196 FERC ¶ 61,152
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Laura V. Swett, Chairman;
David Rosner, Lindsay S. See,
Judy W. Chang, and David LaCerte.

Terminus Hydroelectric, LLC v. California Independent System Operator Corporation — Docket No. EL26-41-000

ORDER DENYING WAIVER REQUEST

(Issued August 24, 2026)

1. On January 16, 2026, pursuant to section 37.8.10 of the California Independent System Operator Corporation (CAISO) Open Access Transmission Tariff (Tariff),[1] Terminus Hydroelectric, LLC (Terminus) submitted a request for waiver of section 37.6.1 (Required Information Generally)[2] to nullify $21,000 in penalties assessed by CAISO to Terminus for its failure to timely restore telemetry or submit telemetry reporting exemption requests.[3] As discussed below, we deny Terminus's waiver request.

I. Background

2. Tariff section 37 (Rules of Conduct) sets forth the expectations associated with participation in CAISO's market and the sanctions incurred if a Tariff violation is found. Tariff section 37.6.1.1 (Expected Conduct) states that all information required to be

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[1] CAISO, CAISO eTariff, § 37.8.10 (Review of Determination) (7.0.0).

[2] *Id.* § 37.6.1 (Required Information Generally) (2.0.0).

[3] Terminus styled its appeal as a complaint; however, Tariff section 37.8.10 specifies that a market participant may appeal penalties resulting from a Rules of Conduct violation by submitting a tariff waiver request with the Commission. *Id.* § 37.8.10 (Review of Determination) (7.0.0); *see Cal. Indep. Sys. Operator Corp.*, 189 FERC ¶ 61,223, at PP 7, 19 (2024) (accepting Tariff revisions to identify a tariff waiver as the appropriate procedural vehicle for penalty appeals under the Rules of Conduct).

submitted to CAISO under the Tariff must be submitted by the specified deadline.[4] The penalty for a violation of Tariff section 37.6.1.1 is $500 per day.[5]

3. If CAISO believes that a market participant may have committed a Tariff violation subject to CAISO penalties, it conducts an investigation,[6] providing notice and an opportunity for the market participant to present relevant information.[7] After reviewing any information provided in response to CAISO's notice of review, CAISO will issue a results of review notice to the market participant, including notice of any sanctions.[8] CAISO does not have discretion to reduce or waive penalties assessed under Tariff section 37.

4. Where CAISO determines that a penalty is warranted, the market participant may obtain immediate review of CAISO's determination by directly appealing to the Commission. Specifically, Tariff section 37.8.10 (Review of Determination) provides, in relevant part, that:

> A Scheduling Coordinator that receives a results of review notice concluding a Rules of Conduct violation occurred, or a Market Participant whose conduct gave rise to the results of review notice, may appeal the CAISO's conclusion to FERC by submitting a waiver request. The obligation to pay any Sanctions is tolled until FERC renders its decision on the appeal if the Scheduling Coordinator or Market Participant within 30 days of receiving the results of review notice: (a) files its appeal with FERC; and (b) provides the CAISO with notice of the appeal following the procedures established in the Business Practice Manual.[9]

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[4] CAISO, CAISO eTariff, § 37.6.1 (2.0.0), § 37.6.1.1 (Expected Conduct). Capitalized terms used but not otherwise defined in this order have the meanings ascribed to them in the Tariff.

[5] *Id.* § 37.6.1.2 (Sanctions).

[6] *Id.* § 37.8.3 (Preliminary Investigation) (1.0.0).

[7] *Id.* § 37.8.4 (Notice of Review) (3.0.0).

[8] *Id.* § 37.8.5 (Results of Review) (1.0.0).

[9] *Id.* § 37.8.10 (Review of Determination) (7.0.0).

