

172 FERC ¶ 61,262
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and James P. Danly.

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

ORDER ON COMPLIANCE

(Issued September 21, 2020)

1. On September 5, 2019, California Independent System Operator Corporation (CAISO) submitted, pursuant to section 206 of the Federal Power Act (FPA),¹ revisions to its Open Access Transmission Tariff (Tariff)² to comply with the requirements of Order No. 831.³ In this order, we find that CAISO's proposed Tariff revisions comply with the requirements of Order No. 831, subject to a further compliance filing to update certain eTariff records. Accordingly, we accept CAISO's compliance filing, effective March 21, 2021, and direct CAISO to submit a further compliance filing within 30 days of the date of this order, as discussed below.

I. Background

2. In Order No. 831, the Commission addressed the incremental energy offer component of a resource's supply offer,⁴ requiring regional transmission organizations

¹ 16 U.S.C. § 824e.

² Appendix A lists the Tariff sections filed by CAISO.

³ *Offer Caps in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 831, 157 FERC ¶ 61,115 (2016), *order on reh'g and clarification*, Order No. 831-A, 161 FERC ¶ 61,156 (2017).

⁴ An incremental energy offer is a financial component consisting of costs that vary with a resource's output or level of demand reduction. It is one of the components used to calculate locational marginal prices (LMPs).

and independent system operators (RTOs/ISOs) to amend their existing caps on incremental energy offers and implement additional measures, as discussed below.

A. Offer Cap Structure

3. Each RTO/ISO must: (1) cap each resource's incremental energy offer at the higher of \$1,000/MWh or that resource's verified cost-based incremental energy offer; and (2) cap verified cost-based incremental energy offers at \$2,000/MWh (hard cap) when calculating LMPs.⁵ The Commission stated that it expects RTOs/ISOs to use cost-based incremental energy offers above \$2,000/MWh to determine merit-order dispatch.⁶ In Order No. 831-A, the Commission clarified that Order No. 831 did not require RTOs/ISOs to use cost-based incremental energy offers above \$2,000/MWh to determine economic merit-order dispatch, adding that in the event that RTOs/ISOs must select from several offers above \$2,000/MWh, RTOs/ISOs are encouraged to make those selections on a least-cost basis when possible.⁷

B. Cost Verification

4. Incremental energy offers above \$1,000/MWh must be cost-based and must be verified by the RTO/ISO or the Department of Market Monitoring before the RTO/ISO uses the offer to calculate LMPs. The verification process must ensure that a resource's cost-based incremental energy offer above \$1,000/MWh "reasonably reflects that resource's actual or expected cost."⁸ Although the Commission did not prescribe how RTOs/ISOs or Market Monitors should conduct the verification process, the Commission stated that it expected RTOs/ISOs to build upon their existing mitigation processes for calculating or updating cost-based incremental energy offers. The Commission required that RTO/ISO compliance filings explain what factors the cost verification process would consider and whether such factors are currently considered in the market power mitigation process, or whether new provisions would be necessary.⁹

5. If an incremental energy offer above \$1,000/MWh cannot be verified prior to the start of the market clearing process, it may not be used to calculate LMPs, but the

⁵ Order No. 831, 157 FERC ¶ 61,115 at P 77.

⁶ *Id.* P 90.

⁷ Order No. 831-A, 161 FERC ¶ 61,156 at P 16.

⁸ Order No. 831, 157 FERC ¶ 61,115 at P 140.

⁹ *Id.* P 141.

resource may be eligible to receive an uplift payment after-the-fact, subject to verification. Resources with verified incremental energy offers above \$2,000/MWh are also eligible for after-the-fact uplift payments because the energy component of LMP is capped at \$2,000/MWh.¹⁰ Any such after-the-fact uplift payment must be based on a resource's actual short-run marginal costs.¹¹

6. RTOs/ISOs are not required to include adders above cost in cost-based incremental energy offers to account for cost uncertainty or risk. However, if an RTO/ISO chooses to retain an adder above cost or proposes to include a new adder above cost in cost-based incremental energy offers above \$1,000/MWh, such adders may not exceed \$100/MWh. If a resource receives uplift after-the-fact because that resource's cost-based incremental energy offer above \$1,000/MWh could not be verified prior to the market clearing process or because its cost-based incremental energy offer exceeded \$2,000/MWh, such uplift payments should not include any adders above costs.¹²

7. In Order No. 831-A, the Commission also stated that verifiable opportunity costs should not be subject to the \$100/MWh limit on adders above cost because opportunity costs are legitimate short-run marginal costs and not adders above cost.¹³ The Commission also clarified that resources are only eligible to receive uplift payments to make them whole to, at most, their submitted cost-based incremental energy offers if the associated offer and cost information is submitted in a manner consistent with RTO/ISO offer submission guidelines prior to the market clearing process. Such after-the-fact uplift payments that a resource would be eligible to receive if its cost-based incremental energy offer above \$1,000/MWh is not verified prior to market clearing shall include only actual verifiable costs. The Commission further clarified that resources that submit incremental energy offers that include opportunity costs prior to the applicable RTO/ISO deadlines must be eligible to receive uplift after-the-fact for those opportunity costs, subject to verification, because opportunity costs are a legitimate component of incremental energy offers.¹⁴

¹⁰ *Id.* PP 145-46.

¹¹ *Id.* n.331, P 207.

¹² *Id.* P 207.

¹³ Order No. 831-A, 161 FERC ¶ 61,156 at P 38.

¹⁴ *Id.* PP 38-39.

