

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

**California Independent System) Docket No. ER19-2757-000
Operator Corporation)**

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF THE CALIFORNIA
INDEPENDENT SYSTEM OPERATOR CORPORATION TO COMMENTS AND
LIMITED PROTESTS**

The California Independent System Operator Corporation (CAISO)¹ submits this motion for leave to answer and answer to the comments and protests filed in the above-captioned proceeding² in response to the CAISO's September 5, 2019 filing to comply with the requirements of Commission Order No. 831 (Order No. 831 Compliance Filing).³ For the reasons set forth below, the Commission should accept the Order No. 831 Compliance Filing as submitted, subject to one additional tariff revision the CAISO proposes in this answer.

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 California Public Utilities Commission (CPUC); California Department of Water Resources State Water Project; Calpine Corporation; Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities); Department of Market Monitoring of the CAISO (DMM); Idaho Power Company; Modesto Irrigation District; Nevada Power Company and Sierra Pacific Power Company, Arizona Public Service Company, Idaho Power, Portland General Electric, and PacifiCorp (collectively, EIM Entity Parties); Northern California Power Agency; NRG Power Marketing LLC; Pacific Gas and Electric Company (PG&E); Powerex Corp.; and Southern California Edison Company (SCE). In addition, DMM and SCE filed comments, PG&E filed an answer in support of DMM's comments, and the CPUC and the EIM Entity Parties filed protests.

³ *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) (Order No. 831-A). The Commission issued Order Nos. 830 and 831-A in Docket No. RM16-5-000. In this transmittal letter, references to Order No. 831 mean Order Nos. 831 and 831-A collectively, except where the CAISO is citing specific discussion in one or the other of those Orders.

I. Motion for Leave to File Answer

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,⁴ the CAISO respectfully requests waiver of Rule 213(a)(2),⁵ to permit it to answer the protests and answer filed in the proceeding. Good cause for this waiver exists because the CAISO's 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 proceeding.⁶

II. Answer

A. CAISO Modification of the Existing Tariff Sections on Administratively Set Penalty Parameters Would Exceed the Scope of Compliance with Order No. 831

DMM and the EIM Entity Parties argue that the CAISO should modify existing sections 27.4.3.2 and 27.4.3.4 of its tariff, which the CAISO does not propose to revise in the Order No. 831 Compliance Filing, to specify that the administratively set pricing parameter under each of those existing tariff sections remains at its existing level of \$1,000 per megawatt-hour (MWh).⁷ As discussed below, the Commission should reject the arguments of DMM and the EIM Entity Parties because they call for tariff revisions that are beyond the scope of

⁴ 18 C.F.R. §§ 385.212, 385.213.

⁵ 18 C.F.R. § 385.213(a)(2).

⁶ See, e.g., *Equitrans, L.P.*, 134 FERC ¶ 61,250 at P 6 (2011); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,023 at P 16 (2010); *Xcel Energy Servs., Inc.*, 124 FERC ¶ 61,011 at P 20 (2008).

⁷ DMM at 3-4, 5-8; EIM Entity Parties at 6-15.

compliance with Order No. 831. DMM and the EIM Entity Parties will have the opportunity to raise their concerns in an upcoming CAISO stakeholder process.⁸

Existing tariff section 27.4.3 and the subsections thereunder set forth provisions on how the CAISO's security constrained unit commitment (SCUC) and security constrained economic dispatch (SCED) optimization software for the CAISO markets utilizes a set of configurable scheduling and pricing parameters to enable the software to reach a feasible solution and set appropriate prices in instances where effective economic bids are not sufficient to allow a feasible market solution. Tariff sections 27.4.3.2 and 27.4.3.4 contain provisions on administratively set penalty parameters. Tariff section 27.4.3.2 states in relevant part that "[f]or the purpose of determining how the relaxation of a Transmission Constraint will affect the determination of prices in the IFM [Integrated Forward Market] and RTM [Real-Time Market], the pricing parameter of the Transmission Constraint being relaxed is set *at the maximum Energy Bid price specified in Section 39.6.1.1.*" (Emphasis added.) Similarly, tariff section 27.4.3.4 states:

