

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

**California Independent System) Docket No. ER15-817-000
Operator Corporation)**

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

The California Independent System Operator Corporation (“CAISO”)¹ files this answer to the comments and protests submitted in the above-captioned proceeding² in order to assist the Commission’s consideration of the CAISO’s December 31, 2014, petition for limited tariff waiver of the applicability of section 27.4.3.2 and the second sentence of section 27.4.3.4 of the CAISO tariff to constraints affecting Energy Imbalance Market (“EIM”) transfers within or between PacifiCorp’s balancing authority areas, effective November 1-13, 2014 (“December 31 Waiver Filing”).³

The Commission should grant the tariff waiver for the November 1-13 period requested in the December 31 Waiver Filing. The CAISO has demonstrated that the

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 Cities of Santa Clara and Redding, California, and the M-S-R Public Power Agency; Modesto Irrigation District; NextEra Energy Resources, LLC; Pacific Gas and Electric Company; PacifiCorp, Deseret Generation & Transmission Co-operative, Inc. d/b/a Deseret Power, Utah Associated Municipal Power Systems, and Utah Municipal Power Agency (collectively, “Joint Commenters”); Powerex Corp. (“Powerex”); and Western Power Trading Forum (“WPTF”). In addition, Joint Commenters filed supportive comments and Powerex 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 the 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 Independent System Operator Corp.*, 132 FERC ¶ 61,023, at P 16 (2010); *Xcel Energy Services, Inc.*, 124 FERC ¶ 61,011, at P 20 (2008).

anomalous prices experienced during that period did not reflect actual market and operational conditions because of errors and issues associated with the transition to the new market environment. Therefore, it is not just and reasonable to subject ratepayers to those rates. Comments filed by other parties provide additional evidence in support of that conclusion. In their protests, Powerex and WPTF acknowledge that the anomalous prices detrimentally affected customers. Nevertheless, they oppose applying the waiver to November 1-13 to address those unjust and unreasonable prices. The Commission should find that the CAISO has satisfied the Commission's criteria for granting a waiver.

Powerex also suggests two alternative approaches for addressing the anomalous prices. Neither of those suggested approaches, however, offers the prompt relief for customers from unjust and unreasonable prices that the December 31 Waiver Filing will provide.

I. Background

In the December 31 Waiver Filing, the CAISO requested that the Commission grant a waiver of the applicability of section 27.4.3.2 and the second sentence of section 27.4.3.4 of the CAISO tariff to constraints that are within PacifiCorp's balancing authority areas or otherwise affect EIM transfers between those balancing authority areas, from November 1, 2014 (*i.e.*, the first trading day of the Energy Imbalance Market) through November 13, 2014. The CAISO stated that the waiver, if granted, would provide the same relief during the November 1-13 period that the Commission

had granted in accepting the CAISO's November 13, 2014, petition for limited tariff waiver for a 90-day period beginning November 14, 2014.⁴

The CAISO explained that it had completed all the price corrections it was authorized to make under its existing tariff authority for the November 1-13 period and had determined that, but for the requested waiver, prices for November 1-13 would continue to remain inappropriately high and not reflect actual market and operational conditions. The CAISO stated that limited waiver was necessary to address those remaining unjust and unreasonable prices.⁵

The CAISO described how the December 1 Waiver Filing, like the previously granted 90-day waiver filing, satisfied all three elements of the Commission's criteria for granting a waiver: (1) the waiver is of limited scope; (2) a concrete problem needs to be remedied; and (3) the waiver does not have undesirable consequences, such as harming third parties.⁶ The CAISO also explained that making the waiver retroactively effective from November 1 to November 13 was necessary to correct the unjust and unreasonable pricing anomalies resulting from the transition to the Energy Imbalance Market and was consistent with Commission precedent.⁷

⁴ December 31 Waiver Filing at 4-9. The Commission granted the CAISO's 90-day waiver request in *California Independent System Operator Corporation*, 149 FERC ¶ 61,194 (2014) ("December 1 Order").

⁵ December 31 Waiver Filing at 2, 9-13.

⁶ *Id.* at 14-16.

⁷ *Id.* at 16-17 (citing *Cal. Indep. Sys. Operator Corp.*, 121 FERC ¶ 61,011 (2007) and *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,132 (2014)).

II. Answer

A. Granting the December 1 Waiver Filing Will Address the November 1-13 Anomalous Prices and Is Consistent with Commission Precedent.