C. Resource Neutrality and Demand Response

8. Any energy resource with short-run marginal costs above \$1,000/MWh may submit a cost-based incremental energy offer above \$1,000/MWh, regardless of resource type. As such, demand response resources that submit incremental energy offers to the energy market may also submit incremental energy offers above \$1,000/MWh, which must be verified before being used to set LMP. The Commission noted that the verification process for demand response resources would differ from the verification process for generation resources and that the short-run marginal costs of a demand response resource may equal its opportunity costs. The offer cap reforms, however, do not apply to capacity-only demand response resources that do not submit incremental energy offers into energy markets.¹⁵

D. External Transactions

9. RTOs/ISOs must permit import and export transactions¹⁶ to offer up to the \$2,000/MWh hard cap, but such transactions are not required to be subject to the verification requirement. The Commission stated, however, that if RTOs/ISOs wish to verify or otherwise review the costs of imports or exports and/or develop additional mitigation provisions for import and export transactions above \$1,000/MWh, RTOs/ISOs may propose such verification or mitigation provisions in a separate filing under section 205 of the FPA.¹⁷

E. Virtual Transactions

10. RTOs/ISOs must permit market participants to submit virtual transactions up to the \$2,000/MWh hard cap, but such transactions are not required to be subject to the verification requirement. The Commission stated, however, that if RTOs/ISOs determine that additional measures are necessary to address any concerns that arise from permitting virtual transactions up to \$2,000/MWh, RTOs/ISOs may propose such additional measures in a separate filing under section 205 of the FPA.¹⁸

¹⁵ Order No. 831, 157 FERC ¶ 61,115 at PP 156-59.

¹⁶ The Commission stated that Order No. 831 does not apply to Coordinated Transactions Schedules or emergency purchases. *Id.* P 198.

¹⁷ *Id.* PP 192, 197.

¹⁸ *Id.* PP 172, 176.

II. Compliance Filing

11. On September 5, 2019, CAISO filed its Order No. 831 compliance filing.¹⁹ In its compliance filing, CAISO requests an effective date of no later than December 31, 2020.²⁰ However, in a supplemental answer filed on January 31, 2020, described below, CAISO explains that, while it is no longer requesting a specific implementation date, it does not believe it will be prepared to implement the Order No. 831 compliance requirements until the fall of 2021.²¹

III. Notice of Filings and Responsive Pleadings

12. Notice of CAISO's September 5, 2019 filing was published in the *Federal Register*, 84 Fed. Reg. 48,136 (Sept. 12, 2019), with interventions and protests due on or before September 26, 2019. A notice of intervention and protest was filed by California Public Utilities Commission (CPUC). Timely motions to intervene were filed by Calpine Corporation, NRG Power Marketing LLC, Powerex Corp. (Powerex), Northern California Power Agency, California Department of Water Resources State Water Project, the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities), Modesto Irrigation District, and Idaho Power Company. Southern California Edison Company (SoCal Edison) and the Department of Market Monitoring of the California Independent System Operator Corporation (DMM) filed timely motions to intervene and comments, and the EIM Entity Parties²² filed a

¹⁹ Order No. 831 required RTOs/ISOs to submit compliance filings by May 8, 2017. On May 1, 2017, CAISO filed a motion for extension of time to comply with Order No. 831 to May 1, 2018, which was granted by a notice issued on May 11, 2017. On April 25, 2018, CAISO filed a second motion for extension of time to comply with Order No. 831 to July 1, 2018, which was granted by a notice issued on May 22, 2018. On June 29, 2018, CAISO filed a third motion for extension of time to comply with Order No. 831 to April 30, 2019, which was granted by a notice issued on July 17, 2018. On April 15, 2019, CAISO filed a fourth motion for extension of time to comply with Order No. 831 to August 30, 2019, which was granted by a notice issued April 29, 2019. On August 30, 2019, filed a fifth motion for extension of time to comply with Order No. 831 to September 5, 2019, which was granted by notice issued September 5, 2019.

²⁰ CAISO Transmittal at 2, 23.

²¹ CAISO Supplemental Answer at 3-5.

²² The EIM Entity Parties include Nevada Power Company and Sierra Pacific Power Company (together, NV Energy), Arizona Public Service Company, Idaho Power Company, Portland General Electric Company, and PacifiCorp.

timely motion to intervene and protest. On October 8, 2019, Pacific Gas and Electric Company (PG&E) filed a motion to intervene out-of-time and an answer in support of DMM's comments. On October 11, 2019, Powerex and CAISO filed answers to comments and protests. CAISO filed a supplemental answer on January 31, 2020.

IV. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

14. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2020), the Commission will grant PG&E's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

15. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2020), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept PG&E's, CAISO's, and Powerex's answers, as well as CAISO's supplemental answer, because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

16. As discussed below, we find that CAISO's proposed Tariff revisions partially comply with the requirements of Order No. 831. Accordingly, we accept CAISO's compliance filing, effective March 21, 2021, and direct CAISO to submit a further compliance filing within 30 days of the date of this order.