In the RTM, in the event that Energy offers are insufficient to meet the CAISO Forecast of CAISO Demand, the SCUC and SCED software will relax the system energy-balance constraint. In such

⁸ The CAISO has already launched a stakeholder initiative to address import bid cost verification. All pertinent materials can be found at: <http://www.caiso.com/informed/Pages/StakeholderProcesses/ImportBidCostVerification.aspx>. The CAISO had expected to submit a proposal to its Board of Governors earlier this year. However, because in the midst of that stakeholder initiative stakeholders requested that the CAISO reconsider its proposal to set the penalty prices associated with constraint relaxation to the maximum energy bid price, the CAISO agreed to launch a new stakeholder initiative to consider both issues collectively and proposed, as reflected in the Order No. 831 Compliance Filing, that the CAISO not implement the requirements of Order No. 831 until the CAISO completes this stakeholder initiative to reconsider both issues. See transmittal letter for Order No. 831 Compliance Filing at 20-21. This new initiative is called "Order 831 & Import Bid Cost Verification." As reflected on slide 19 of the 2020 Draft Policy Initiatives Roadmap, the CAISO intends to complete these initiatives for implementation in the fall of 2020, which would be contemporaneous with Order No. 831 compliance requirements. See <http://www.caiso.com/Documents/2020DraftPolicyInitiativesRoadmap.pdf>.

cases the software utilizes a pricing parameter set to the maximum Energy Bid price specified in Section 39.6.1.1 for price-setting purposes.

Thus, when the software relaxes a transmission constraint pursuant to tariff section 27.4.3.2 or relaxes the system energy-balance constraint pursuant to tariff section 27.4.3.4, the administratively set penalty parameter is the CAISO's maximum energy bid price. This has been the case ever since the CAISO added sections 27.4.3.2 and 27.4.3.4 to its tariff a decade ago. In its 2009 order accepting the original versions of the tariff sections as just and reasonable, the Commission found that "the CAISO's pricing run parameter appropriately reflects the bid cap."⁹

Order No. 831 requires the CAISO to limit cost-based incremental energy offers to a hard cap of \$2,000/MWh for purposes of calculating locational marginal prices (LMPs).¹⁰ In accordance with this directive, the CAISO proposes in the Order No. 831 Compliance Filing to revise tariff section 39.6.1.1 to set the hard energy bid cap (*i.e.*, the maximum energy bid price) at \$2,000/MWh.¹¹ This approach is comparable to those approved by the Commission in the context of the Order No. 831 compliance filings submitted by other Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs).¹² Making

⁹ *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,147, at P 49 (2009). The language in tariff sections 27.4.3.2 and 27.4.3.4 quoted above is almost identical to the original version of that language as accepted in 2009. See attachment B to CAISO tariff amendment, Docket No. ER09-240-000 (Nov. 4, 2008).

¹⁰ Order No. 831 at P 1 & n.3, PP 42, 78.

¹¹ Specifically, new tariff section 39.6.1.1.2 sets forth the hard energy bid cap, which is a new term defined in appendix A to the tariff. Transmittal letter for Order No. 831 Compliance Filing at 10 & n.53.

¹² Transmittal letter for Order No. 831 Compliance Filing at 10-12.

this revision to comply with Order No. 831 will mean that the \$2,000/MWh hard energy bid cap under revised tariff section 39.6.1.1 will apply when the software relaxes a transmission constraint pursuant to tariff section 27.4.3.2 or relaxes the system energy-balance constraint pursuant to tariff section 27.4.3.4. This is mandated by the existing language in tariff sections 27.4.3.2 and 27.4.3.4 requiring use of “the maximum Energy Bid price specified in Section 39.6.1.1”.¹³

