



Billing, Payment and Credit Enhancements: Issue Paper and Draft Final Proposal

Stakeholder call
October 3, 2023


New pre-registration process to join meetings

- Pre-registration is required for all future stakeholder meetings in order to receive a link to join the meeting.
 - The link to pre-register is available in the meeting notice and on the ISO calendar.
- A recent update to WebEx disabled the ability to view the list of meeting attendees.
- The new pre-registration process will allow us to provide the list of meeting attendees to stakeholders during the call.

Reminders

- This call is being recorded for informational and convenience purposes only. Any related transcriptions should not be reprinted without ISO's permission.
- If you need technical assistance during the meeting, please send a chat to the event producer.

Instructions for raising your hand to ask a question

- If you are connected to audio through your computer or used the “call me” option, select the raise hand icon  located on the bottom of your screen.
Note: #2 only works if you dialed into the meeting.
 - Please remember to state your name and affiliation before making your comment.
- You may also send your question via chat to all panelists.

ROADMAP AND INTRODUCTION

Agenda

- Introduction
- Section II – Proposals to reduce risk of default
- Section III – Proposals to mitigate defaults
- Section IV – Proposal for new methods of payment
- Section V – Proposals for tariff cleanup generally
- Section VI – Issue Paper: Visibility into financial condition of load
- Next steps

Time for questions and comments after each proposal

Proposals from Sections II through V are draft final

This initiative seeks to strengthen market resilience and reinforce the billing and payment process.

- Invoices (and payment advices) issued Wednesdays
 - To certain types of participants
 - Cover a range of settlement statements specified on payments calendar
- Payment due following Tuesday
- Assuming all invoices paid in full, funds received send to recipients of payment advices

Focus is on occasions when a market participant does not pay its full invoice.

- Even after a payment default, market creditors can be paid
- Primary protection is posted collateral
 - although collateral may not be available right away
- Otherwise
 - Reserve account can cover cash flow temporarily
 - Collection strategy in connection with bankruptcy
 - Newest development is a first-day motion seeking authorization to pay CAISO

What happens if there aren't sufficient funds to pay market creditors?

- General rules about default losses
- Clear market initially by reducing payments to creditors (Section 11.29.17.1)
- Loss then re-allocated to broader market (Section 11.29.17.2)
 - Added in 2011
- CAISO pursues collection on behalf of market (“central counterparty,” added in 2012)

Fortunately, this has not happened since the crisis.

- Last time default loss spread to market was 2001
- Payment defaults continue
- Since the 2001 loss, more than 20 market participants have filed for bankruptcy or defaulted
- CAISO has found ways to pay the market in full and on time

With that said, we've reviewed our tariff rules and recommend a range of improvements.

- Review prompted by events in external markets – what would happen during a period of sustained high prices?
- During this review, two events prompted further examination: a market participant bankruptcy and a separate payment default

Before we shift to the proposals, it may help to clarify terminology around defaults.

- Insolvency – financial term
- Bankruptcy – legal proceeding
- A market participant in bankruptcy may not be insolvent
- An insolvent market participant may not file for bankruptcy
- Bankruptcy can be a solution for insolvency

For today's purposes, the key aspect of a bankruptcy filing is the automatic stay.

- Need court approval to use property of the bankruptcy estate
- Could result in a delay of payment, even if CAISO is holding sufficient collateral

SECTION II – REDUCING RISK OF PAYMENT DEFAULT

Background about the proposal regarding the minimum participation requirement.

- FERC Order 741 requires ISOs and RTOs to enforce a minimum capitalization requirement
 - For participants that engage directly with CAISO in billing and settlement
- General requirement is total assets of \$10 million or tangible net worth of \$1 million
- This requirement is separate from and in addition to any rules about collateral

CAISO and other grid operators proposed exceptions for smaller participants that cannot meet the general requirement.

- Cash posting of \$500,000
- In addition to any collateral posting

The proposal concerns a further exception to this general exception.

- Tariff currently allows the small participant to decrease its cash posting from \$500,000 to \$100,000
- Allowed after participation at low dollar levels over six months
 - EAL less than \$100,000
- Propose to eliminate this second exception

Proposal: Eliminate the rule authorizing a reduction to \$100,000.

