

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

California Independent System) Docket No. ER19-2757-____
Operator Corporation)

**PETITION FOR LIMITED TARIFF WAIVER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (CAISO) respectfully requests a temporary suspension of the effectiveness, or limited waiver,¹ of the tariff revisions accepted in the order issued in this proceeding on September 21, 2020 to comply with Commission Order No. 831 (Compliance Revisions).² The CAISO also requests the Commission issue an order granting this petition as soon as possible, but in any event no later than March 11, 2021.³

The Compliance Revisions currently have a March 21, 2021 effective date. The Compliance Revisions will allow for cost-justified energy offers above \$1,000/MWh and set the CAISO's maximum energy bid price at \$2,000/MWh. Further, under the Compliance Revisions, the maximum energy bid price for import bids will increase from its current level of \$1,000/MWh to \$2,000/MWh without any need to cost-justify those

¹ The CAISO files this petition for limited waiver pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.207.

² *Cal. Indep. Sys. Operator Corp.*, 172 FERC ¶ 61,262 (September 21 Order), *reh'g denied by operation of law*, 173 FERC ¶ 62,095 (2020). As explained below, the Compliance Revisions also include a clarification required by the September 21 Order, which the Commission later accepted by letter order.

³ If the Commission denies this petition, the CAISO may need to file a tariff amendment prior to March 21, 2021 to change certain pricing parameters in its tariff to reflect the new maximum energy bid of \$2000/MWh. If the Commission grants this petition, the CAISO will propose these changes as part of a separate and more extensive tariff amendment that is related to and complements the Compliance Revisions, as described below.

bids. In addition, the market parameters the CAISO uses for establishing market prices in certain shortage conditions will reflect the \$2,000/MWh maximum energy bid price.

The CAISO has committed to its stakeholders to make every effort to implement a related and complementary tariff amendment (Enhancement Revisions) on the same date as the Compliance Revisions. This tariff amendment is designed to align the bid cap structure directed in Order No. 831 with additional market enhancements to establish rules for cost-justifying import bids above \$1,000/MWh, and refine the market parameters relating to shortage pricing. The CAISO plans to file these Enhancement Revisions by mid-February and cannot implement them until June 2021.

Implementing the Enhancement Revisions at the same time as the Compliance Revisions is critical to ensure the revisions to the CAISO's bid cap structure made in compliance with Order No. 831 do not have adverse consequences in the CAISO markets, including the West-wide Energy Imbalance Market (EIM). Specifically, the Enhancement Revisions will ensure (1) import bids, which the CAISO depends on to operate its system reliably, do not create the risk of system-level market power if they rise above \$1,000/MWh, and (2) the market parameters for shortage pricing, if they are triggered, do not result in excessively high prices. Further, implementing both sets of revisions at the same time will help ensure these tariff revisions "go live" in an efficient manner.

No harm or prejudice should result from postponing the effectiveness of the Compliance Revisions because it is unlikely suppliers in the CAISO's markets will incur costs that would exceed the \$1,000/MWh bid cap between the current March 21, 2021 effective date and June 2021. Prior to summer, supply conditions typically are not

constrained and natural gas prices in the region historically have not risen to levels resulting in costs above \$1,000/MWh. Therefore, the CAISO requests a limited waiver of the effectiveness of the Compliance Revisions until no later than June 15, 2021.⁴ For the reasons explained below, good cause exists to grant this request.

I. Background

A. Order No. 831 Compliance and Initiation of Stakeholder Process to Address Related Issues

On September 5, 2019, the CAISO filed tariff revisions in this proceeding to comply with Order No. 831 (Compliance Filing). Order No. 831 required each Independent System Operator (ISO) and Regional Transmission Organization (RTO) to make specific revisions to its tariff establishing (1) a cap for a resource's energy offer at the higher of \$1,000/MWh or the resource's cost-based incremental energy offer up to \$2,000/MWh; (2) a verification requirement for cost-based incremental energy offers above \$1,000/MWh; and (3) a cap for energy offers from imports and virtual transactions at \$2,000/MWh.⁵ The CAISO requested that the Commission accept these tariff revisions by December 31, 2020.⁶

⁴ The CAISO is targeting an implementation date of no later than June 15 for the Enhancement Revisions. The CAISO commits to submit a filing to specify the actual effective date of its Compliance Revisions and Enhancement Revisions within five days of the date they actually take effect.