The CAISO showed in the December 31 Waiver Filing that prices during the first two weeks of Energy Imbalance Market implementation were significantly different from what prices would have been if they had more closely reflected actual system and market conditions. The CAISO explained that these price anomalies resulted in unjust and unreasonable prices.⁸

The CAISO calls the Commission's attention to and adopts in support of the waiver the additional evidence provided by the Joint Commenters. The Joint Comments provide data on the actual impact of the anomalous prices that was not available when the CAISO requested the waiver. Specifically, they provide the example of Deseret, which, due to an outage, will owe a total of nearly \$259,000 in imbalance energy costs during a 70-minute period if the Commission does not grant the waiver. Those imbalance energy costs result from anomalous prices not reflecting actual system and market conditions.⁹ The Joint Commenters have also pointed to data in the CAISO's November 2014 Market Performance Report – dated the same day as the waiver filing – to demonstrate both how the need for the waiver was even greater before November 13, 2014, and how the waiver can effectively reduce the economic impact of the abnormal prices during that period. The data provided by the Joint Commenters demonstrates the significant impact of the anomalous prices.¹⁰

⁸ *Id.* at 9-13.

⁹ Joint Commenters at 16-17.

¹⁰ *Id.* at 12-13, 18-19.

The CAISO explained in the December 31 Waiver Filing that applying the waiver to November 1-13 is necessary to correct the unjust and unreasonable pricing anomalies resulting from the transition to the Energy Imbalance Market and is consistent with Commission precedent.¹¹ The Joint Commenters have identified additional circumstances in which the Commission provided retroactive waivers in order to avoid inequitable results.¹² Relieving PacifiCorp and its customers of the financial consequences of unforeseeable and anomalous circumstances that arose during the initial implementation of the Energy Imbalance Market is consistent with this precedent.

Granting a waiver would not contravene the December 1 Order. In that order, the Commission stated that it was “not persuaded by intervenors’ arguments that the waiver should be effective as of EIM start-up.”¹³ The Commission provided two reasons for not making the waiver effective for the November 1-13 period. Neither of those reasons is applicable to the December 31 Waiver Filing.

First, the Commission stated that the CAISO, as the applicant for a waiver, was required to propose the specific effective date, and the effective date the CAISO had proposed for its 90-day waiver filing was not November 1 but November 14.¹⁴ In contrast, the December 31 Waiver Filing proposes a specific effective date of November 1. Second, the Commission found that implementing the waiver as of the day after the CAISO submitted its 90-day waiver filing on November 13 would ensure that all

¹¹ December 31 Waiver Filing at 16-17.

¹² Joint Commenters at 21-22.

¹³ December 1 Order at P 24.

¹⁴ *Id.*

customers had sufficient notice of the proposed effective date.¹⁵ The December 31 Waiver Filing, however, provides sufficient notice that the CAISO proposes a November 1 effective date, just as the waiver filings accepted in the two Commission orders cited above provided sufficient notice to customers of their proposed retroactive effective dates.

B. Powerex’s Proposed Alternatives Are Not Preferable to the December 31 Tariff Waiver.

Powerex suggests two alternative approaches to dealing with the November 1-13 anomalous prices. Neither of those suggested approaches, however, can possibly offer the prompt relief for customers that the December 31 Waiver Filing will provide.

Powerex first suggests that customers could bring complaints pursuant to Section 206 of the Federal Power Act (“FPA”) against PacifiCorp or the CAISO to the extent they believe they have been subjected to unjust and unreasonable rates as a result of operation of the Energy Imbalance Market.¹⁶ Such complaints would be ineffective, however, because the CAISO was applying its approved tariff. Further, different customers might separately file multiple FPA Section 206 complaints, possibly at different times, which would create administrative and procedural issues for the Commission that are not raised by the single December 31 Waiver Filing.

Powerex also suggests that PacifiCorp itself could seek relief for its customers subject to Schedules 4 and 9 of the PacifiCorp Open Access Transmission Tariff by making a filing requesting to hold the customers harmless from operation of the Energy

¹⁵ *Id.*

¹⁶ Powerex at 21.

Imbalance Market by proposing certain limitations on its pass-through of the Energy Imbalance Market costs it incurred during the November 1-13 period.¹⁷ This would simply shift the unjust prices from the customers to PacifiCorp and would not remedy the unjust prices or eliminate the inequity. The Energy Imbalance Market costs would remain, regardless of who must ultimately shoulder them.

III. Conclusion

For the foregoing reasons, the Commission should grant the tariff waiver requested in the December 31 Waiver Filing.

Respectfully submitted,

By: /s/ John C. Anders

Kenneth G. Jaffe
Michael E. Ward
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004
Tel: (202) 239-3300
Fax: (202) 654-4875

Roger E. Collanton
General Counsel
Anna A. McKenna
Assistant General Counsel
John C. Anders
Lead Counsel
California Independent System
Operator Corporation
250 Outcropping Way
Folsom, CA 95630
Tel: (916) 351-4400
Fax: (916) 608-7222

Counsel for the California Independent System Operator Corporation

Dated: February 5, 2015

¹⁷ *Id.*

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 Folsom, California this 5th day of February, 2015.

1st Anna Pascuzzo
Anna Pascuzzo