- Experience has shown current rule insufficient to deter walking away
- Other RTOs require \$500,000 from participants that hold CRRs or make virtual bids
- Considered keeping exception for “energy only” participants, but does not appear to be worth extra complexity

Questions or comments?

Proposal: Designate a single contract to govern settlements and billing between a market participant and CAISO.

- Focused on agreements that involve direct interaction with CAISO for billing and payment
- Some market participants have more than one
- If such a participant were to file for bankruptcy, these agreements are a potential source of litigation
- Proposed change would bring legal clarity by specifying one of the agreements to govern all billing and payment for that participant

Designating a governing agreement would also support CAISO collection efforts.

- Under bankruptcy law, attempts to net debts and credits can be governed by two different legal doctrines: setoff or recoupment
- If applicable, recoupment is preferable from the standpoint of collection
 - Advanced court approval not required
 - Broader range of uses
- Minimum requirement for recoupment is that all debts and credits arise under the same contract

The proposed tariff rules would reflect the following policy.

If an entity is party to the following agreements	This agreement will control billing, payment and settlements under either agreement during the period that both are in effect
Scheduling Coordinator Agreement and CRR Entity Agreement	Scheduling Coordinator Agreement
Scheduling Coordinator Agreement and EIM Scheduling Coordinator Agreement	Scheduling Coordinator Agreement
CRR Entity Agreement and EIM Scheduling Coordinator Agreement	EIM Scheduling Coordinator Agreement
Transmission Control Agreement and Scheduling Coordinator Agreement	Scheduling Coordinator Agreement
CRR Entity Agreement and Transmission Control Agreement	Transmission Control Agreement

Questions or comments?

SECTION III – MITIGATING HARM OF A DEFAULT

Background about the CAISO reserve account.

- Funds available to cover cash flow issues
- Used to clear market after default, but must be replenished
- Currently holds \$1.8 million
- Practice has been to cover a default loss until CAISO determines that it cannot collect
 - Lehman Brothers example

The “penalty reserve account” is similar.

- Works like the CAISO reserve account, except
 - Funds are limited to penalties for late payment or posting of collateral
 - Intention that market not required to replenish after use

Proposal: Clarify rule about replenishment of CAISO reserve account.

- Relevant tariff language revised in 2011 amendment about default losses
- Could be read to require replenishment within weeks
- Believe there was no intent to change longstanding practice that reserve could cover loss until it is considered uncollectible
- Charging defaults unnecessarily would impose costs

The primary tariff change proposed would be in section 11.29.9.6.2.1(c).

If, after taking reasonable action, the CAISO determines that the default amount (or any part) and/or Interest cannot be recovered ~~on the next practicable Invoices~~, the CAISO shall notify Market Participants of the identity of the defaulting Business Associate together with the unrecoverable amounts and such amounts shall be allocated in accordance with Section 11.29.17 of the CAISO Tariff with corresponding credits to the CAISO Reserve Account.

Proposal: Clarify rule about replenishment of penalty reserve account.

- Penalty reserve account is available to cover default
- CAISO would seek recovery from defaulting party to replenish the account
- But not from the market
- Propose to delete 11.29.9.6.4.1(c) to avoid suggestion that market should replenish

Proposal: Allow flexibility in use of reserve accounts if funds would not cover the full default.

- Tariff provides that use of reserve accounts is mandatory in the event of default
- Makes sense if funds are sufficient to clear market
- Perhaps not if the default amount exceeds the total reserve balance
- Propose to provide CAISO flexibility in this situation

Depleting the reserve account balance solely to reduce a large default, as opposed to cover it in full, may not benefit the market.

- Would not avoid costs of allocating and account for default
- No remaining balance to prevent smaller subsequent default losses

Questions or comments?

Proposal: Avoid allocating default losses to new participants.

- Default losses are re-allocated to market using percentages for current calendar quarter
 - Works for default on initial invoices
 - But payment defaults could occur on later recalculations
 - Could affect new participants who joined after a period of financial stress
- Propose to instead use percentages in effect at time of initial default or bankruptcy filing

Questions or comments?

Proposal: Adjust data for loss allocation percentages.

- New allocation updated and posted each quarter
- Calculated using settlement and payment data from four quarters of T+70B statements
- Impact of 2021 settlement timeline change
- Propose to use more recent data by substituting T+9B data for most recent quarter

Questions or comments?

Proposal: Clarify rules about distribution of funds collected from defaulting participants.