⁵ *Offer Caps in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 831, FERC Stats. & Regs. ¶ 31,387 (2016) (Order No. 831), *order on reh'g and clarification*, Order No. 831-A, 161 FERC ¶ 61,156 (2017).

⁶ Transmittal letter for Compliance Filing at 2, 23. Under the tariff revisions contained in the Compliance Filing, the \$1,000/MWh cap required by Order No. 831 is termed the soft energy bid cap, and the \$2,000/MWh cap required by Order No. 831 is termed the hard energy bid cap. Section 39.6.1.1 of the existing CAISO tariff sets forth an energy bid cap of \$1,000/MWh.

Order No. 831 also contemplated an ISO or RTO could, in a separate tariff amendment pursuant to section 205 of the Federal Power Act (FPA), propose additional measures to address any concerns arising from permitting virtual transactions up to \$2,000/MWh or absence of a verification requirement for external transactions, or regarding other market elements that require revision.⁷ The CAISO stated it would address such matters in a stakeholder process “so that it may file any tariff changes in time to implement them concurrent with its implementation of the revisions contained in [the] Order No. 831 compliance filing.”⁸

In accordance with this commitment, the CAISO initiated a stakeholder process to address concerns that allowing unverified import bids above \$1,000/MWh would potentially allow suppliers to exercise system-level market power. Given the CAISO’s frequent reliance on imports, stakeholders expressed a need to address this matter concurrently with increasing the CAISO’s maximum energy bid price to comply with Order No. 831. This initiative also considered potential solutions to concerns that using the new \$2,000/MWh hard energy bid cap to set the CAISO’s administrative parameter prices could trigger inappropriately high prices in the CAISO’s markets, including the EIM. Although the CAISO explained to stakeholders it had already submitted the Compliance Filing to meet the Commission-established deadline, the CAISO recognized the importance of addressing these issues at the time the Compliance Filing went into effect. Therefore, the CAISO informed stakeholders it intended to complete this

⁷ Transmittal letter for Compliance Filing at 5-6 (citing Order No. 831 at PP 176, 197, 213).

⁸ *Id.* at 20-21.

stakeholder process in time to implement any resulting changes concurrently with the Compliance Filing.

The CAISO, in a supplemental answer filed in this proceeding on January 31, 2020, stated it no longer requested a specific implementation date for the Compliance Revisions and did not believe it would be prepared to implement them until the fall of 2021. The CAISO stated it needed the additional time to complete the ongoing CAISO stakeholder process to develop Order No. 831 related tariff revisions for setting market parameters and a proposed process for verifying import bid costs exceeding \$1,000/MWh, which the CAISO would file separately under FPA section 205 in accordance with the Commission guidance described above. The CAISO explained it “continues to stand behind its commitment [to stakeholders] that it does not intend to implement the tariff revisions to comply with Order No. 831 until it can implement whatever proposal comes out of the pending stakeholder process.”⁹

In the September 21 Order, the Commission conditionally accepted the tariff revisions contained in the Compliance Filing.¹⁰ The Commission also found the CAISO had not adequately justified its proposal to defer the effective date of the tariff revisions pending the future FPA section 205 filing. The Commission stated the issues raised in the ongoing stakeholder process were beyond the scope of the compliance directives in Order No. 831, and resolving those issues should not further postpone the CAISO’s

⁹ Motion for leave to answer and supplemental answer of the CAISO to comments and limited protests, Docket No. ER19-2757-000, at 3-5 (Jan. 31, 2020).