II. Waiver Request

5. Terminus states that, on December 18, 2025, CAISO assessed a sanction against Terminus and Galt Power, Inc. (Galt)[10] following a Rules of Conduct investigation into allegations that Terminus did not provide the required telemetry from the Terminus hydroelectric facility for a period of time that exceeded the allowed telemetry outage duration by 42 days.[11]

6. Terminus states that, between August 28, 2025 and September 3, 2025, communication between CAISO and Terminus's metering and telemetry devices was interrupted due to a problem with a network switch owned by Terminus. Terminus explains that, on September 3, 2025, CAISO first notified Terminus of a loss of telemetry and provided 14 business days for Terminus to resolve the issue or file an exemption request. Terminus states that, on September 8, 2025, CAISO notified Terminus of a loss of metering connectivity, effective August 28, 2025, and provided 30 days (until October 8, 2025) for Terminus to resolve the issue or file an exemption request. Terminus further states that, on September 11, 2025, Terminus replaced a network switch and contacted CAISO by telephone, at which time CAISO confirmed that communication was restored.[12]

7. Terminus states that, on September 15, 2025, CAISO notified Terminus of continuing loss of metering connectivity since August 28, 2025. Terminus explains that it subsequently "fixed connectivity issue between meter and network switch" and CAISO confirmed via email that meter communication was restored on September 16, 2025.[13]

8. Terminus states that, between October 6, 2025 and October 9, 2025, communication between CAISO and Terminus's metering and telemetry devices was interrupted due to a recurrence of the problem with the network switch owned by Terminus, and on October 9, 2025, CAISO notified Terminus of loss of telemetry and provided 14 business days for Terminus to resolve the issue or file an exemption request. Additionally, Terminus explains that, on October 13, 2025, CAISO notified Terminus of loss of metering connectivity, effective October 6, 2025, and provided 30 days to Terminus to resolve the issue or file an exemption request. Terminus states that, on

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[10] Galt is the Scheduling Coordinator for Terminus. *See* Waiver Request, Ex. 1.

[11] Waiver Request at 1.

[12] *Id.* at 2.

[13] *Id.*

October 20, 2025, CAISO notified Terminus of continuing loss of metering connectivity since October 6, 2025.[14]

9. Terminus explains that, on October 22, 2025, it filed an exemption request for metering effective through November 15, 2025, but did not separately file an exemption request for telemetry. Terminus further explains that, on October 23, 2025, CAISO issued a Notice of Review relating to the September 3, 2025 telemetry outage notification and September 23, 2025 deadline. Finally, Terminus states that it replaced the network switch a second time and restored telemetry on November 4, 2025.[15]

10. Terminus states that its hydroelectric facility was offline for the entire period at issue due to low river flows, which is normal for late August through November, and asserts that all metered and telemetered values would have been zero even during periods when the communication was unavailable. Terminus states that CAISO would have been aware of this outage because Terminus and Galt separately reported the outage to CAISO. Terminus thus contends that the interruptions in telemetry would have had no operational impact on CAISO and no market impact on CAISO or other market participants.[16]

11. Terminus argues that CAISO's allegation that telemetry was unavailable from the date of its initial notice on September 3, 2025 to November 4, 2025 is either an error or based on information that was not available to Terminus. Terminus states that it believed that telemetry was restored on September 16, 2025, along with connectivity to the meter, based on its communications with CAISO, and if there were continuing problems between September 16, 2025 and October 9, 2025, CAISO provided no notice to Terminus. Further, Terminus argues that, had CAISO responded more quickly to Terminus's request for information on October 24, 2025, Terminus may have been able to address the alleged issue sooner.[17]

12. Terminus requests that the Commission grant waiver of Tariff section 37.6.1 and direct CAISO to remove the $21,000 sanction related to the alleged 42-day period of non-compliance. Terminus contends that, for the first 36 days of this period, it was either in compliance with the Tariff or, if not, could not reasonably have been expected to know that it was not in compliance. Terminus states that, for the last six days of the period, its

[14] *Id.* at 3.

[15] *Id.* at 3-4.

[16] *Id.* at 4.