- Currently addressed in several sections that are not necessarily consistent
- To avoid disputes, amend to reflect rules on the next slide

Use amounts collected to reimburse losses caused by that debtor in the following order:

- Any CAISO GMC that was not collected and then to any other internal accounts
- Replenish CAISO reserve account
- Reimburse market participants that were allocated part of the shortfall beginning with the oldest unpaid invoice

Proposed allocation rules, continued:

- Any remaining collection would replenish penalty reserve
- CAISO will have discretion to hold distribution of collections less than \$5,000 to await further collections,
 - Purpose is to reduce administrative costs of distributions

Questions or comments?

Proposal: Invoicing certain charges separately from the market.

- Separate invoicing was developed after settlement recalculation in 2001 that affected PX, which had ceased operating
- 2001 default affected a new participant
- Propose to clarify language around separate invoicing so that it is not subject to re-allocation Section 11.29.17

Proposal: Give CAISO discretion to separately invoice penalties for late payment or posting.

- When a market participant is insolvent but not bankrupt, penalties can accrue quickly
- If penalties on one invoice exceed balance of penalty reserve account, they could cause or exacerbate a shortfall
- To avoid an unnecessary default loss, CAISO should have discretion to invoice penalties separately, with credit to penalty reserve
- Default would be allocated entirely to penalty reserve

Proposal: Authorize separate invoicing for black start services.

- Black start agreements contemplate being financially bilateral
- Payments for black start services, as opposed to energy, due from PTO
- Propose to clarify tariff authority to invoice separately

Questions or comments?

Proposal: Allow CAISO to write off out-of-cycle invoices up to \$2,000 and cover from CAISO reserve.

- Refers to recalculation settlement statements issued after two year settlement cycle
- Recent example: Amendment 60
- Collecting last small amount can be costly
- If effort not worthwhile, could cover from CAISO reserve (without replenishment)

SECTION IV – METHODS OF ELECTRONIC PAYMENT

Proposal: Enable more flexibility to use new methods of payment.

- Tariff currently requires payment by FedWire or ACH
- Propose to amend these sections to remove specification
- Instead authorize payment by any means provided in BPM
- CAISO staff is evaluating whether to authorize payment by FedNow

Questions or comments?

SECTION V – TARIFF CLEANUP

Proposal: Clarify rules about payment imbalances in clearing process that result from elimination of small invoices.

- Settlement statements net to zero
- Cash flow would too, except for elimination of small invoices
- CAISO reserve account is source to cover shortfall
- Propose to expressly state this, and that excess would be returned to the CAISO reserve

Proposals: Other tariff cleanup.

- Definition of settlement statement in section 11.29.7.3.2
- Reconciling two sections that address “basis for billing and payment”
- Clarifying terminology – settlement (charges and credits) versus billing and payment (pay)
- Deletion of extraneous language in section 11.14 about neutrality adjustment “on a monthly basis”

Questions or comments?

SECTION VI – ISSUE PAPER

Load-serving utilities within the CAISO balancing authority area pose a distinct risk.

- Ability to terminate transactions is central to managing risk
- Load is uniquely difficult to terminate
- Advance notice would have helped address May 2021 bankruptcy

For some entities that serve load in its BAA, CAISO has no information about their financial condition.

- Focus on entities represented by scheduling coordinators
 - And thus do not apply to CAISO for credit
- Sensitive to burden of gathering this information
- Seek to build on existing mechanism

CAISO seeks overall financial condition at least quarterly, plus material changes as they occur.

- Like disclosures by entities that are publicly traded or have a credit rating
- Also tariff section 12.1.1.5 about “material adverse events”

CAISO's question for stakeholders:

- For load-serving entities, is there an existing disclosure mechanism that we could tap into?

NEXT STEPS

Next steps

Please submit comments by end of day October 17 using the template available on the initiative webpage:

<https://stakeholdercenter.caiso.com/StakeholderInitiatives/Billing-payment-credit-enhancements>

If you have questions or would like to discuss any element, please email Dan Shonkwiler, dshonkwiler@caiso.com

Policy Initiative Stakeholder Process

- For the proposed tariff changes, this is a draft final proposal
- We anticipate bringing the proposed changes to the Board and WEIM Governing Body for decision in November
- Expect joint authority
- Stakeholder process about the issue paper will resume in January