¹⁰ September 21 Order at PP 1, 16. The Commission accepted the tariff revisions subject to the CAISO submitting a further compliance filing within 30 days to clarify one of the tariff revisions. The CAISO timely submitted the further compliance filing, which the Commission accepted by letter order on December 11, 2020. The tariff revisions accepted in these two orders constitute the Compliance Revisions.

compliance with Order No. 831. For these reasons, the Commission directed an effective date of March 21, 2021 for the Compliance Revisions.¹¹

B. Efforts to Implement the Compliance and Enhancement Revisions Concurrently

The CAISO is working to ensure it can implement the Compliance Revisions by March 21, 2021. Because it is critical the Enhancement Revisions be in place when the Compliance Revisions become effective, the CAISO undertook efforts to implement the Enhancement Revisions by March 21, 2021 as well.¹² The CAISO has recently determined, however, that this is not possible. As the Commission is aware, the CAISO directed load curtailments last summer during an extreme heat event and faces similar reliability risks in the event of an extreme heat event in the summer of 2021. Since the September 21 Order was issued, the CAISO has devoted significant resources toward assessing these reliability challenge and starting efforts to mitigate these risks.

With respect to the Enhancement Revisions, the CAISO has completed a tariff stakeholder process and has published draft tariff language for market participant review. The CAISO plans to file the Enhancement Revisions for Commission acceptance during the first half of February 2021. The CAISO also has completed its

¹¹ *Id.* at PP 47, 56, 58.

¹² On September 23, 2020 (*i.e.*, after the Commission issued its directives in the September 21 Order), the CAISO provided a memorandum to its Governing Board requesting its approval of the proposals finalized in the Order No. 831-related stakeholder process. The Board memorandum explained the CAISO was “currently evaluating whether it can accelerate implementing the enhancements this memorandum describes so that they can be implemented concurrently with the Order No. 831 compliance requirements.” Memorandum from Mark Rothleder, Vice President, Market Policy and Performance, to ISO Board of Governors, regarding decision on FERC Order No. 831 – import bidding and market parameters proposal, at 3-4 (Sept. 23, 2020) <http://www.caiso.com/Documents/DecisiononFERCOrder831-ImportBiddingandMarketParametersProposal-Memo-Sept2020.pdf>.

business and system requirements for the Enhancement Revisions and is now in the design and development phase of this project. This phase translates the business and system requirements into detailed software design specifications for all impacted applications.

The CAISO expects its external vendor to deliver the software code for the Enhancement Revisions by April 15, 2021. Pursuant to its standard implementation cycle process, upon receiving the software code, the CAISO plans to conduct testing and undertake a market simulation stage before moving the Enhancement Revisions into the final deployment implementation phase. After the CAISO completes this final phase, it plans to promote its software enhancement into its production system on or before June 15, 2021. Obviously, this effort depends on the Commission accepting the Enhancement Revisions to take effect by that same date.

For these reasons, the CAISO is unable to implement the Enhancement Revisions by the current March 21, 2021 effective date of the Compliance Revisions. However, as explained in this petition, the importance of imports and the need to avoid inappropriately high market prices supports simultaneous implementation of these two sets of tariff changes. Therefore, the CAISO requests the Commission grant a modest extension of the effective date for the Compliance Revisions until June 15, 2021.

II. Petition for Limited Waiver

Good cause exists for the Commission to grant a limited waiver to suspend the effectiveness of the Compliance Revisions until no later than June 15, 2021. The Commission previously has granted waiver requests where: (1) the applicant acted in

good faith; (2) the waiver was of limited scope; (3) the waiver addressed a concrete problem; and (4) the waiver did not have undesirable consequences, such as harming third parties.¹³ This waiver petition meets all four conditions.

The CAISO has acted in good faith because it notified the Commission promptly after it determined implementing the Compliance Revisions and the Enhancement Revisions on March 21, 2021 is not feasible. As explained above, the CAISO cannot implement the Enhancement Revisions until June 2021. The waiver is of limited scope because it will apply only for a relatively short time, less than three months from March 21 to no later than June 15, 2021, and will apply solely to the Compliance Revisions.

The waiver also will remedy the concrete problem that the CAISO cannot implement the Compliance Revisions and Enhancement Revisions together on March 21. From the start of the stakeholder proceeding to develop the Enhancement Revisions,¹⁴ the CAISO explained why it was important for the CAISO to develop and implement the import bidding rules and the market parameters set forth in the Enhancement Revisions at the same time as the CAISO implemented the Compliance Revisions.