Order No. 831 contains no directives, however, that would require the CAISO to modify tariff sections 27.4.3.2 and 27.4.3.4. To the contrary, the Commission was clearly aware that the penalty price as specified in 27.4.3.2 and 27.4.3.4 would become subject to the \$2,000/MWh hard cap but nevertheless found that the matter was beyond the scope of compliance. The Commission “recognized in the NOPR [*i.e.*, the Notice of Proposed Rulemaking that preceded issuance of Order No. 831] that revising the offer cap may impact other RTO/ISO market elements that depend on the offer cap, such as shortage pricing levels or various penalty factors.”¹⁴ The Commission then noted a number of comments on the NOPR, including the CAISO’s comments that “it will face significant implementation challenges if it changes its current \$1,000/MWh offer cap

¹³ In the initial draft of the tariff revisions to implement the CCDEBE Tariff Amendment and the Order No. 831 Compliance Filing that the CAISO posted on its website for stakeholder review on May 10, 2019, the CAISO proposed to revise tariff sections 27.4.3.2 and 27.4.3.4 to specify that the administratively set penalty price will be set to the hard energy bid cap, in place of the existing tariff language stating that the penalty price will be set to the maximum energy bid price specified in tariff section 39.6.1.1. See the draft tariff revisions available on the CAISO website at http://www.aiso.com/informed/Pages/StakeholderProcesses/CommitmentCosts_DefaultEnergyBidEnhancements.aspx. However, the CAISO subsequently determined that it should not make even this minor change to tariff sections 27.4.3.2 and 27.4.3.4.

¹⁴ Order No. 831 at P 209.

because the administrative penalty prices CAISO uses in its market model to indicate that constraints have been relaxed, such as the power balance constraints [*i.e.*, the constraints set forth in tariff section 27.4.3.4], are based on the offer cap.”¹⁵ The Commission also noted another party’s request that the Commission consider what changes to the ISO/RTO markets would be needed before allowing the offer cap to rise above \$1,000/MWh.¹⁶

In response to these comments, the Commission declined to mandate any changes to existing ISO/RTO market elements tied to the offer cap level, noting that any changes to such provisions necessitated by Order No. 831 could be submitted in a section 205 filing:

An RTO/ISO may file, pursuant to Section 205 of the Federal Power Act, to propose modifications to shortage prices or other market elements that require revision in light of the offer cap reforms adopted in this Final Rule. *However, we do not require such modifications to comply with this Final Rule. We find that it is not appropriate to determine in this Final Rule the changes that individual RTOs/ISOs should make to market elements that are not the subject of these reforms.*¹⁷

This language makes it clear that it would have been inappropriate for the CAISO’s Order No. 831 Compliance Filing to include modifications to market elements such as those reflected in tariff sections 27.4.3.2 and 27.4.3.4. If DMM or the EIM Entity Parties wanted the Commission to reverse its directives and thereby require or permit the CAISO to submit such modifications in its Order No. 831 Compliance Filing, they should have raised the issue in a request for

¹⁵ *Id.* at P 210.

¹⁶ *Id.* at P 212.

¹⁷ *Id.* at P 213 (emphasis added).

rehearing of Order No. 831. But neither DMM nor the EIM Entity Parties did so.¹⁸ Further, longstanding Commission precedent on compliance filings, including orders addressing the filings submitted by other ISOs and RTOs to comply with Order No. 831, indicates that the Commission would almost certainly treat any proposal by the CAISO to modify tariff sections 27.4.3.2 and 27.4.3.4 as outside the scope of compliance with Order No. 831.¹⁹

In the Order No. 831 Compliance Filing, the CAISO explained that it had proposed in the stakeholder process to increase the system energy-balance constraint relaxation prices to be consistent with the \$2,000/MWh hard energy bid cap. Stakeholders raised concerns that doing so may trigger unnecessarily high prices in the CAISO markets, including the Energy Imbalance Market. The CAISO stated that it plans to conduct another stakeholder process to address this issue and, pursuant to the Commission guidance quoted above, to submit a

¹⁸ In Order No. 831-A, the Commission stated that it received requests for rehearing and/or clarification of Order No. 831 from only the following four entities: the American Public Power Association and American Petroleum Institute (together, APPA/AMP), Exelon Corporation (Exelon), New York Independent System Operator, Inc. (NYISO), and Transmission Access Policy Study Group (TAPS). Order No. 831-A at P 4. None of these entities raised the issue described above, either.