1. Offer Cap Structure

a. CAISO Proposal

17. In order to comply with the offer cap structure requirements of Order No. 831, CAISO proposes to revise its Tariff to implement a two-tier bid cap structure: (1) a soft energy bid cap of \$1,000/MWh, that will apply to all energy bids except for virtual bids and to bids for non-resource-specific system resources; and (2) a hard energy bid cap of \$2,000/MWh, which would apply to all energy bids.²³ CAISO states that suppliers with

²³ CAISO Transmittal at 10; CAISO, CAISO eTariff, § 30.7.12 Validation of Bids in Excess of Bid or Minimum Load Cost Cap (0.0.0), §§ 30.7.12.1, 30.7.12.3; *id.* § 39.6.1

resources subject to the soft energy bid cap may submit energy bids in excess of \$1,000/MWh by submitting a request to CAISO to adjust the prices in a resource's default energy bid. Once CAISO validates and approves the change, the supplier can submit an energy bid up to the price of the modified default energy bid. If CAISO cannot validate such a request, then the supplier's bid for the resource will be limited to the soft energy bid cap. However, the supplier will be permitted to submit a request for after-market cost recovery for any difference between the soft energy bid cap and its actual fuel costs or fuel-equivalent costs.²⁴

18. To comply with the requirement to limit cost-based incremental energy offers to a hard cap of \$2,000/MWh for purposes of calculating LMPs, CAISO proposes to define the hard energy bid cap as \$2,000/MWh. CAISO states that, as with the soft energy bid cap, suppliers will be permitted to request after-market cost recovery to the extent their actual fuel or fuel-equivalent costs exceed \$2,000/MWh. CAISO explains that because it will enforce the hard energy bid cap in its market processes, energy bids used by the market will be limited to no more than \$2,000/MWh. Costs above \$2,000/MWh would be limited to after-market verification and recovery.²⁵

19. CAISO also proposes to establish a minimum load cost hard cap of \$2,000/MWh that represents the maximum value that can be used for a resource's minimum load cost in the CAISO markets. CAISO states that this minimum load cost hard cap accords with the clarification in Order No. 831-A that it is appropriate for RTOs/ISOs to apply the same offer cap adopted in Order No. 831 to both incremental energy and minimum generation offers.²⁶

b. Comments

20. DMM argues that CAISO's proposed Tariff provision regarding verification and recovery of Minimum Load Cost Bids is unclear or unsupported. Specifically, DMM

Maximum Bid Prices (14.0.0), §§ 39.6.1.1.1-39.6.1.1.2; *id.* app. A, Soft Energy Bid Cap (0.0.0); *id.* app. A, Hard Energy Bid Cap (0.0.0).

²⁴ CAISO Transmittal at 10; CAISO, CAISO eTariff, § 30.11 Adjustments Reference Levels Prior to CAISO Market Processes (3.0.0); *id.* § 30.12 After-CAISO Market Process Cost Recovery (8.0.0).

²⁵ CAISO Transmittal at 11.

²⁶ *Id.*; CAISO, CAISO eTariff, § 30.4.4 Default Commitment Cost Bids (1.0.0) § 30.4.4.6; *id.* § 39.6.1 Maximum Bid Prices (14.0.0), §§ 39.6.1.1.3, 39.6.1.6; *id.* app. A, Minimum Load Cost Hard Cap (0.0.0).

notes that the first sentence of proposed Tariff section 39.6.1.1.3 indicates that “All Minimum Load Bids must not exceed the Minimum Load Cost Hard Cap.” However, DMM points out that the second sentence indicates that “Scheduling Coordinators may submit Minimum Load Bid prices in excess of the Minimum Load Cost Hard Cap.” DMM requests that CAISO resolve this apparent contradiction.²⁷

c. Answers

21. In response to DMM’s concern regarding verification and recovery of Minimum Load Cost Bids, CAISO proposes to clarify tariff section 39.6.1.1.3 to read that “all Minimum Load Bids **are subject to** ~~must not exceed~~ the Minimum Load Cost Hard Cap.” CAISO requests that the Commission direct CAISO to make this change in its order accepting CAISO’s compliance filing.²⁸

d. Determination

22. We find that CAISO’s Tariff revisions, as revised in its answer, comply with the offer cap structure requirements of Order No. 831. Under CAISO’s proposal it will cap each resource’s incremental energy offer at the higher of \$1,000/MWh or that resource’s verified cost-based incremental energy offer, and will cap verified cost-based incremental energy offers at \$2,000/MWh when calculating LMPs.²⁹

23. As to DMM’s concerns regarding the language in section 39.6.1.1.3, we find that CAISO’s proposed revision reflected in its supplemental answer clarifies the language in a manner consistent with Order No. 831.³⁰ Accordingly, we direct CAISO to file, within 30 days of the date of this order, revisions to Tariff section 39.6.1.1.3 as proposed in CAISO’s answer.

²⁷ DMM Comments at 12.

²⁸ CAISO Answer at 13-14.

²⁹ Order No. 831, 157 FERC ¶ 61,115 at P 77.

³⁰ See CAISO Answer at 13-14.

2. Cost Verification

a. CAISO Compliance

24. CAISO explains that, unlike other RTOs/ISOs, when Order No. 831 was issued, it did not have a process in place to verify supplier costs prior to the market.³¹ However, CAISO states that it worked with its stakeholders to develop such a cost verification process in its Commitment Costs and Default Energy Bid Enhancements (CCDEBE) stakeholder initiative. CAISO states that, at the end of the stakeholder initiative, and shortly before submitting the instant filing, CAISO filed proposed CCDEBE Tariff revisions in Docket No. ER19-2727-000 to enhance CAISO's market rules to allow suppliers to request changes to their bid reference levels to more accurately reflect their costs (2019 CCDEBE Proposal). In the instant filing, CAISO states that it has proposed revisions to build upon the cost verification procedures and Tariff language included in its 2019 CCDEBE Proposal. CAISO asserts that, together, these provisions satisfy the compliance obligations of Order No. 831.³²

25. On January 21, 2020, the Commission issued an order rejecting the 2019 CCDEBE Proposal, finding that CAISO had not demonstrated that the bid reference level adjustment component was just and reasonable.³³ In response, on July 9, 2020, CAISO submitted revised CCDEBE-related Tariff revisions (2020 CCDEBE Proposal) where it proposed, among other things, pre- and post-market procedures that allow suppliers to request changes to their reference levels to reflect increases in their fuel cost exposure.³⁴ In its 2020 CCDEBE Proposal filing, CAISO explained that the pre- and post-market verification procedures will also verify supplier bids above \$1,000/MWh, consistent with

³¹ CAISO Transmittal at 13.