Regarding import bidding rules, the CAISO described how the Enhancement Revisions are necessary to protect against suppliers potentially exercising system-level market power. The potential for market power arises because the CAISO depends on

¹³ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 173 FERC ¶ 61,185, at P 6 (2020); *Cal. Indep. Sys. Operator Corp.*, 158 FERC ¶ 61,072, at P 5 (2017); *N.Y. Indep. Sys. Operator, Inc.*, 146 FERC ¶ 61,061, at P 19 (2014); *PJM Interconnection, L.L.C.*, 146 FERC ¶ 61,041, at P 5 (2014); *ISO New England, Inc.*, 134 FERC ¶ 61,182, at P 8 (2011).

¹⁴ Materials related to the stakeholder process are available at <https://stakeholdercenter.caiso.com/StakeholderInitiatives/FERC-Order-831-Import-bidding-and-market-parameters>. These include the materials discussed below in this section of the petition.

import supply from the Western Interconnection to operate its system reliably, and when overall system demand is highest, the CAISO depends on procured import supply to meet its demand. Although analyses performed by the CAISO and its Department of Market Monitoring (DMM) show the CAISO market in the CAISO balancing authority area is structurally competitive in the vast majority of hours, there is no guarantee it will remain so in the future because the mix of suppliers offering imports can change from day to day.¹⁵ These risks are increased under Order No. 831 because import resources that are not registered and tied to a specific generator could exercise system-level market power by bidding supply at prices above \$1,000/MWh (*i.e.*, up to \$2,000/MWh) that are not based on short-run marginal costs. Although the Compliance Revisions would include safeguards on internal resource bids above \$1,000/MWh, the Enhancement Revisions are critical to ensure import bids above \$1,000/MWh continue to reflect the marginal cost of supply and do not create the risk of suppliers exercising system-level market power.¹⁶

The Enhancement Revisions also address potential adverse consequences that could result from scaling the market parameters related to shortage pricing¹⁷ to the \$2,000/MWh hard energy bid cap required by Order No. 831. In particular, simply

¹⁵ CAISO Issue Paper and Straw Proposal, Requirements for Import Bids Greater than \$1,000/MWh, at 5-6 (May 10, 2019).

¹⁶ *Id.* at 6-7.

¹⁷ The CAISO's 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. CAISO tariff section 27.4.3, *et seq.* See also business practice manual for market operations, section 6.6.5 (listing market parameter values that are calibrated based on values set in the tariff). These market parameters include penalty prices that apply when constraints enforced by the CAISO market, such as constraints to ensure that supply equals demand (the system energy-balance constraint, which is sometimes called the power balance constraint) and transmission constraints are binding.

utilizing the \$2,000/MWh hard energy bid cap to set parameter prices, which is necessary to ensure the CAISO would be able to accept bids above \$1,000/MWh as required by Order No. 831, could unnecessarily and inappropriately trigger high prices in the CAISO market, including the EIM. Using a power balance constraint relaxation penalty price of \$2,000/MWh would set energy prices at \$2,000/MWh any time supply is insufficient to meet demand in a market interval. This extremely high maximum price would be applied market-wide even in situations involving small supply shortfalls that do not indicate actual shortages. This is an unjust and unreasonable outcome, and the CAISO has therefore worked with stakeholders to develop tariff revisions to address this issue and develop a solution that would be “implemented concurrent with the implementation of the FERC Order No. 831 requirements.”¹⁸

Implementing the Compliance Revisions and the Enhancement Revisions at the same time also will ensure testing and implementation efficiency. Instead of two separate rounds of testing, market simulation, and implementation, granting the instant petition would result in one effort for the CAISO and market participants to test, simulate, and implement. This would avoid unnecessary costs, and avoid burdening scheduling coordinators with back-to-back changes.

Finally, granting this modest requested extension of the effective date for the Compliance Revisions will not have undesirable consequences by harming market participants or other entities. Because this postponement will only be from spring until early summer, during which prices are unlikely to reach high levels, the CAISO does not

¹⁸ CAISO Revised Straw Proposal, FERC Order 831 – Import Bidding and Market Parameters, at 6 (Nov. 26, 2019).

anticipate suppliers would incur costs during this spring-to-early-summer period greater than \$1,000/MWh such that the higher bid cap provisions set forth in the Compliance Revisions would be necessary.

