

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

**California Independent System            )       Docket No. ER04-835-010  
Operator Corporation                    )**

**MOTION FOR LEAVE TO ANSWER OUT-OF-TIME AND ANSWER OF THE  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO  
COMMENTS**

The California Independent System Operator Corporation (CAISO) submits this motion for leave to answer out-of-time and answer to the comments filed by Shell Energy North America (US), L.P. (Shell Energy) in this proceeding on October 15, 2020, regarding the response the CAISO submitted on September 24, 2020 (Deficiency Letter Response) to a deficiency letter issued by the Commission on August 25, 2020 (Deficiency Letter).<sup>1</sup>

The Commission should reject Shell Energy’s request for access to the resettlement principal and interest data the CAISO provided to the Commission on a privileged basis in the Deficiency Letter Response. The CAISO tariff requires the CAISO to treat such market participant-specific data as confidential. Further, the CAISO has already provided Shell Energy – notably, the only entity

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<sup>1</sup> The CAISO submits this filing pursuant to Rules 212, 213(a)(3), and 213(d)(2)(ii) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213(a)(3), 213(d)(2)(ii). Pursuant to Rules 212 and 213(d)(2)(ii), the CAISO respectfully requests Commission acceptance of this answer out-of-time. Good cause exists for Commission acceptance because the answer will assist the Commission in the decision-making process and will not prejudice the rights of any party or delay the proceeding. See, e.g., *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,148, at PP 9-10 (2009); *Attorney Gen. of the State of Cal. v. British Columbia Power Exchange Corp.*, 139 FERC ¶ 61,213, at P 7 (2012); *In re Edison Mission*, 125 FERC ¶ 61,020, at P 26 (2008).

that raised any issues regarding the Deficiency Letter Response – with its resettlement principal and interest information.

The Commission should also reject Shell Energy's arguments regarding the sufficiency of the CAISO's explanations as to the underlying refund reports the CAISO submitted in this proceeding on December 20, 2013 and May 12, 2014 (together, Refund Report). The CAISO has provided both the Commission and parties, including Shell Energy, with complete data on the manner in which it determined both the principal and interest associated with the resettlement of start-up and minimum load costs the Commission directed the CAISO to perform in this proceeding. What Shell Energy is really asking for would expand the scope of this proceeding beyond its current and reasonable bounds, insofar as it would require the CAISO to reproduce individual market participants' daily settlement statements from over a decade ago. The issue of historical data came up in 2013-2014 time frame. The CAISO's position was that market participants already have this data and in no event could the CAISO reproduce the granularity of daily settlement statements. Following several public discussions with Amendment No. 60 stakeholders, the CAISO agreed, solely as a courtesy, to provide each Amendment No. 60 market participant with significant historical data, albeit not daily settlement statements. Only Shell Energy continued to request daily settlement statements from the CAISO.

At this point in time, in 2020, the underlying original settlements data is even less accessible. The settlement software the CAISO utilized during the effective time period was decommissioned several years ago, and the existing

settlements software is incompatible with the old database on which the original settlements data is stored. At this late date there is no way the CAISO could reproduce the original settlement statements issued to Shell Energy (or to any other market participant) other than by spending millions of dollars on a new software solution to process the data just to satisfy Shell Energy's wishes. Again, taking such extraordinary steps is unnecessary and far beyond the scope of this proceeding. The CAISO maintained the market data that was required for purposes of processing the resettlement with market participants. As noted above, the CAISO, solely as a courtesy to market participants, including Shell Energy, provided a significant amount of historical settlements data, which met market participants' reasonable needs. The CAISO could not in 2014 and cannot in 2020 reproduce the original settlements data. If Shell Energy failed to retain its original settlement statements, then that is Shell Energy's responsibility, and does not speak to any insufficiency or inaccuracy in the CAISO's resettlement process.

**I. Answer**

**A. The Commission Should Reject Shell Energy's Request for Access to the Data the CAISO Provided to the Commission on a Privileged Basis**

Shell Energy does not contend the Deficiency Letter Response fails to provide the information the Commission sought in the deficiency letter. Instead, Shell Energy requests that the Commission deny the CAISO's request for privileged treatment for the resettlement principal and interest data it provided to the Commission in the Deficiency Letter Response. Shell Energy claims that not

providing that data excludes affected parties from the compliance process and infringes on their due process rights.<sup>2</sup>

The Commission should deny Shell Energy's request. As the CAISO explained in the Deficiency Letter Response, it was providing commercially sensitive, market participant-specific resettlement data to the Commission. The CAISO tariff requires the CAISO to treat such data as confidential because it is not composite (*i.e.*, non-market participant-specific) data.<sup>3</sup> The CAISO tariff does not include a time limit or expiration date for the confidentiality of such data. Therefore, the CAISO is required to treat the resettlement data provided in the Deficiency Letter Response confidentially regardless of its age. For the reasons explained in the Deficiency Letter Response, the CAISO reiterates its request that the Commission likewise grant privileged treatment to the data.

In any event, there is no need for the Commission to even entertain Shell Energy's arguments regarding the sufficiency of the CAISO's request for commercially sensitive treatment of the data that it submitted as part of the Deficiency Letter Response. As the CAISO has explained in prior answers to Shell Energy in this proceeding, the CAISO has already provided all market participants, including Shell Energy, with their individual resettlement principal and interest information.<sup>4</sup> The data provided by the CAISO to market participants is sufficient to allow each market participant to validate its own charges resulting

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<sup>2</sup> Shell Energy at 2-3.

<sup>3</sup> CAISO tariff section 20.2.