[17] *Id.* at 4-5.

noncompliance was due to an inadvertent administrative error, compounded by a slow response from CAISO.[18]

13. Terminus requests in the alternative that, if the Commission does not direct CAISO to remove sanctions related to the six-day period from October 30 to November 4, 2025, the Commission grant a limited waiver of Tariff section 37.6.1 and direct CAISO to remove the $18,000 sanction related to the first 36 days of the alleged 42-day period of noncompliance.[19]

III. Notice and Responsive Pleadings

14. Notice of Terminus's filing was published in the *Federal Register*, 91 Fed. Reg. 2768 (Jan. 22, 2026), with interventions and comments due on or before February 5, 2026. CAISO filed comments.

15. CAISO argues that Terminus has not justified its request for removal of sanctions. CAISO contends that it correctly applied its Tariff because the record shows a single, continuous period of telemetry non-compliance, rather than two periods. CAISO states that it informed Terminus on September 3, 2025, that the Terminus unit was experiencing telemetry failures, and CAISO set a September 23, 2025, deadline to restore compliant telemetry. CAISO asserts that Terminus did not meet that deadline, did not request an exemption, and did not return its unit to compliance until November 4, 2025.[20]

16. CAISO disputes Terminus's claim that CAISO advised Terminus by telephone on September 11, 2025 that replacement of a network switch resolved the telemetry issues. Instead, CAISO argues that this replacement did not result in the required 72 hours of quality telemetry data, as specified in section 8.4.2 of the Direct Telemetry Best Practices Manual. CAISO contends that Terminus should have known that the replacement of the network switch did not resolve all issues due to CAISO informing Terminus on September 23, 2025 that the telemetry issues had not been restored.[21]

17. CAISO states that it does not support a general rule that having a generation outage automatically relieves a generator of its obligation to maintain accurate telemetry. CAISO argues that a generation outage, on its own, does not support waiver of telemetry penalties. CAISO asserts that Terminus's request is distinguishable from a waiver

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[18] *Id.* at 5-6.

[19] *Id.* at 6.

[20] CAISO Comments at 5.

[21] *Id.* at 6.

request filed by Yolo County, California (Yolo).[22] CAISO states that, in the Yolo proceeding, CAISO acknowledged that the Commission reasonably could find the penalties assessed to Yolo were disproportionate to the specific conduct at issue in that proceeding, where the Yolo units were on outage due to wildfire damage requiring significant repairs. Here, CAISO observes that the outage on the Terminus unit is based on seasonal water flows, which suggests it could return to service at short notice based on weather, and Terminus is approximately 20 times larger than the two units at issue in the Yolo proceeding.[23]

IV. Discussion

18. We deny Terminus's request for waiver of Tariff section 37.6.1 to nullify $21,000 in penalties assessed by CAISO to Terminus for its failure to timely restore telemetry or submit telemetry reporting exemption requests. The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.[24] As the Commission has previously stated, waiver applicants have "the burden to establish that all of the waiver criteria [are] satisfied."[25] Here, we find that Terminus has not met its burden because it does not offer any arguments to demonstrate that the waiver request satisfies the Commission's tariff waiver criteria; therefore, waiver is not warranted in this instance.[26]

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[22] *Id.*; *see Cnty. of Yolo, Cal. v. Cal. Indep. Sys. Operator Corp.*, 195 FERC ¶ 61,052 (2026).

[23] Waiver Request at 7.

[24] *See, e.g.*, *Citizens Sunrise Transmission LLC*, 171 FERC ¶ 61,106, at P 10 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

[25] *Hickory Wind, LLC*, 193 FERC ¶ 61,004, at P 12 (2025); *see Oxbow Solar, LLC*, 192 FERC ¶ 61,204, at P 25 (2025); *Sw. Pub. Serv. Co.*, 153 FERC ¶ 61,020, at P 13 (2015).

[26] For the same reason, we deny Terminus's alternative request for waiver to nullify $18,000 in penalties related to the first 36 days of noncompliance.

The Commission orders:

Terminus's waiver request is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Carlos D. Clay,
Deputy Secretary.