Historical data indicate prices remain relatively low and stable during the spring and early summer. As shown in Figures 1 and 2 below, prices in the period of March through June 2020 tended to be relatively stable at low price ranges. Figure 1 shows the day-ahead price trends for gas indices at the main hubs used for fuel regions in the CAISO market (Kern River, PG&E Citygate, and SoCal Citygate). Figure 2 shows the day-ahead prices traded outside CAISO's market in two of the most liquid hubs (Palo Verde and Mid-Columbia). Both trends show little volatility in the period of March through June. Gas prices over those months are about \$3/MWBTu, which would represent a price of about \$33/MWh for a typical gas-fired unit. For electric prices, the typical price was not higher than \$30/MWh. The largest volatility in 2020 the CAISO observed occurred during the late summer months, which begin well after the June effective date for the Compliance Revisions requested in this petition.

Figure 1: Day-ahead gas prices for the main hub used in CAISO's markets

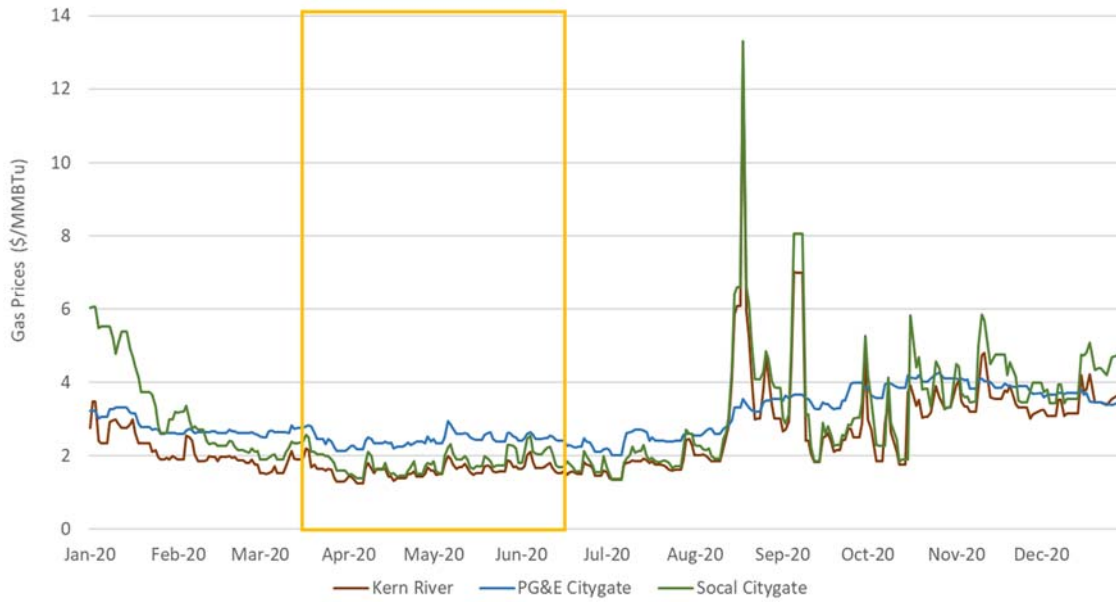
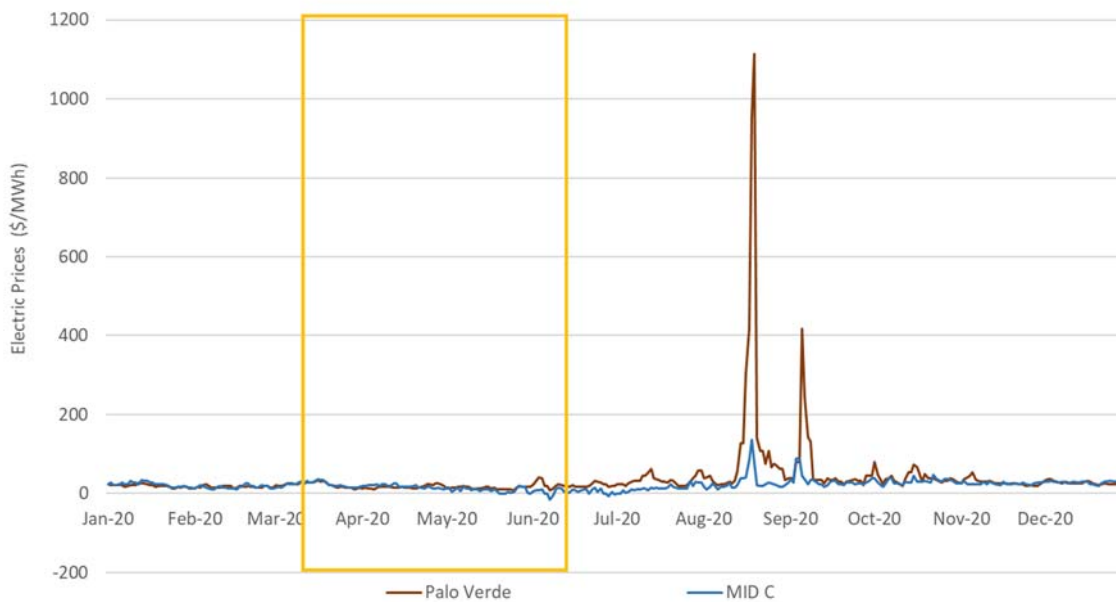