<sup>4</sup> See pages 9-12 of the answer the CAISO submitted in this proceeding on May 6, 2020, and page 2 of the answer the CAISO submitted in this proceeding on September 15, 2020.

from the resettlement. Shell Energy fails to even acknowledge that the CAISO has provided market participants with their individual data, much less show that this data is somehow insufficient.

The CAISO also notes that Shell Energy is the only entity that has requested such data, and indeed is the only entity that submitted a filing regarding the Deficiency Letter Response. Consequently, Shell Energy's claims about excluding affected parties from the compliance process and infringing on their due process rights rings hollow, and the Commission should reject Shell Energy's request.

**B. The Commission Should Reject Shell Energy's Arguments Regarding the Sufficiency of Resettlement Calculations**

Shell Energy argues that the CAISO has not sufficiently explained its recalculation calculations. It is evident from Shell Energy's comments that its concern is fundamentally not with whether the CAISO correctly reallocated minimum load and start-up costs consistent with the Amendment No. 60 methodology approved by the Commission, but with the underlying data the CAISO used to perform them, *i.e.*, the original price and quantity data reflected in the daily settlement statements issued by the CAISO to Shell Energy and all other market participants. This is demonstrated by the fact that Shell Energy quotes its own prior assertions that the monthly data provided by the CAISO cannot be validated, and that it instead needs "daily settlements statements" in order to verify its scheduling coordinator billable quantities for each individual resource for which it acted as the scheduling coordinator. Shell Energy also

claims that the CAISO summarily denied all disputes raised in the resettlement invoicing process.<sup>5</sup>

The “validation” exercise that Shell Energy describes is beyond the scope of this proceeding, in that it would require the CAISO to reproduce individual market participants’ daily settlement statements from over a decade ago. The original daily settlement statements that Shell Energy requests have already been provided to market participants, including Shell Energy, as part of the original CAISO settlement process.

In the 2013-2014 time frame, the CAISO addressed the issue of historical data by explaining that market participants already have this data and in no event could the CAISO reproduce the granularity of the daily settlement statements. Following several public discussions with Amendment No. 60 stakeholders, the CAISO agreed, solely as a courtesy, to provide each Amendment No. 60 market participant with significant historical data, albeit not daily settlement statements. Only Shell Energy continued to request daily settlement statements from the CAISO.

The historical costs and billing quantities were not modified as a result of the resettlement process the CAISO conducted in the 2013-2014 time frame. As the CAISO explained in its Refund Report, it reversed the original allocation of certain start-up and minimum load costs and reallocated them based on whether the CAISO committed must-offer generation due to system, zonal, or local needs per the Amendment No. 60 methodology.

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<sup>5</sup> Shell Energy at 3-5.

The supporting data provided by the CAISO, which Shell Energy claims is insufficient, is simply aggregated historical settlement data; the CAISO did not change this data in connection with the reallocation. Thus, daily settlement statements are not necessary to validate whether the CAISO properly performed the reallocation consistent with the Amendment No. 60 methodology. If Shell Energy has not retained its original settlement statements, it may be challenged to resettle with its own customers, but that is Shell Energy's responsibility.

Shell Energy provides no basis for expanding the scope of the proceeding to encompass validating the data the CAISO provided to market participants as part of the Amendment No. 60 reallocation process. The Commission indicated it would consider the "accuracy" of the Refund Report.<sup>6</sup> To that end, the Commission directed the CAISO to file for Commission review "the resettlement principal and interest amount for each market participant."<sup>7</sup> In response, the CAISO provided spreadsheets showing the CAISO's calculation of those monthly amounts for each market participant based on the reallocation methodology approved by the Commission, as fully explained in the Refund Report. Nowhere did the Commission indicate it would entertain issues relating to the validity of the underlying CAISO data, or suggest that the CAISO would be required to re-issue historical data to market participants that failed to retain their own records.

Moreover, Shell Energy is incorrect in claiming that the CAISO issued a blanket denial of all disputes in the resettlement invoicing process. In fact, the

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<sup>6</sup> Deficiency Letter at 2 (citing *Cal. Indep. Sys. Operator Corp.*, 172 FERC ¶ 61,109, at P 31 (2020)).

<sup>7</sup> Deficiency Letter at 2.

CAISO addressed each dispute on its own merits, which resulted in the CAISO making corrections where warranted. For instance, as explained in the refund report the CAISO submitted on May 12, 2014, the CAISO corrected an error identified in its settlement dispute resolution process regarding certain costs that it had failed to re-classify from local to zonal during the resettlement period. However, this error related to the accuracy of the CAISO's reallocation of start-up and minimum load costs in accordance with the Commission-mandated methodology. It had nothing to do with the validity of the CAISO's underlying data inputs.

Also, as a practical matter, the CAISO could not reproduce the original settlement statements issued to Shell Energy (or to any other market participant) in the 2004-2007 period without the extraordinary and unnecessary steps of creating an entirely new software platform. The interval-level historical data that would be required to reproduce these statements is now only available on an old database that is incompatible with the CAISO's current software systems. To access that data, the CAISO would have to develop and build an entirely new software solution for the purpose, which would cost millions of dollars. There is no reason for the CAISO to go to such lengths merely to satisfy the wishes of a single market participant seeking data that is beyond the scope of the Commission's compliance obligations and which is not necessary for the CAISO to resettle with scheduling coordinators.

## II. Conclusion

For the foregoing reasons, the Commission should accept the Deficiency Letter Response consistent with the discussion in this answer.

Respectfully submitted,

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Counsel for the California Independent System Operator Corporation

Dated: November 25, 2020

## 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 Washington, DC this 25<sup>th</sup> day of November, 2020.

/s/ Jesse Jacobs

Jesse Jacobs

Davis Wright Tremaine LLP