³² *Id.* at 8-10, 13-14

³³ *Cal. Indep. Sys. Operator Corp.*, 170 FERC ¶ 61,015 (2020). Although the Commission specifically rejected CAISO's 2019 CCDEBE Proposal, the Commission accepted other Tariff revisions filed in that proceeding.

³⁴ CAISO, Tariff Amendment to Enable Updates to Default Commitment Cost and Default Energy Bids, Docket No. ER20-2360-000 (filed July 9, 2020) (2020 CCDEBE Proposal). In an order issued concurrently in Docket No. ER20-2360-000, the Commission accepts CAISO's 2020 CCDEBE Proposal. *Cal. Indep. Sys. Operator Corp.*, 172 FERC ¶ 61,263 (2020).

the Commission's Order No. 831 verification requirements.³⁵ As noted above, in the instant filing, CAISO proposes Tariff revisions that build upon and supplement the provisions addressed in the 2020 CCDEBE Proposal. CAISO states that it expects to implement the 2020 CCDEBE Proposal prior to implementing the Order No. 831 compliance revisions proposed in this filing.³⁶

26. In the transmittal letter accompanying that filing, CAISO stated that the 2020 CCDEBE Proposal specifies a process for allowing suppliers to request adjustments to their commitment cost and energy reference levels, which are defined as default start-up bids, default minimum load bids, and default energy bids, prior to the CAISO market process. Under the 2020 CCDEBE Proposal, a supplier that intends to submit an energy bid above the soft energy bid cap (i.e., \$1,000/MWh) is required to submit a reference level change request based on a resource's actual or expected fuel or fuel-equivalent costs.³⁷

27. In the instant filing, CAISO proposes further revisions to the process reflected in the 2020 CCDEBE Proposal for reference level change requests. Specifically, CAISO proposes new language specifying that a supplier whose default energy bid does not exceed the \$1,000/MWh soft energy bid cap and that intends to submit an energy bid that exceeds that bid cap is required to submit a reference level change request.³⁸ Consistent with the provisions reflected in its 2020 CCDEBE Proposal, CAISO will then verify energy bids in excess of the soft energy bid cap pursuant to validation rules set forth in the Tariff. These validation rules specify that if a supplier submits an energy bid price that exceeds the soft energy cap, CAISO will modify the energy bid price for purposes of

³⁵ The instant filing references the 2019 CCDEBE Proposal. However, CAISO made clear in its 2020 CCDEBE Proposal filing that the Tariff revisions proposed therein were intended to replace those in the 2019 CCDEBE Proposal for purposes of satisfying the cost verification requirements of Order No. 831. *See* 2020 CCDEBE Proposal at 1-2, 25. Accordingly, in this order, we evaluate CAISO's compliance with Order No. 831 in light of our concurrent review and acceptance of the 2020 CCDEBE Proposal.

³⁶ CAISO Transmittal at 1-2; 2020 CCDEBE Proposal at 1-2.

³⁷ 2020 CCDEBE Proposal at 26; CAISO, CAISO eTariff, § 30.11.2 Reference Level Change Requests (2.0.0), §§ 30.11.2.1-30.11.2.2.

³⁸ CAISO Transmittal at 13-14; CAISO, CAISO eTariff, § 30.11.2 Reference Level Change Requests (1.0.0), § 30.11.2.3.

clearing the relevant market process to the higher of the soft energy bid cap or the resource's default energy bid, as modified pursuant to a reference level change request.³⁹

28. CAISO explains that the CCDEBE-related provisions reflect two types of adjustment requests to reference levels: automated requests and manual requests.⁴⁰ In the automated process, a supplier can request an adjustment to its resources' reference levels, and the market systems will compare the supplier-submitted proposed adjustment amount to a CAISO-calculated resource-specific "reasonableness threshold" that represents a reasonable difference between a supplier's actual or expected costs for a resource and the CAISO-calculated costs.⁴¹ If the cost submitted in a supplier's automated reference level change request is equal to or less than the reasonableness threshold for a resource, CAISO will include the verified reference level as soon as practicable in the next applicable CAISO market run and would apply the reference level across the day's markets. If the cost submitted in an automated reference level change request exceeds the reasonableness threshold, CAISO will approve the reference level change request to the level that equals the resource's reasonableness threshold.⁴²

29. In the instant filing, CAISO proposes to revise the provisions addressing the reasonableness threshold reflected in the 2020 CCDEBE Proposal. Specifically, CAISO proposes to add new language specifying that, for resources where it does not calculate default energy bids, the reasonableness threshold will be set at the \$1,000/MWh soft energy bid cap.⁴³ In addition, CAISO states that the reasonableness threshold for default

³⁹ CAISO Transmittal at 14; CAISO, CAISO eTariff, § 30.7.12 Validation of Bids in Excess of Bid or Minimum Load Cost Cap (0.0.0), § 30.7.12.2; *id.* § 11.5.6 Settlement Amounts for RTD IIE from Exceptional Dispatch (14.0.0), § 11.5.6.2.5.2.