¹⁹ See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 165 FERC ¶ 61,004, at P 52 (2018) (“We also reject as outside the scope of Order No. 831 compliance Midwest TDUs’ contention that Legitimate Risks, as defined in MISO’s compliance filing, fall within Order No. 831’s definition of above-cost adders. Order No. 831 explicitly did not require RTOs to change the components that were considered by the RTO to be within incremental energy offers.”); *PJM Interconnection, L.L.C.*, 161 FERC ¶ 61,153, at P 70 (2017) (“However, we reject PJM’s proposal to change the offer strike prices of Pre-Emergency Load Response and Emergency Load Response resources as outside the scope of compliance with Order No. 831”); *Midwest Indep. Transmission Sys. Operator, Inc.*, 125 FERC ¶ 61,156, at P 57 n.51 (2008) (citations omitted) (“The Commission has previously held that compliance filings must be limited to the specific directives ordered by the Commission. The purpose of a compliance filing is to make the directed changes and the Commission’s focus in reviewing them is whether or not they comply with the Commission’s previously-stated directives.”).

separate tariff amendment pursuant to section 205 of the FPA to make any changes to the administratively set penalty parameters listed in the tariff.²⁰

The DMM and the EIM Entity Parties incorrectly suggest that the CAISO can readily justify in compliance with Order No. 831 that the penalty prices for constraint relaxation should be set to the soft energy bid cap rather than the hard energy bid cap.²¹ The CAISO recognizes the need to discuss this issue further with its stakeholders and, as explained above, has agreed to do so. However, even if it were appropriate for the CAISO to propose such changes in its Order No. 831 Compliance Filing, there is at least one problem the CAISO and stakeholders must address and resolve before the CAISO could reasonably set the penalty prices to the soft energy bid cap. Today, the CAISO's market design allows it to fully utilize all effective bids submitted to the market before relaxing constraints and setting prices to the bid caps. This is because if there is an effective bid in the bid stack, it will be selected before the CAISO relaxes the bid constraint, because the penalty price is set at the highest bid that can be submitted to the CAISO. Pursuant to Order No. 831, the CAISO may cost-verify a bid that is above \$1,000/MWh and should be able to use the bid to clear the market. If the CAISO sets the penalty price to \$1,000/MWh, as currently configured, the CAISO market would relax the constraint and set prices consistent with the \$1,000/MWh penalty price and never select any bids above \$1,000/MWh, even if they were cost-verified. It would also defeat the purpose of

²⁰ Transmittal letter for Order No. 831 Compliance Filing at 20-21.

²¹ To comply with Order No. 831, the CAISO proposes to set the soft energy bid cap at \$1,000/MWh. See *id.* at 10-11.

Order No. 831 to allow suppliers to bid above \$1,000/MWh if they could verify that they actually incurred or expected to incur those costs.

The CAISO, however, understands the concerns raised by DMM and the EIM Entity Parties. The CAISO will consider all concerns raised through the upcoming stakeholder process and will propose any necessary changes to its penalty parameters settings in a section 205 filing consistent with Order No. 831. This proceeding, which is exclusively devoted to the question of whether the CAISO has complied with Order No. 831, is decidedly not the appropriate forum to consider the issues related to penalty parameter settings. The Commission should therefore dismiss these arguments as beyond the scope of this proceeding.

B. The CAISO's Proposal to Reject Import Bids That Exceed the Hard Energy Bid Cap Complies with Order No. 831

DMM argues that the Commission should reject the proposal in the Order No. 831 Compliance Filing to establish a \$2,000/MWh hard cap on import bids into the CAISO, while bids in the rest of the Western Electricity Coordinating Council (WECC) remain subject to the \$1,000/MWh soft cap previously established by the Commission.²² The CPUC argues that the Commission should reject the Order No. 831 Compliance Filing because it does not include cost verification for imports into the CAISO.²³ The Commission should find no merit in these requests, because the CAISO's compliance filing satisfies the requirements of Order No. 831.