Figure 2: Day-ahead electric prices at external hubs



The CAISO notes that until the Compliance Revisions are in effect, suppliers that incur costs greater than \$1,000/MWh can still recover their costs through the existing after-market cost recovery provisions in the CAISO tariff.¹⁹ On the other hand, once the \$2,000/MWh hard energy bid cap under the Compliance Revisions become effective, there will be no protection against the aforementioned import bidding and shortage pricing-related risks until the Enhancement Revisions also take effect. The most reasonable solution to balance these competing risks of higher prices and the absence of protection afforded by the Enhancement Revisions until the summer is a modest postponement of the Order No. 831 compliance effective date to allow the Compliance Revisions and the Enhancement Revisions to become effective at the same time.

In sum, the CAISO has acted in good faith in submitting this petition as soon as practicable. The waiver the CAISO requests (1) is of a limited scope of less than three months; (2) addresses the concrete problem the CAISO cannot implement the Compliance Revisions and Enhancement Revisions together on March 21; and (3) does not have undesirable consequences because prices are less apt to rise to high levels

¹⁹ Section 30.12 of the existing CAISO tariff sets forth a procedure for scheduling coordinators to submit filings to the Commission to recover any actual resource commitment-related marginal fuel procurement costs not recovered through the bid cost recovery process. These existing tariff revisions will be superseded by after-market cost recovery provisions pursuant to an order issued on the same day as the September 21 Order, in which the Commission conditionally accepted a CAISO tariff amendment related to the Compliance Revisions to enhance the CAISO's market rules so suppliers can request adjustments to their CAISO-calculated resource commitment costs (start-up and minimum load costs) and energy price reference levels to more accurately reflect their costs. That tariff amendment included revisions that allow scheduling coordinators to request after-market cost recovery of actual fuel and fuel-equivalent costs that were not approved in the adjustment process. See *Cal. Indep. Sys. Operator Corp.*, 172 FERC ¶ 61,263, at PP 26, 41 (2020). The revisions contained in the tariff amendment, including the after-market cost recovery provisions, will become effective on an implementation date to be determined by the CAISO. See *id.* at P 39 and ordering paragraph (C). This effective date will occur prior to or at the same time as the Compliance Revisions go into effect. The Compliance Revisions include incremental additions to the language in the tariff amendment on after-market cost recovery. See September 21 Order at PP 17-18, 31, 33-37.

until the summer. For these reasons, good cause exists to grant the CAISO's request for limited tariff waiver.

III. Conclusion

For the foregoing reasons, the CAISO respectfully requests that the Commission issue an order as soon as possible but in any event no later than March 11, 2021 that grants waiver of the effectiveness of the Compliance Revisions from March 21, 2021 to June 15, 2021.

Respectfully submitted,

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Dated: January 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, 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 26th day of January, 2021

/s/ Jacqueline Meredith
Jacqueline Meredith