⁴⁰ Recognizing that the Commission would be reviewing the Order No. 831 compliance and the CCDEBE filings concurrently, CAISO explained certain aspects of its proposal in the instant filing.

⁴¹ CAISO Transmittal at 14; CAISO, CAISO eTariff, § 30.11.1 Reasonableness Thresholds (2.0.0), § 30.11.1.1; *id.* § 30.11.3 Automated Reference Level Change Requests (1.0.0), § 30.11.3.1; *id.* app. A, Reasonableness Threshold (0.0.0).

⁴² CAISO Transmittal at 14-15; CAISO, CAISO eTariff, § 30.11.3 Automated Reference Level Change Requests (1.0.0), § 30.11.3.3.

⁴³ CAISO Transmittal at 15; CAISO, CAISO eTariff, § 30.11.1 Reasonableness Thresholds (1.0.0), § 30.11.1.1; *id.* § 30.11.1 Reasonableness Thresholds (2.0.0), § 30.11.1.1. CAISO does not currently calculate default energy bids for demand response and storage

energy bid adjustments or default minimum load bid adjustments will not exceed the \$2,000/MWh hard energy bid cap or the \$2,000/MWh minimum load cost hard cap, respectively.⁴⁴ Suppliers requesting an adjustment under the automated process must retain supporting documentation, which CAISO may request and audit.

30. In addition to the automated process, CAISO states that the 2020 CCDEBE Proposal reflects that a supplier may request a manual reference level change request when a resource's actual expected fuel or fuel-equivalent cost exceeds the fuel or fuel-equivalent cost CAISO used to calculate the resource's reference level by the higher of 10% or \$0.50/MMBTU. Such requests must be submitted no later than 8:00 a.m. of the day on which the applicable CAISO market run occurs. CAISO states that supporting documentation demonstrating the basis for the reference level change must accompany a manual request.⁴⁵

31. In addressing the uplift requirements of Order No. 831, CAISO represents that the 2020 CCDEBE Proposal specifies that a supplier may request additional payment for a resource's actual fuel costs or fuel-equivalent costs in specific circumstances following the CAISO market process. To be eligible for an additional uplift payment, the actual fuel or fuel-equivalent costs must be associated with either (a) amounts that were not approved as part of a reference level request, and therefore not reflected in a resource's energy bid in one or more market runs; or (b) amounts that exceed the \$2,000/MWh hard energy bid cap or \$2,000/MWh minimum load cost hard cap proposed in the instant filing. CAISO states that the Tariff provisions allow a supplier to request an evaluation of the costs or may submit a filing to the Commission requesting cost recovery under section 205 of the FPA. Such requests must satisfy specified documentation requirements, which resemble the existing tariff provisions allowing for after-the-fact recovery of commitment-related fuel costs and marginal fuel-related costs.⁴⁶

32. CAISO also proposes revisions to its Tariff to comply with the requirement in Order No. 831 that any adder above cost in cost-based incremental energy offers above

resources because they are not subject to local market power mitigation. CAISO Transmittal at 20..

⁴⁴ CAISO Transmittal at 15.

⁴⁵ *Id.* at 16-17.

⁴⁶ *Id.* at 17-18; CAISO, CAISO eTariff, § 30.12 After-CAISO Market Process Cost Recovery (8.0.0).

\$1,000/MWh not exceed \$100/MWh.⁴⁷ Specifically, CAISO proposes to revise its Tariff to state that for any default energy bids calculated under the variable cost option that exceed \$1,000/MWh because of an approved reference level change request, any 10% adder or frequently mitigated unit adder will not exceed \$100/MWh.⁴⁸

b. Determination

33. We find that, subject to a further compliance filing to update its eTariff records to reflect the 2020 CCDEBE Proposal, CAISO's Tariff revisions comply with the cost verification requirements of Order No. 831

34. CAISO's proposed Tariff revisions in the instant filing reflect and depend upon its CCDEBE-related Tariff revisions for purposes of satisfying the cost verification requirements of Order No. 831. However, the eTariff records submitted with the instant filing incorporate language proposed in the 2019 CCDEBE Proposal, which the Commission rejected.⁴⁹ Since CAISO makes clear in its 2020 CCDEBE Proposal filing that the Tariff revisions proposed therein are intended to replace those in the 2019 CCDEBE Proposal for purposes of satisfying the cost verification requirements of Order No. 831,⁵⁰ in this order, we evaluate CAISO's Order No. 831 compliance in light of our concurrent review and acceptance of the 2020 CCDEBE Proposal.⁵¹

35. We find that, as required by Order No. 831, CAISO's Tariff revisions proposed herein and reflected in the 2020 CCDEBE Proposal set forth the process for CAISO to verify that a resource's bid above \$1,000/MWh reasonably reflects that resource's actual or expected costs.⁵² Pursuant to this process, as described above, a supplier whose default energy bid does not exceed the \$1,000/MWh soft energy bid cap and that intends to submit an energy bid that exceeds that bid cap is required to submit a reference level

⁴⁷ See Order No. 831, 157 FERC ¶ 61,115 at P 207.

⁴⁸ CAISO Transmittal at 19; CAISO, CAISO eTariff, § 39.7.1 Calculation of Default Energy Bids (35.0.0), § 39.7.1.1.

⁴⁹ See *supra* P 25 & n.34.

⁵⁰ See 2020 CCDEBE Proposal at 1-2, 25.

⁵¹ *Cal. Indep. Sys. Operator Corp.*, 172 FERC ¶ 61,263 (2020).