²² DMM at 3-4, 8-12.

²³ CPUC at 2-9.

In Order No. 831, the Commission required each ISO and RTO to permit external transactions (sometimes also called economic exchange transactions or import and export transactions) to offer up to the \$2,000/MWh hard cap.²⁴ The Commission also declined to require external transactions above \$1,000/MWh to be subject to the verification requirement prior to the market clearing process set forth in Order No. 831.²⁵ However, the Commission stated that ISOs and RTOs could propose measures to address any concerns regarding the absence of a verification for external transactions in a separate filing under section 205 of the FPA.²⁶ If DMM or the CPUC wanted the Commission to modify these directives and findings in any way, they should have raised the issue in a request for rehearing of Order No. 831. But neither DMM nor the CPUC (nor any other entity) did so.

To comply with the directive to permit external transactions up to the \$2,000/MWh hard cap, the CAISO proposed in the Order No. 831 Compliance Filing to revise its tariff to state that it will reject bids for imports, which the CAISO calls energy bids for non-resource-specific system resources, that exceed the \$2,000/MWh hard energy bid cap.²⁷ However, the CAISO also explained that, in response to stakeholder concerns, the CAISO is conducting a stakeholder process to consider making a filing pursuant to section 205 of the FPA to address any concerns that arise from permitting external transactions up to \$2,000/MWh

²⁴ Order No. 831 at P 192.

²⁵ *Id.* at PP 192, 195.

²⁶ *Id.* at P 197.

²⁷ New tariff section 30.7.12.5.

or from the absence of a verification requirement for external transactions.²⁸

That stakeholder process, not this proceeding on the Order No. 831 Compliance Filing, is the appropriate forum for DMM and the CPUC to raise their concerns.²⁹

DMM and PG&E assert that there are ambiguities in the Order No. 831 Compliance Filing that suggest that the CAISO may implement the tariff revisions contained therein before it completes the stakeholder process and considers the appropriate setting for the pricing parameters.³⁰ The CAISO disagrees that any such ambiguity exists. The CAISO clearly stated in its compliance filing:

The CAISO plans to complete these two stakeholder processes by the third quarter of 2020, so that it may file any tariff changes in time to implement them concurrent with its implementation of the revisions contained in this Order No. 831 compliance filing.³¹

The CAISO reiterates its commitment and looks forward to discussing all of these issues in the stakeholder process.

C. DMM Makes Requests for Clarification and Arguments That Go Beyond the Scope of This Proceeding

In new tariff section 30.12.1, the CAISO proposes to allow suppliers to request an additional uplift payment after the CAISO market process to cover a resource's actual fuel or fuel-equivalent costs associated with start-up bid costs, minimum load bid costs, transition bid costs, and energy bid costs not recovered pursuant to reference level change request adjustments prior to the CAISO

²⁸ Transmittal letter for Order No. 831 Compliance Filing at 20.

²⁹ In this regard, SCE supports the stakeholder process and the CAISO's commitment to file any necessary tariff changes afterwards pursuant to section 205 of the FPA. SCE at 1-2.

³⁰ DMM at 5-6; PG&E at 3-4.

³¹ Transmittal letter for Order No. 831 Compliance Filing at 21.

market process. The tariff language does not state that suppliers may request an additional uplift payment after the market process for estimated costs.³² Tariff section 30.12.1 thus satisfies the requirement set forth in Order No. 831-A that “the after-the-fact uplift payment that a resource would be eligible to receive . . . shall include *only* actual verifiable costs.”³³

