC; NRG Solar Roadrunner LLC; and Avenal Solar Holdings LLC.

⁶ ESA is an international trade association that consists of a diverse group of entities including technology developers and frequency response providers. ESA states that it advocates state and federal policies that foster additional competition and open up markets for advanced energy storage technologies and applications.

10. PG&E and SoCal Edison support CAISO's request for waiver. PG&E argues that the fact that the poor overall performance of regulation resources has not adversely affected frequency response in CAISO indicates that there are serious problems with CAISO's current Order No. 755 market design. To address these problems, PG&E recommends that the Commission extend the expiration date for the waiver to December 31, 2015, or until a stakeholder process is completed and a new Order No. 755 market design is proposed by CAISO and accepted by the Commission.

11. ESA argues that the Commission should limit CAISO's request for waiver to a period of three to six months, rather than through December 2014, because CAISO has not shown good cause for such an extensive waiver. ESA states that CAISO's waiver request contradicts one of the main objectives of Order No. 755—encouraging better performance for regulation resources. ESA asserts that resources will have little incentive to follow dispatch instructions and maintain high performance if CAISO does not enforce the minimum performance threshold. With large numbers of poorly performing resources participating in the market, ESA argues that, not only will the market-clearing price for capacity and mileage be low, but CAISO will also procure a larger quantity of regulation than necessary. ESA argues that low market-clearing prices for capacity and mileage will discourage better performing resources from entering the regulation market and stifle investment in new storage resources.

12. Despite these concerns, ESA states that a complete denial of CAISO's waiver request would result in the potential decertification of a significant amount of the resources that currently provide regulation to the CAISO market. Thus, ESA recommends that the Commission grant CAISO a limited waiver for a shorter time period, such as three to six months.

IV. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding.

14. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept the answer filed by CAISO and, therefore, reject it.

B. Commission Determination

15. The Commission has historically granted certain waiver requests where an emergency situation or an unintentional error was involved.⁷ Waiver, however, is not limited to those circumstances. Where good cause for a waiver of limited scope exists, there are no undesirable consequences, and the resultant benefits to customers are evident, the Commission has found that a one-time waiver is appropriate.⁸ As discussed below, we grant CAISO's request for waiver of the minimum performance threshold in its tariff for the period beginning June 1, 2013, through December 31, 2014, for good cause.

16. Since the minimum performance threshold became effective on June 1, 2013, CAISO states that the significant number of resources that have failed the minimum performance threshold but have continued to provide regulation to its market have not adversely impacted system reliability. CAISO also warns that requiring a large number of poorly performing resources to undertake recertification may cause operational disruptions. Thus, we find that granting CAISO's waiver request will not have undesirable consequences and will allow CAISO to retain an adequate supply of regulation resources that may be needed to avoid operational disruptions throughout the summer months. Also, given the limited timeframe requested for the waiver, it is limited in scope.

17. In addition, CAISO states that granting its waiver request will allow a thorough investigation into the efficacy of the method used to set the minimum performance threshold. We note that, in the Order No. 755 Compliance Order, the Commission directed CAISO to conduct an operational review of, among other things, the appropriateness of the minimum performance threshold based on one year of data and to file an informational report based on this operational review within 14 months of its implementation, i.e., by August 1, 2014. In light of the Commission's previous directives, we find that granting CAISO's request for waiver of the minimum performance threshold will enable CAISO to continue its investigation and propose any necessary modifications to its current tariff with the Commission in a timely manner.

18. Finally, we note that while the minimum performance threshold was not required for Order No. 755 compliance, the instant filing suggests that CAISO's existing Order No. 755 market design may not be accomplishing Order No. 755's goal to have accuracy adjustments to compensation encourage better performance. To address these concerns,

⁷ See, e.g., *ISO New England Inc.*, 117 FERC ¶ 61,171, at P 21 (2006); *Great Lakes Transmission LP.*, 102 FERC ¶ 61,331, at P 16 (2003); *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330, at P 5 (2003).

⁸ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226, at P 24 (2007).

we direct CAISO to include additional information in its Order No. 755 informational report concerning the minimum performance threshold. This additional information should include a discussion of the reliability impacts of resources that would be disqualified absent the waiver (e.g., evidence that insufficient regulation would qualify); an analysis of whether CAISO's current tariff mechanism of adjusting a resource's mileage multiplier based on historic regulation performance accuracy is effective in incenting more accurate performance; and an analysis of different methods for accounting for accuracy in compensation, including a comparison of its accuracy accounting to other RTO/ISOs' methods, that could incent more accurate performance. We find that this information will allow the Commission and stakeholders to better evaluate any tariff revisions that CAISO files following the operational review.

The Commission orders:

(A) CAISO's request for waiver of tariff sections 8.2.3.1.1 and 8.4.1.1(h), and part A 1.1.5 of tariff appendix K from June 1, 2013, through December 31, 2014, is hereby granted, as discussed in the body of this order.

(B) CAISO is hereby directed to include additional information in the informational report ordered in Docket No. ER12-1630-000, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

Document Content(s)

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