⁵² Order No. 831, 157 FERC ¶ 61,115 at P 140.

change request.⁵³ CAISO will then verify energy bids in excess of the soft energy bid cap pursuant to validation rules set forth in the Tariff. These validation rules specify that if a supplier submits an energy bid price that exceeds the soft energy cap, CAISO will modify the energy bid price for purposes of clearing the relevant market process to the higher of the soft energy bid cap or the resource's default energy bid, as modified pursuant to a reference level change request.⁵⁴ Through its automated and manual reference level change request processes, CAISO will verify that a resource's bid reasonably reflects its actual or expected costs. We find that this process satisfies the cost verification requirements of Order No. 831. However, CAISO's eTariff records submitted in this proceeding must be updated to reflect the 2020 CCDEBE Proposal accepted by the Commission. Accordingly, we direct CAISO to submit a compliance filing, within 30 days of the date of this order, removing any rejected language from its eTariff records and replacing it with the Tariff provisions accepted herein.

36. We find that CAISO's Tariff revisions comply with the uplift requirements of Order No. 831 because CAISO's Tariff revisions limit uplift payments to costs actually incurred.⁵⁵ We also find that CAISO's Tariff revisions comply with the adder requirements of Order No. 831 because they provide that for any default energy bids calculated under the variable cost option that exceed \$1,000/MWh because of an approved reference level change request, any 10% adder or frequently mitigated unit adder will not exceed \$100/MWh.⁵⁶

37. Accordingly, we find that, subject to the further compliance filing directed here, CAISO's Tariff revisions comply with the cost verification requirements of Order No. 831, as discussed above.

⁵³ CAISO Transmittal at 13-14; CAISO, CAISO eTariff, § 30.11.2 Reference Level Change Requests (1.0.0), § 30.11.2.3.

⁵⁴ CAISO Transmittal at 14; CAISO, CAISO eTariff, § 30.7.12 Validation of Bids in Excess of Bid or Minimum Load Cost Cap (0.0.0), § 30.7.12.2; *id.* § 11.5.6 Settlement Amounts for RTD IIE from Exceptional Dispatch (14.0.0), § 11.5.6.2.5.2.

⁵⁵ *See* Order No. 831, 157 FERC ¶ 61,115 at PP 145-146.

⁵⁶ *See id.* P 207.

3. Resource Neutrality and Demand Response

a. CAISO Compliance

38. CAISO asserts that its proposed Tariff revisions comply with the resource neutrality and demand response requirements of Order No. 831. CAISO explains that, pursuant to these Tariff revisions, suppliers with resources subject to the soft energy bid cap may submit energy bids in excess of \$1,000/MWh by submitting a request to CAISO to adjust the prices in a resource's default energy bid. CAISO explains that virtual bids and bids for non-resource-specific system resources are not subject to the soft energy bid cap,⁵⁷ and therefore, suppliers will be eligible to submit those types of bids in excess of \$1,000/MWh. CAISO states that, as required by Order No. 831, the same provisions apply to demand response resources with proposed cost-based energy bids, but not to capacity-only demand response resources. Consequently, as required by Order No. 831, a demand response resource will be subject to verification if its proposed cost-based energy bid exceeds \$1,000/MWh. CAISO also clarifies that demand response resources may include opportunity costs in their proposed cost-based energy bids.⁵⁸

39. CAISO states that it will allow demand response and storage resources to submit reference level change requests to trigger verification of any bids submitted above \$1,000/MWh, similar to all other resources. However, CAISO explains that it does not currently calculate default energy bids for demand response and storage resources because they are not subject to local market power mitigation, and therefore CAISO cannot verify the resource's costs through the automated reference level change request process proposed in the 2020 CCDEBE Proposal. However, CAISO states that such resources can submit manual reference level change requests for offers that exceed \$1,000/MWh.⁵⁹

b. Determination

40. We find that CAISO's Tariff revisions comply with the resource neutrality and demand response requirements of Order No. 831. CAISO has demonstrated that all

⁵⁷ CAISO Transmittal at 19; CAISO, CAISO eTariff, § 39.6.1 Maximum Bid Prices (14.0.0), § 39.6.1.1.1; *id.* app. A, Soft Energy Bid Cap (0.0.0).

⁵⁸ CAISO Transmittal at 19.

⁵⁹ *Id.* at 20.

resources, regardless of type, are eligible to submit cost-based incremental energy offers in excess of \$1,000/MWh.⁶⁰

4. External Transactions

a. CAISO Compliance

41. CAISO proposes to cap external transactions at \$2,000/MWh without subjecting them to cost verification.⁶¹ However, CAISO explains that, in response to stakeholder concerns, it is conducting a stakeholder process to consider making a filing pursuant to FPA section 205 to address any concerns that arise from permitting external transactions of up to \$2,000/MWh or that arise from the absence of a verification requirement for external transactions. CAISO notes that Order No. 831 provided that an RTO/ISO could make such a proposal in a separate FPA section 205 filing, but that the proposal was not required by Order No. 831.⁶²

b. Comments and Protests

42. SoCal Edison supports CAISO's commitment to continue its stakeholder process to address import bid cost verification and to file any necessary Tariff changes, after that stakeholder process concludes, in time to coincide with its implementation of Order No. 831 compliance.⁶³

43. DMM and the CPUC express concerns about CAISO's proposal to raise the hard bid cap for imports. DMM explains that CAISO plans to create a \$2,000/MWh hard cap for import bids into the CAISO while the rest of the Western Electricity Coordinating Council (WECC) remains subject to a \$1,000/MWh soft cap. DMM suggests that this inconsistency can be resolved by implementing a \$1,000/MWh soft cap for imports into CAISO.⁶⁴ CPUC argues that because CAISO has not yet completed its Import Bid Cost Verification Stakeholder Initiative, approving CAISO's plan to raise bid caps for imports

⁶⁰ Order No. 831, 157 FERC ¶ 61,115 at PP 156-59.