DMM requests that the CAISO clarify how it is proposing to allow suppliers to include any adders above their actual or expected costs when requesting minimum load bid cost adjustments. DMM also requests that the CAISO clarify if the 25 percent bid multiplier (which DMM calls an adder) that will apply to reference level change request adjustments can be included in minimum load bid cost adjustment requests in excess of the new \$2,000/MWh minimum load cost hard cap,³⁴ and if so, whether this 25 percent multiplier is eligible for *ex post* verification and cost recovery under tariff section 30.12.1.³⁵ DMM’s requests for clarification regarding minimum load bid cost adjustments are beyond the scope of this proceeding on the Order No. 831 Compliance Filing. The CAISO’s proposal to permit such adjustments is being addressed in the separate proceeding on the CCDEBE Tariff Amendment.³⁶ The CAISO also notes, again,

³² See *id.* at 17-18 (discussing new tariff section 30.12.1 and related tariff provisions).

³³ Order No. 831-A at P 39 (emphasis added). The Commission also explained that “such after-the-fact uplift payments may not include any adders above cost, including risk related adders, because actual costs are known after-the-fact.” *Id.* at P 40.

³⁴ New tariff section 39.6.1.1.3 sets forth the minimum load cost hard cap, which is a new term defined in appendix A to the tariff. Transmittal letter for Order No. 831 Compliance Filing at 12 & n.63.

³⁵ DMM at 13-14.

³⁶ As the CAISO has explained, some of the tariff revisions contained in the Order No. 831 Compliance Filing build upon other revisions the CAISO recently proposed in a separate but related tariff amendment to implement the Commitment Cost and Default Energy Bid

that only actual verified costs are eligible for an after-the-fact uplift payment pursuant to tariff section 30.12.1, which does not include the 25 percent multiplier.

DMM also argues that the CAISO has not justified including the 25 percent bid multiplier in minimum load cost bid adjustment requests calculated from supplier-determined fuel costs.³⁷ Like DMM's requests for clarification, this issue is also beyond the scope of this proceeding on the Order No. 831 Compliance Filing. Indeed, DMM raises the same arguments in the comments it submitted in the proceeding on the CCDEBE Tariff Amendment, which the CAISO addressed in that proceeding.³⁸

D. The CAISO Proposes to Clarify New Tariff Section 39.6.1.1.3 in Another Compliance Filing to Be Submitted in This Proceeding

DMM requests that the CAISO resolve an apparent contradiction in new tariff section 39.6.1.1.3, which sets forth the minimum load cost hard cap.³⁹ The CAISO agrees that the tariff section as proposed in the Order No. 831 Compliance Filing needs revision. The CAISO's intent was for the provisions of the tariff section to parallel the other provisions in new tariff section 39.6.1.1, which set forth the soft energy bid cap (new tariff section 39.6.1.1.1) and hard energy bid cap (new tariff section 39.6.1.1.2) and about which DMM does not

Enhancements (CCDEBE) stakeholder initiative (CCDEBE Tariff Amendment). The CAISO filed the CCDEBE Tariff Amendment in Docket No. ER19-2727-000. Transmittal letter for CCDEBE Compliance Filing at 1.

³⁷ DMM at 14-16.

³⁸ See pages 3-15 of the answer the CAISO filed in Docket No. ER19-2727-000 on October 7, 2019.

³⁹ DMM at 12.

raise any issues. However, the text of tariff section 39.6.1.1.3 as filed with the Commission did not fully reflect the CAISO's intent.

For these reasons, the CAISO requests that the Commission, in its order accepting the Order No. 831 Compliance Filing, direct the CAISO to submit another compliance filing in this proceeding to make the following revision to the first sentence of tariff section 39.6.1.1.3: "All Minimum Load Bids are subject to~~must not exceed~~ the Minimum Load Cost Hard Cap." Making this revision will bring tariff section 39.6.1.1.3 in line with the parallel provisions in tariff sections 39.6.1.1.1 and 39.6.1.1.2.

III. Conclusion

For the foregoing reasons, the Commission should accept the Order No. 831 Compliance Filing as submitted, subject to the further tariff revision proposed in this answer.

Respectfully submitted,

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Dated: October 11, 2019

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 11th day of October, 2019.

/s/ Daniel Klein
Daniel Klein