⁶¹ CAISO Transmittal at 20; CAISO, CAISO eTariff, § 30.7.12 Validation of Bids in Excess of Bid or Minimum Load Cost Cap (0.0.0), § 30.7.12.5.

⁶² CAISO Transmittal at 20 (citing Order No. 831, 157 FERC ¶ 61,115 at P 197).

⁶³ SoCal Edison Comments at 1-2.

⁶⁴ DMM Comments at 8-11.

without verification could expose ratepayers to significant unmitigated and unnecessarily high bids.⁶⁵

c. Answers

44. Powerex argues that the Commission should reject protesters' arguments against raising the import bid cap. Powerex observes that the Commission in Order No. 831, decided not to require the verification of imports and that the Commission has accepted other RTO compliance filings without subjecting import offers to verification.⁶⁶

45. In its supplemental answer, CAISO acknowledges that its Order No. 831 compliance is related to its ongoing stakeholder initiative addressing penalty parameters and its proposed process for verifying bid costs that exceed \$1,000/MWh, discussed below. CAISO states that, based on stakeholder comments and discussion to date, CAISO anticipates it will be submitting Tariff amendments pursuant to FPA section 205 to address both of these issues. However, CAISO states that it will not be able to complete this stakeholder process by the fall of 2020. CAISO represents that it will not implement its Order No. 831 compliance provisions until it implements the section 205 proposal that emerges from the pending stakeholder process. As a result, CAISO states that it does not believe full compliance with Order No. 831 will occur until fall of 2021. CAISO explains that it is not proposing a specific implementation date in the supplemental answer because it must complete the pending stakeholder process first, but CAISO will submit the expected implementation date when it files its FPA section 205 Tariff amendment.⁶⁷

d. Determination

46. We find that CAISO's Tariff revisions comply with the external transactions requirements of Order No. 831 because, consistent with Order No. 831, external transactions may offer up to \$2,000/MWh and are not subject to verification.⁶⁸

47. We are not persuaded by DMM's and CPUC's assertions that CAISO should not be permitted to implement the requirements of Order No. 831 and raise the bid cap for imports to \$2,000/MWh without verification while the rest of WECC remains subject to a \$1,000/MWh soft bid cap. As noted by Powerex and CAISO, Order No. 831 did not

⁶⁵ CPUC Protest at 2-5.

⁶⁶ Powerex Answer at 2-6.

⁶⁷ CAISO Supplemental Answer at 3-5.

⁶⁸ Order No. 831, 157 FERC ¶ 61,115 at P 192.

require verification for external transactions, although it provided that RTOs/ISOs could propose measures to address any concerns regarding the absence of a verification for external transactions in a separate FPA section 205 filing.⁶⁹ Accordingly, we find that DMM's and CPUC's arguments are beyond the scope of this proceeding. However, we acknowledge CAISO's commitment to address these concerns in its ongoing stakeholder process, and we are providing a further six months for CAISO to continue to work with its stakeholders to address these issues through that process prior to the effective date of the instant tariff provisions.

5. Virtual Transactions

a. CAISO Compliance

48. CAISO proposes to cap virtual transactions at \$2,000/MWh without subjecting them to cost verification.⁷⁰

b. Determination

49. We find that CAISO's Tariff revisions comply with the virtual transactions requirements of Order No. 831 because, consistent with Order No. 831, virtual transactions may offer up to \$2,000/MWh but are not subject to verification.⁷¹

6. Other Issues

a. CAISO Proposal

50. CAISO notes that stakeholders expressed concerns that its proposal will result in an increase in the power balance penalty price from \$1,000/MWh to \$2,000/MWh because existing Tariff sections governing the penalty price require use of the maximum energy bid price specified in Tariff section 39.6.1.1 (Energy Bid and Minimum Load Cost Caps). CAISO states that it will address these concerns in an ongoing stakeholder process and will file any Tariff changes resulting from the stakeholder process in separate Tariff amendments pursuant to FPA section 205. CAISO explains that it plans to complete the stakeholder processes by the third quarter of 2020 so it can submit any

⁶⁹ *Id.* P 197.

⁷⁰ CAISO Transmittal at 19; CAISO, CAISO eTariff, § 30.7.12 Validation of Bids in Excess of Bid or Minimum Load Cost Cap (0.0.0), § 30.7.12.5.

⁷¹ Order No. 831, 157 FERC ¶ 61,115 at P 172.

necessary Tariff amendments to implement such Tariff changes concurrent with the implementation of the provisions addressing compliance with Order No. 831.⁷²

b. Comments and Protests

51. SoCal Edison supports CAISO's commitment to continue stakeholder processes to address pricing penalty factors, and to file any necessary Tariff changes, after those stakeholder processes conclude, in time to coincide with its implementation of Tariff provisions addressing Order No. 831 compliance.⁷³

52. EIM Entity Parties, DMM, and PG&E oppose CAISO's proposal to raise the power balance penalty price from \$1,000/MWh to \$2,000/MWh. They argue that the change to the power balance constraint parameter penalty price is unsupported, unrelated to Order No. 831 compliance, and should be rejected.⁷⁴ Specifically, the EIM Entity Parties and DMM claim that, absent cost justification, CAISO's proposal to define the penalty price at \$2,000/MWh is unjust and unreasonable. Although they acknowledge CAISO's intent to conduct a stakeholder process to consider penalty price provisions, they argue that this commitment is insufficient to support the Commission's acceptance of the proposed Tariff revisions in the instant filing.⁷⁵

c. Answers

53. Powerex agrees that further discussion of the penalty pricing parameter may be warranted, but believes the issue should be addressed in a CAISO stakeholder process.⁷⁶

54. In its answer, CAISO reiterates that its proposal is just and reasonable and argues that the Commission should dismiss many of the protesters' claims as outside the scope of this proceeding. Although CAISO acknowledges that the sections of its tariff that discuss penalty prices are connected to the maximum energy bid price set forth in tariff section 39.6.1.1, CAISO explains that this link has been in its tariff for a decade. CAISO

⁷² CAISO Transmittal at 9.

⁷³ SoCal Edison Comments at 1-2.

⁷⁴ EIM Entity Parties Protest at 2-3; DMM Comments at 5-8; PG&E Answer at 3-4.

⁷⁵ EIM Entity Parties Protest at 2, 7; DMM Comments at 7-8.

⁷⁶ Powerex Protest at 6-7.

also observes that the Commission declined to require changes to other market element related to the offer cap level, such as modifying penalty parameters.⁷⁷

55. However, as noted above, in its supplemental answer, CAISO acknowledges that its Order No. 831 compliance is related to its ongoing stakeholder initiative addressing the penalty pricing parameter. CAISO anticipates it will submit Tariff amendments pursuant to FPA section 205 to address this issue, and states that will not implement its Order No. 831 compliance provisions until it implements the section 205 proposal that emerges from the pending stakeholder process.⁷⁸

d. Determination

56. CAISO has not proposed revisions to existing Tariff sections 27.4.3.2 and 27.4.3.4 governing penalty pricing, and such revisions are not required by Order No. 831. We disagree with protesters' arguments asserting that CAISO must complete its penalty price parameter stakeholder process in order for its instant filing to be just and reasonable and compliant with Order No. 831. Accordingly, we find that the issues raised by protesters are beyond the scope of this proceeding. However, we note CAISO's commitment to address issues raised in this proceeding in its ongoing stakeholder process, and we encourage stakeholders to actively engage with CAISO to address their concerns.

7. Effective Date

a. CAISO Proposal

57. CAISO proposes to implement the Tariff revisions to comply with Order No. 831 at the same time it implements Tariff revisions resulting from an ongoing stakeholder process to address concerns regarding the power balance constraint relaxation price and establishment of a \$1,000/MWh soft cap for bids into CAISO, discussed above. CAISO explains that it does not propose a specific effective date for the Order No. 831 compliance revisions, and it does not expect to be able to implement Tariff changes resulting from the ongoing stakeholder process until the fall of 2021. CAISO states that it will submit the expected implementation date for its Order No. 831 compliance revisions when it files its FPA section 205 amendment resulting from the stakeholder process.⁷⁹

⁷⁷ CAISO Answer at 3-6.

⁷⁸ CAISO Supplemental Answer at 3.

⁷⁹ *Id.* at 5.

b. Determination

58. We find that CAISO has not adequately justified its proposal to defer the effective date of its Order No. 831 compliance revisions indefinitely pending a future FPA section 205 filing. While we acknowledge CAISO is examining, and has committed to address, the concerns raised by protesters regarding CAISO's existing penalty parameters and its process for verifying bid costs that exceed \$1,000/MWh, we find that the issues raised are beyond the scope of the compliance directives in Order No. 831 and resolution of those separate issues should not further delay CAISO's compliance with the Commission's directives in Order No. 831.⁸⁰ Accordingly, we direct an effective date for CAISO's proposed Tariff revisions of March 21, 2021.

The Commission orders:

(A) CAISO's compliance filing is hereby accepted, effective March 21, 2021.

(B) CAISO is hereby directed to submit a further compliance filing, within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁸⁰ As noted above, CAISO has requested, and has been granted, five extensions of its Order No. 831 compliance filing deadline. For the reasons discussed in this paragraph, we do not believe further delay is warranted.

Appendix A – Tariff Records Filed

California Independent System Operator Corporation
FERC FPA Electric Tariff
CAISO eTariff

[11.5.6, Settlement Amounts for RTD IIE from Exceptional Dispatch, 14.0.0](#)
[30.4.4, Default Commitment Cost Bids, 1.0.0](#)
[30.6.2, Bidding and Scheduling of RDRRs, 7.0.0](#)
[30.7.12, Validation of Bids in Excess of Bid or Minimum Load Cost Cap, 0.0.0](#)
[30.11.1, Reasonableness Thresholds, 1.0.0](#)
[30.11.2, Reference Level Change Requests, 1.0.0](#)
[30.12.1, Applicability, 8.0.0](#)
[34.10, Dispatch of Energy from Ancillary Services, 8.0.0](#)
[39.6.1, Maximum Bid Prices, 14.0.0](#)
[39.7.1, Calculation of Default Energy Bids, 35.0.0](#)
[-, CAISO IFM Curtailed Quantity, 1.0.0](#)
[-, Hard Energy Bid Cap, 0.0.0](#)
[-, Minimum Load Cost Hard Cap, 0.0.0](#)
[-, Scarcity Reserve Demand Curve Values, 1.0.0](#)
[-, Soft Energy Bid Cap, 0.0.0](#)